THE SPEAKER (Mr G.A. Woodhams) took the chair at 2.00 pm, and read prayers.

DR GABRIEL THOMAS DADOUR

Condolence Motion

MR C.J. BARNETT (Cottesloe — Premier) [2.01 pm] — without notice: I move —

That this house records its sincere regret at the death of Dr Gabriel Thomas Dadour and tenders its deep sympathy to his family.

Dr Tom Dadour was a compassionate general practitioner, a dedicated activist for his local community, and a popular member for Subiaco for 15 years. Tom Dadour was born in Sydney in 1925, educated at Sydney Boys High School, and graduated from Sydney University with a Bachelor of Medicine and Surgery. His studies were put aside in April 1945 following his enlistment in the Royal Australian Navy. He served on HMAS Hobart and in the occupation forces in Japan. In 1953 he moved to Western Australia, and in 1957 commenced his longstanding general practice in Subiaco.

Tom Dadour’s interest in sports medicine and involvement in the local community led to an enduring involvement with the Subiaco Football Club. He became the club doctor in 1957 and maintained his involvement with the club for the next 50 years, including serving as club patron for the last 16 years. His contribution was recognised with life membership, in 1970. He was also awarded life membership of the Subiaco Junior Football Club in 1967. In that same year, 1967, he was elected to the Subiaco City Council and remained an elected councillor until 1977—long after his election to Parliament. In 1970, the Liberal Party sought a fresh candidate for the seat of Subiaco, held by the retiring Speaker of the Legislative Assembly, Hugh Guthrie, who held the seat by a majority of just 98 votes. Tom Dadour accepted Liberal nomination and contested the 1971 election that resulted in the defeat of the Brand coalition government. Despite that overall outcome, Tom Dadour achieved a notable swing in Subiaco, winning by over 1 100 votes. Tom Dadour was re-elected four times, gaining a very large majority in the elections of 1977 and 1980. A redistribution prior to the 1983 election removed Shenton Park from his seat, and most of the suburb of Subiaco, and brought in Leederville and Mt Hawthorn. Nonetheless, he prevailed by over 400 votes in an unfavourable election climate for the Liberal Party.

Tom Dadour was an outspoken member of Parliament, unafraid of criticising the Sir Charles Court coalition government on issues about which he was passionate. He strongly opposed the closure of the Perth–Fremantle railway, and crossed the floor to vote against contentious electoral changes in 1977. He was also a strong advocate of anti-tobacco measures—perhaps ahead of his time. Tensions with party colleagues contributed to his resignation from the Liberal Party in 1984 and his decision to complete his final term as an Independent.

Throughout his political career, Tom Dadour maintained his medical practice and extensive community involvement. He continued to be active in the community well after his retirement from Parliament in 1986, as testified by numerous accolades. He became a Freeman of the City of Subiaco, and in 2000 the Tom Dadour Community Centre in Bagot Road, Subiaco, was named in his honour. He was awarded Member of the Order of Australia in 2001 and the Centenary Medal commemorating 100 years of Federation, in 2003. His commitment to football was acknowledged by the AFL Merit Award, the Outstanding Voluntary Service to Football Award, and the Australian Sports Medal. Tom Dadour set a fine example of citizenship.

On behalf of the Liberal Party and members of this house, both past and present, I express our condolences to his family and friends for the loss of a medical practitioner, war veteran and strong-minded servant of the Western Australian community.

MR E.S. RIPPER (Belmont — Leader of the Opposition) [2.05 pm]: On behalf of the opposition, I join the Premier in extending our sympathies to the family of Tom Dadour. Tom was a very popular doctor, local member of Parliament and council member in the Subiaco area. He served in the Royal Australian Navy, including in the British Commonwealth Occupation Force in Japan following the end of the Second World War. He was made a life member of the Subiaco Football Club, and was recognised nationally with the AFL Merit Award, the Outstanding Voluntary Service to Football Award and the Australian Sports Medal. He was a member of the Australian Medical Association and the police and citizens association, and he was a Rotarian.

He was a person who was fiercely interested in the welfare of his community, and fiercely independent. He was not in Parliament when I arrived, but he was part of the immediately preceding generation of politicians; his name was still mentioned often and he was still spoken about. Collectively, members of the Labor Party liked him because of his outspoken independence and his preparedness, on occasion, to do difficult things from the
point of view of the Liberal Party leadership. However, there was at least one story surrounding a celebrated altercation with my predecessor, Mal Bryce, that indicated that he did not always see eye to eye or have general agreement with members of the Labor Party. He was a very difficult member for the Labor Party to dislodge, and we never succeeded in dislodging him, although intense efforts were made at various times. At one stage in my political career I was a member of the Subiaco branch of the ALP, so I was part of those efforts to secure Labor representation in Subiaco. They were not successful until Tom Dadour retired.

Today we celebrate the life of someone who was an old-style member of Parliament in WA in many ways. He was a fiercely independent representative of his community—a character who will be remembered long after the names of people who served on the frontbench will have been forgotten. On behalf of the state Parliamentary Labor Party, I extend my sympathies to Tom’s family and friends.

MR T.K. WALDRON (Wagin — Deputy Leader of the National Party) [2.08 pm]: I rise to support the motion on behalf of the National Party. As previous speakers have indicated, Dr Tom Dadour was a respected member of this place, the Royal Australian Navy and the Subiaco Football Club, and he was respected by his Subiaco constituency and generally by the public of WA. His parliamentary service and other achievements have been well recognised today by the Premier and the Leader of the Opposition, and I endorse those comments.

It was in the area of football that I knew Tom Dadour. As the Premier and Leader of the Opposition pointed out, Tom made an enormous contribution to football and to the Subiaco Football Club, serving it for more than half a century, primarily as club doctor and also as patron for many years. Being made a life member of the club in 1970 was a testament to his outstanding dedication and service. Also, in 1967, Tom Dadour was made a life member of the Subiaco Junior Football Club. He was named as one of the inaugural 100 diehards in the club’s centenary year in 2000, and the club’s medical rooms were named in his honour in 2007—a lasting reminder of the many weekends he spent in that environment. Other sporting recognitions, such as the AFL Merit Award and the Australian Sports Medal, were again well-deserved acknowledgements of his contribution. On behalf of the Parliamentary National Party, I express our condolences to Tom’s families and friends.

DR J.M. WOOLLARD (Alfred Cove) [2.10 pm]: I would like to join in this condolence motion and support what has been said by the Premier, the opposition and the National Party. Tom Dadour was a great member of this Parliament and in many ways ahead of the times. In 1982 he was the first person in Australia to introduce a tobacco products bill to try to stop the advertising of tobacco. The bill was originally drafted by David Malcolm, QC, and was offered to the Minister for Health of the day to introduce in Parliament. However, the government took no action on the bill. Dr Dadour was approached by Bill Musk and asked if he would introduce the bill as a private member’s bill. His response was, “Bill, I never thought you’d ask.” The Smoking and Tobacco Products Advertisement Bill 1982 had strong support from the Australian Medical Association and was the first Australian bill to propose banning tobacco advertising. The bill passed the lower house, but failed narrowly in the upper house. However, it was a sign of things to come. In his second reading speech Dr Dadour made his intentions known—

This Bill is only part of a total programme to establish non-smoking as the social norm. Elements of a total programme are variously proposed as—

1. Prices increases;
2. removal of cigarettes from the Consumer Price Index;
3. reduction of outlets; for example, vending machines;
4. bans on sales to those under a certain age;
5. stronger and more attention-catching warnings on packets;
6. anti-smoking advertisements which could have twice the effect of cigarette advertising; and
7. a complete ban on all forms of advertising and promotion.

Furthermore, he said—

Tobacco smoking mostly in the form of cigarettes is recognised to be the largest single cause of preventable premature deaths in the western world. It was established in 1978 that 16 000 premature deaths were caused by cigarette smoking in Australia with more than 1 200 occurring in Western Australia.

Tom Dadour was a great advocate in this house for public health and I am sure he will be missed by many people. I offer my sympathies to his family.

MR T.G. STEPHENS (Pilbara) [2.12 pm]: I was a member in the other house when Dr Tom Dadour was also a member of Parliament. We had a friendship at that time for a range of reasons. Dr Dadour was a liberal in the Liberal Party at a time when that was rare. He was a genuine liberal with a passion and commitment to issues of social reform and change. At times that marked him out for collaboration with people on this side of the house.
and conflicts with colleagues on his own side of the house. Tom Dadour had a close working relationship with Ian Thompson, who went on to become Speaker. During the condolence motion for Ian Thompson, I told the house about the particular episode in which Tom Dadour loomed large, which related to protecting the voting rights of Indigenous people when the first change to the Electoral Act was proposed by the Sir Charles Court government back in 1977.

There was much media coverage of Dr Dadour again falling afoul of his party towards the end of his career. The television coverage was a source of some controversy in the bar here in the Parliament. I had become friendly with Tom and I was sympathetic to the circumstances with which he was faced; he was isolated then on his own side of Parliament and the subject of some considerable derision from those with whom he did not see eye to eye. I expressed loudly my empathy and sympathy towards him. That led to me being punched on the jaw by the then member for Lower North Province for expressing some sympathy for Dr Dadour’s plight. I could never quite understand how the two events came together, but nonetheless that is what happened; I was sympathising with Tom and the next minute I had a punch on the jaw from Phil. I suppose it was a time when politics was played pretty rough and tough around this place.

Mr C.J. Barnett: They were the days!

Mr T.G. Stephens: That led to Hon Philip Lockyer being charged and let off as a first offender—I later found out he was not!

During Dr Dadour’s career he championed the cause of people whose interests were not always considered with sympathy and concern by the majority in this place. His achievements in his own community as not only a member of Parliament but also a medical practitioner will be his long-lasting legacy. He was replaced in the Parliament by Dr Carmen Lawrence, with whom he had a close working relationship, and that meant that his community benefited from his experience long after his departure from his role as a parliamentarian. My sympathies go to his family. He was a friend to many people who served in the Parliament at that time, including those of us on this side of the house.

The Speaker: Members, in order to support this motion, I ask you to stand and observe a minute’s silence.

Question passed, members standing.

**GASCOYNE REVITALISATION PLAN**

*Statement by Minister for Regional Development*

MR B.J. Grylls (Central Wheatbelt — Minister for Regional Development) [2.17 pm]: The National Party had its conference in Carnarvon on the weekend, and having recently spent time in the Gascoyne I thought it would be an opportune time to remind the Parliament of some of the works being undertaken in the Gascoyne region.

The Gascoyne revitalisation plan will deliver $131 million over four years to priority projects in the Gascoyne region. The plan funds initiatives identified by the four local government authorities of Carnarvon, Exmouth, Shark Bay and Upper Gascoyne.

I was pleased to recently announce funding for projects in Carnarvon and Exmouth. We have announced $4.1 million for the development and refurbishment of the Carnarvon library and art centre. The facility will be housed in an existing building on Egan Street that is owned by the Shire of Carnarvon and is within walking distance of the town centre. The state government’s contribution to this project will be $3.5 million, and the remaining funding of $600 000 will be contributed by the Shire of Carnarvon. This contemporary facility will provide the technology, materials and learning spaces needed by students, and will include Indigenous and history areas, reference resources and meeting rooms. The delivery of infrastructure to the town of Carnarvon is particularly important in the wake of the floods, and this new library and art centre will be an important asset to the town.

We are also investing funds in the continued development of the Carnarvon fascine, allocating $780 000 towards these works. The revitalisation of the fascine has been identified as a priority, with the potential for this area to provide a real tourism boost for the town with opportunities for aquatic, maritime and nature-based recreation.

We know that the township of Gascoyne Junction was severely impacted by the December floods, and as a result this government is providing $3 million towards rebuilding town and tourism facilities there. We are also delivering projects in Exmouth, and have announced funding towards the planning and design for the central business district and foreshore, as well as the reconstruction of the Tantabiddi boat ramp. The CBD upgrade project has been identified by the Shire of Exmouth as being critical to the local community, given the unprecedented growth in residential and industrial development in the region. We have allocated $676 000 towards the planning and design of this project. The state government is also providing $2.2 million towards the
reconstruction of the Tantabiddi boat ramp, which provides access to Ningaloo Reef and Ningaloo Marine Park. The single-lane boat ramp will be replaced with a modern two-lane ramp to accommodate larger vessels, and will include two finger jetties to provide a safe passenger transfer point. The new jetty will help to respond to the growth in recreational boating and tourist-related charter vessel industries, which are vital to the local economy.

Despite the challenges issued by Mother Nature, the Gascoyne is a vital region for the state, and the Gascoyne revitalisation plan recognises the need to build on this wonderful part of Western Australia. I urge members, if they are in the Gascoyne region, to visit Gwoonwardu Mia, the Gascoyne Aboriginal Heritage and Cultural Centre, which was built by the previous government. It is a fantastic centre. Seven Indigenous employees are employed in its art gallery. It is the only place in Western Australia where an Indigenous trainee can make one of the best cappuccinos in regional Western Australia. It is a great example of government partnering with the Indigenous community.

**INDIGENOUS ART AWARDS 2011**

_Statement by Minister for Culture and the Arts_

MR J.H.D. DAY (Kalamunda — Minister for Culture and the Arts) [2.20 pm]: I rise to inform the house that 16 finalists have been chosen in the Art Gallery of WA’s Western Australian Indigenous Art Awards 2011. The selection panel for the awards consisted of Indigenous curators, Tina Baum and Glenn Iseger-Pilkington; a curator of contemporary Australian art, Robert Cook; and author and anthropologist Professor Howard Morphy. Prizes include three non-acquisitive awards totalling $65 000—the Western Australian Indigenous Art Award of $50 000, the Western Australian Artist Award of $10 000, and the People’s Choice Award of $5 000. The $50 000 Western Australian Indigenous Art Award will be awarded to the artist whose work in the awards exhibition is considered by the selection panel to be the most outstanding. Both the $50 000 award winner and the $10 000 recipient will be announced at the opening event on 12 August. The People’s Choice Award prize of $5 000 will be presented at the end of the exhibition season to the artist who receives the highest number of visitor votes.

This is the fourth consecutive year these awards have been held. We are once again delighted to celebrate the careers of artists from all corners of Indigenous Australia. I am certainly looking forward to seeing the finalists’ works in the exhibition. The award finalists, in alphabetical order, are: Jan Billycan, WA; Michael Cook, Queensland; Timothy Cook, Northern Territory; Angkaliya Curtis, South Australia; Gunybi Ganambarr, Northern Territory; Angelina George, Northern Territory; Gary Lee, ACT; Danie Mellor, ACT; Patrick Mung Mung, WA; Trevor Nickolls, South Australia; Lena Nyadbi, WA; Tiger Palpatja, South Australia; Paula Paul, Queensland; Reko Gwaybilla Rennie, Victoria; Nyilyari Tjapangati, Northern Territory; and Nyapanyapa Yunupini, Northern Territory. The Indigenous Art Awards will be open to the public at the Art Gallery of WA from Saturday, 13 August to Monday, 19 December 2011. The finalists’ works will also form part of the state government’s program of arts, cultural and sporting events to coincide with the Commonwealth Heads of Government Meeting. This event will give the artists important international exposure. I look forward to announcing the winner of the 2011 Indigenous Art Award on 12 August.

**HERITAGE AWARDS — NOMINATIONS**

_Statement by Minister for Heritage_

MR G.M. CASTRILLI (Bunbury — Minister for Heritage) [2.22 pm]: It gives me great pleasure to advise members of the house of the record number of nominations for this year’s Western Australian Heritage Awards. Now in its nineteenth year, the awards honour the leading contributors to heritage conservation, promotion, adaptive reuse and interpretation in Western Australia. The awards recognise the exceptional contribution made by many volunteers and professionals who are committed to ensuring that our cultural heritage is secure and valued in the future development of this state. New categories were introduced this year to recognise best practice by local government and heritage tourism operators. A third award, for an outstanding newcomer, was established in memory of former Heritage Council board member Professor David Dolan in recognition of his commitment to fostering young talent in the heritage industry.

The awards are organised by the Heritage Council of Western Australia. I am pleased to announce there have been a record number of award nominations—73 nominations—compared with 45 in 2010. The nominations have come from Albany in our south, to Geraldton in our Mid West. The sheer number of nominations illustrates the depth of interest and support for individuals and organisations that are committed to ensuring our past is safeguarded for future generations. This year, the awards will be held during Australian Heritage Week at the majestic Winthrop Hall, housed within the state-registered Hackett Hall building at the University of Western Australia. The University of Western Australia itself celebrates its centenary year and was highly commended in the 2010 Western Australian Heritage Awards for its ongoing efforts to conserve this “state jewel”. Celebration of our heritage is crucial in understanding ourselves as a people. I would like to congratulate all award nominees and wish them every success on the night.
BUSINESS OF THE HOUSE — QUESTIONS WITHOUT NOTICE — WEDNESDAY, 6 APRIL

Statement by Speaker

THE SPEAKER (Mr G.A. Woodhams): Members, ahead of today’s question time, I indicate that tomorrow’s questions without notice will start at 3.15 pm. The reason for this is that a significant number of members from both sides of the chamber will meet tomorrow with a Chinese delegation for a very important luncheon engagement. In fairness to those members, and also to the importance of the delegation, I have decided to start question time at 3.15 pm to enable all members to be back in the chamber for question time.

QUESTIONS WITHOUT NOTICE

SOUTHERN SEAWATER DESALINATION PLANT

170. Mr E.S. RIPPER to the Treasurer:

(1) Is it not true that the government faces a crisis in water supply, requiring the government to make an emergency decision within weeks about the expansion of the southern seawater desalination plant?

(2) What is the projected cost of the southern seawater desalination plant expansion?

(3) How will the government fit the cost of this impending decision within the Premier’s $20 billion debt cap?

Mr C.C. PORTER replied:

(1) The first question features a much-overused word that the opposition absolutely adores—crisis. No, there is no crisis. There are different pressures facing different parts of the state in water supply and, indeed, those pressures wax and wane with weather patterns.

Several members interjected.

The SPEAKER: Thank you, members!

Mr C.C. PORTER: Up north in the Pilbara, what was looming as a real water shortage has now turned around over a very expansive cyclonic season that has seen Millstream and all the other catchments surrounding it become very full, so there is no crisis.

(2) In the second question, the Leader of the Opposition asked me to divulge the expenditure review committee’s considerations of water management matters in respect of the southern seawater desalination plant.

Mr E.S. Ripper: No, I’m asking you the projected cost of the expansion. You can give that answer.

Mr C.C. PORTER: The Leader of the Opposition knows that I am not going to do that; he knows that if he were in my position, he would not do that, so I am not going to do that.

(3) The third question is, indeed, the same as the second question, which is about projected costs, and the Leader of the Opposition knows that I am not going to speculate on those in this place before the budget is announced. He will, unfortunately, simply have to wait until the budget is announced.

SOUTHERN SEAWATER DESALINATION PLANT

171. Mr E.S. RIPPER to the Treasurer:

I have a supplementary question. By his answer, has the Treasurer not conceded that it will be necessary for the government to proceed with the expansion of the southern seawater desalination plant at a very large cost; and is he not aware that an urgent submission is being prepared by the Water Corporation for his consideration, and that the Water Corporation will require a decision within weeks to avoid a water crisis?

Mr C.C. PORTER replied:

Are we all left to assume that the Leader of the Opposition was going to ask that supplementary question no matter what my answer was to the original question?

Mr E.S. Ripper: Well, I didn’t get an answer! If you’d given a better answer, I might not have used that supplementary question.

Mr C.C. PORTER: The Leader of the Opposition must have realised that he asked a question seeking details about budgetary processes that I could not and would not reveal. I understand the second part of the question, but of course the answer is the same, and that is that I will not reveal those details until the budget is revealed.
NEW CHILDREN’S HOSPITAL — QUEEN ELIZABETH II MEDICAL CENTRE

172.  Dr M.D. NAHAN to the Minister for Health:
I am aware that a new children’s hospital is to be built at the Queen Elizabeth II Medical Centre that will cater for children from all over the state, including my electorate of Riverton. Everyone is looking forward to this—not least because there is currently a mini-baby boom on in Riverton! Recently the opposition was giving out cards in my electorate claiming that the new children’s hospital would be privatised. This is news to me and to the people of Riverton, and I therefore ask: has the Minister for Health changed his mind about how the services in the new children’s hospital will be delivered?

Dr K.D. HAMES replied:
Before I answer—this is hard for me to do, being an ex-Guildfordian—I want to welcome to the gallery students from year 11 at Wesley College, on behalf of the member for South Perth.

I thank the member for Riverton for the question, because, obviously, the construction of the new children’s hospital is critical for not only him, but also all members in this state. We have reached a very significant milestone in the process of constructing this hospital; that is, we have short-listed three consortia as successful applicants to go on and develop a request for proposal. Those three successful applicants are Leighton Contractors Pty Ltd and Broad Construction Services Pty Ltd joint venture; Brookfield Multiplex Constructions Pty Ltd; and John Holland Pty Ltd. They will proceed with that work. As members will be aware, this is a 274-bed new children’s hospital. This process will allow the final contractor to be determined and the contract awarded by the middle of this year. Construction will start in early 2012 and be completed in 2015.

However, the member also referred to a pamphlet that was being handed out. I have a copy of it with me. It is headed “Stop the Liberal Government Privatising our Hospitals”, and it shows the email address of Sue Ellery. I gather the Leader of the Opposition was seen handing out this card also.

Last week I used a turn of phrase that the Leader of the Opposition wished me to withdraw. It related to extremely distorting the truth. I forget which words I used; and, if I knew, I would use them again, because once again the opposition is trying to distort the facts by saying things to the public that are totally untrue. I have said in this house and outside this house that the new children’s hospital will not have us proceeding down the route of contracting out services beyond what is already being done at the existing children’s hospital. We will not do that. I have said that in this house, and it will not happen at the new children’s hospital. So what do we see in the pamphlet? It says, “The new Children’s Hospital will be next.” That is a blatant distortion of the truth. One might indeed use the three-letter word in this house and be able to defend the use of that three-letter word, but to avoid my having to withdraw that three-letter word, I will just say that the opposition is once again totally destroying any resemblance to the truth.

METROPOLITAN RAILWAYS — NEW RAILCARS

173.  Mr E.S. RIPPER to the Premier:
Further to the government’s decision to reject the implementation of Labor’s election promise to order 30 new railcars, I ask —

(1)  What plans does the government have to alleviate the crisis in urban public transport?
(2)  When will rail commuters get a decent service to and from work?
(3)  Does the Premier accept —

Several members interjected.

The SPEAKER: Members! Leader of the Opposition, take a seat. As I recall it, I gave the call to the Leader of the Opposition; I did not give it to anybody else in this place to ask a question.

Mr E.S. RIPPER: The question continues —

(3)  Does the Premier accept his transport minister’s claim that train overcrowding is actually the fault of the passengers?

Mr C.J. BARNETT replied:
(1)–(3)  It is a shock to me that we did not implement the Australian Labor Party’s election promise!

Mr T.R. Buswell: What happened?

Mr C.J. BARNETT: I do not know. Am I on the wrong side? I am confused. What a silly, silly proposition. Labor did not win the election, and we just saw, with the example of this document referred to by the Minister for Health, that it still cannot tell the truth. As long as the opposition does not tell the truth to the people of this state, they will not treat it seriously. The reality is that there is an increase in congestion on our roads; there is an
increase in congestion on public transport. Why? Has the population soared? No, so why could it be? What has suddenly changed? What has changed is that the economy of this state is now active—people are out travelling, they are working, they are doing business—that is what is happening.

Several members interjected.

The SPEAKER: I am glad to see that members are all enthusiastic. I would not mind a little less enthusiasm from some members in this place on occasions, so I can hear the Premier’s answer.

Mr C.J. BARNETT: When the Labor Party was in government it was not worth it for some business people in this state to get out of bed in the morning, because of the inept government that we had from those opposite.

Several members interjected.

The SPEAKER: Members!

Mr C.J. BARNETT: I say well done to the Minister for Transport for unlocking the shed and finding 12 railcars. My advice is to look in more sheds; there might be more railcars. The minister brought those 12 railcars immediately into service; they were in a shed. This government has construction work underway to extend the railway to the north and is looking at options to expand the capacity of the freeway. Indeed, the minister has already announced some expansion of capacity on the southern leg of the freeway. This government recognises that because there is heightened economic activity in this state —

Mr W.J. Johnston interjected.

Mr C.J. BARNETT: I do not know why the member at the back is laughing. He is the clown prince of this Parliament; he is the most disliked, distrusted member in this chamber, and no-one will ever challenge him for that role! The member’s own colleagues will not even sit next to him!

Yes, there is pressure on our public transport system, there is pressure on our road system, and I think every person in this state has seen this. Therefore, this government will make decisions in our budget and in subsequent budgets to improve both road capacity and public transport capacity.

**METROPOLITAN RAILWAYS — NEW RAILCARS**

174. Mr E.S. RIPPER to the Premier:

I have a supplementary question. What is the Premier’s message to those commuters suffering from the transport congestion? Because he did not order 30 railcars in late 2008, they will have to wait years from the time he placed the order before the first train arrives.

Mr C.J. BARNETT replied:

The government will look at future transport capacity and rail and will do so through its proper budget processes.

Mr M. McGowan: You’ve had two years.

Mr C.J. BARNETT: The former government failed in so many areas. It could not tell the truth to the public, so the public kicked it out. We have a state that is growing. We have some population creep, we have more people working, we have more activity, we have more people coming to the city and we have more transport issues. There is a transport issue in this state because the level of activity and the level of commuter movement have increased dramatically. The volume of people on the roads and the number of people using public transport are part of the experience of economic growth, and the government will make the appropriate decisions through our budget processes.

**GASCOYNE JUNCTION — FLOOD REHABILITATION**

175. Mr V.A. CATANIA to the Minister for Regional Development:

As the minister has seen firsthand, Gascoyne Junction was basically destroyed in the December 2010 floods and needs significant work to restore vital infrastructure. Can he please update the house on what the government is doing to help the community rebuild?

Mr B.J. GRYLLS replied:

I thank the member for North West for the question and for his very strong advocacy on behalf of the flood-affected communities of the Gascoyne. The Liberal–National government —

Mr E.S. Ripper: I hope you do not charge $30 000 for someone to meet him.

Several members interjected.

The SPEAKER: Leader of the Opposition! Member for Girrawheen, I formally call you to order for the first time. Member for Jandakot, I will not call you to order for the first time. Member for Joondalup, member for Cannington and member for Albany I formally call you all to order for the first time.
Mr B.J. GRYLLS: When there is a problem, the Liberal–National government prides itself on being able to react quickly, make quick decisions and make a difference. We showed that at Ravensthorpe. It was great to be there recently seeing that community rebuild after the BHP Billiton nickel mine closure, but now it is up and running again, which is very exciting for that part of the community. After the recent floods in Warmun, a committee is already on the ground looking at rebuilding that community. It is doing the planning work under the leadership of the Minister for Health to make sure that that community is responded to.

It is no different in Gascoyne Junction. Having visited that town right after the floods, I saw that the amount of devastation was very, very telling. The Gascoyne Junction Hotel, an iconic watering hole and destination for tourists and locals in the region, was completely destroyed. The local Gascoyne Junction pub was not only the pub; it was also the supermarket and the service station and it provided accommodation. As the only real business that provided that community infrastructure and amenity, its loss to the community has been devastating. I think many in the community wondered whether that was the end for Gascoyne Junction. Without that amenity it would be very difficult for Gascoyne Junction to remain as the destination it is. Currently, no food is available in Gascoyne Junction; the community has to travel 178 kilometres to Carnarvon for basic supplies. That is why the government has acted very quickly to announce, in partnership with the Shire of Upper Gascoyne, a $3.5 million rebuild of the vital infrastructure for the community. The project will include a tourist park featuring air conditioned cabins, a caravan park and camping ground, a new general store, a restaurant with provision for licensed premises and a new service station. The owners of the pub told me on the weekend that they last saw the fuel tanks as they lifted out of the ground and floated off down the Gascoyne River. I assume that they are now somewhere out in the ocean. It was a flood of a magnitude that no-one had seen before.

All future building will occur only on land above the one-in-100-year flood level, which is now substantially higher than the last one-in-100-year flood level. To ensure the rebuild is on land that will not be affected, building will be done well up the profile of that local land area. The town centre will be further enhanced through the construction of a new main street and an extension to Scott Street to link with the Carnarvon–Mullewa Road. These roadworks will also provide Gascoyne Junction with a heavy-haulage bypass route.

Other shires have worked very cooperatively with the Shire of Upper Gascoyne under the Gascoyne revitalisation plan to immediately prioritise these funds to allow this rebuild to get underway. We have some planning issues and some land tenure issues to resolve, and then the Shire of Upper Gascoyne will get the building of these new facilities underway to make sure Gascoyne Junction maintains its role as an important meeting point for its local community and for the people of Western Australia when they are travelling through the Gascoyne.

SCHOOL CLEANERS — SAFETY

176. Mr B.S. WYATT to the Minister for Education:
I refer to the review of the physical safety of cleaners in Western Australian schools and its recommendations.

(1) How many schools are yet to be issued with the recommended security alarms, two-way radios or mobile phones?

(2) When will these schools be issued with them?

(3) Given the catalyst for this review was the sexual assault of a cleaner at a northern suburbs primary school in December 2008, why has the minister taken so long to provide cleaners with these security measures?

Dr E. CONSTABLE replied:

(1)–(3) I thank the member for Victoria Park for the question. He raises a very important issue of the safety of cleaners and, of course, others in our schools. You will remember, Mr Speaker, on, I think, 22 December 2008 there was a horrible attack on a cleaner in one of our primary schools. As a result of that incident, I requested that the issue be subject to a review of the physical safety of cleaners in our schools. That review came up with a large number of recommendations.

Mr B.S. Wyatt: We received that in March 2009.

Dr E. CONSTABLE: The main recommendations were centred around the training of cleaners. I discussed the whole issue of safety with the then LHMU—now United Voice—on a number of occasions in my office, and training was central to what they wanted to be put in place. That has happened.

Mr B.S. Wyatt: The recommendations were with respect to security devices, minister.

Dr E. CONSTABLE: One hundred and fifty training sessions and workshops have been held for cleaners in our schools in the past two years. Training was one of the key recommendations. There were other recommendations as well. They included encouraging cleaners to work in groups or in pairs rather than individually, for their safety. A range of safety measures were put in place. One particular person on the review panel was very keen...
that cleaners be issued with some sort of device that they could use to make contact, and things such as two-way radios, mobile phones and different sorts of alarms have been suggested. I am pleased to report that in a number of schools, larger schools in particular, various sorts of communication devices have been issued through the schools. I think it is best that each school looks at its particular issues. In a small school with one cleaner, alarms and so forth are not necessarily —

**Mr R.H. Cook:** Did you read the report?

**Dr E. Constable:** I have read the report, and I have read the recommendations.

Several members interjected.

**The Speaker:** Members! I would like to hear the answer to the question, and I am sure the member for Victoria Park would as well. I think everybody in this place is interested in this particular question. I do not think the member for Victoria Park needs any assistance from anybody. If he wants to ask a supplementary, I will give him that opportunity.

**Dr E. Constable:** Members would be aware that it is very much our policy to make sure that schools have the resources to make the decisions that are most appropriate for those schools. Different responses are appropriate for different schools. Larger schools and smaller schools have different needs. Individual schools have purchased those devices that they think are appropriate for cleaners in their situations.

**SCHOOL CLEANERS — SAFETY**

**177. Mr B.S. Wyatt to the Minister for Education:**

I have a supplementary question. In light of the minister’s comment that it is her interest to have schools implement their own appropriate security measures, why is it that Ellenbrook Secondary College contracted a security guard, only to have the Department of Education tell it the very next day to not do that?

**Dr E. Constable replied:**

I am not aware of the example —

**Mr B.S. Wyatt:** You’re not aware of the report, either!

**Dr E. Constable:** There are 780 public schools in Western Australia. I am not aware of every single operational matter in every single school. I will certainly look into that matter for the member.

**COMMONWEALTH HEADS OF GOVERNMENT MEETING 2011 — ARTS AND CULTURE FESTIVAL**

**178. Mrs L.M. Harvey to the Minister for Culture and the Arts:**

There has been a lot of recent media coverage about the Commonwealth Heads of Government Meeting that is to be held in Perth and the exciting arts events that the government has planned in the central business district.

**Ms M.M. Quirk** interjected.

**Mrs L.M. Harvey:** The member for Girrawheen is typical of people on her side of the house. She has no concept of and no potential to realise the significant opportunities that we have with CHOGM coming to Western Australia.

Several members interjected.

**The Speaker:** Member for Mindarie, I formally call you to order for the first time. Member for Scarborough, I do not normally provide advice in this place. I assume that most members in this place understand what question time is about. If you want to ask a question, just simply ask the question.

**Mrs L.M. Harvey:** Would the minister please inform the house of this government’s commitment to presenting a creative and vibrant face of Perth and of the Western Australian arts community to the international stage during CHOGM?

**Mr J.H.D. Day replied:**

It is the case that a lot of effort and funding has been put into upgrading the Perth Cultural Centre and the surrounding precinct to make the area more attractive for people to visit, and to make it safer. Anybody who has been there in recent times—I hope the member for Perth has taken the opportunity to explore that section of his electorate—would have seen that an urban orchard is now located there, a native wetland has been established in the pond just outside the Art Gallery, and there is better lighting and better seating. An LED screen will be installed there between now and the end of the year; in fact, before CHOGM is held. There will be a children’s playground. Additional night-time security will also be provided in the area. That is all part of the result of the $11 million in total that is being spent. That will include upgrading some of the publicly-owned heritage buildings along the eastern side of William Street.
There will be a significant arts and cultural festival associated with CHOGM here at the end of October this year. In monetary terms, it will be about $2.45 million in value, and it will provide a range of activities for visitors to Perth, but most importantly for residents of Perth and Western Australia. The particular emphasis will be on providing free and family-oriented activities, including the Indigenous Art Awards, which I referred to earlier today. At the Art Gallery of Western Australia there will be the Revealed exhibition, showcasing emerging Indigenous artists. Exhibitions will be held at the Western Australian Museum and the Perth Institute of Contemporary Arts, and there will also be the very significant Canning Stock Route exhibition, which I think will be of a lot of interest to people in this state.

One would expect that the opposition and in particular the member for Perth would welcome these sorts of activities. But what do we see? In his trusty local publication, The Perth Voice, from which we get many inquiries, the member for Perth writes—

The much-touted CHOGM in Perth slated for October will prove as beneficial to the world’s most isolated capital city as a well-attended conference of undertakers at the convention centre.

It is an outrageous slur; very creative. The member for Perth has a long way to go before he catches up with the creative writing ability of his colleague, the member for Armadale. The member went on to make some pejorative comments about loud shirts—something that most people would find a little ironic coming from the member for Perth.

I think most Western Australians understand that there will be a little disruption associated with CHOGM, but that very substantial benefits are to be gained from Perth and Western Australia hosting the CHOGM event. It would be interesting to know whether the Leader of the Opposition, and the opposition generally, support the sentiments which have been expressed by the member for Perth.

Mr E.S. Ripper: Are you asking me a question? The opposition supports CHOGM.

Mr J.H.D. Day: That is good to know. At least the Leader of the Opposition has a slightly more enlightened and worldly view than the member for Perth. The state member for Perth is clearly also very much out of step with the federal member for Perth, the Minister for Defence, Stephen Smith, and indeed the federal Labor government, which made the initial suggestion of holding CHOGM in Perth. The member for Perth is completely isolated; he has put himself out on a limb and has made himself a joke in relation to any serious commentary.

Mr C.J. Barnett: He’s struck off the garden party invitation list!

Mr J.H.D. Day: The member for Perth himself foreshadowed that he might not be included on any invitation list. I will try very hard to ensure that, even if the member for Perth is not on the invitation list for the garden party, which the Queen will no doubt be attending, he will be invited to one or two arts events and will be able to see for himself some of the benefits of CHOGM being held in Perth in Western Australia and for the arts events associated with it.

JUVENILE REMAND CENTRE — GREAT SOUTHERN

179. Mr P.B. Watson to the Minister for Corrective Services:

I asked the minister in February about juvenile correctional facilities in the Great Southern region. In his answer he repeatedly mentioned the importance of early intervention investment.

(1) Is the minister aware that the investment of an additional staff member at Young House in Albany will significantly assist young people in my area caught up in the legal system, saving them from being flown to Perth?

(2) Can the minister confirm that additional funding to increase the capacity of Young House will be included in the upcoming budget, increasing the facility’s capacity to provide its court bail diversion program?

(3) If not, is the minister’s words about early intervention simply hollow remarks to those trying to help these troubled young people in the Great Southern?

Mr D.T. Redman replied:

(1)–(3) I thank the member for Albany for the question. He is quite right, and I certainly stand by our commitment to early intervention and diversion strategies. The costs associated with the corrective services pathway, particularly for juveniles who carry on those behaviours into later life, are something that the taxpayer needs to pick up, and it is an extremely costly exercise. Substantial savings can be made for the taxpayers and good outcomes can be achieved by making early investments in areas to divert people away from those pathways. The member for Albany spoke with the media about the investment in Young House. I have not had any specific representations from Young House, but not
very many people from regional centres are required to be placed in a detention centre. Certainly it is not the first preference to have them go down that path. It is always our first preference for them to be bailed and placed with either a parent or another responsible person. Indeed, that is our strategy in a number of areas around the state, including the Mid West and the Goldfields, and by the initiatives we are rolling out in the Pilbara and the Kimberley. From the member’s public comments on this issue, I assume that he has been pushing for and supporting the establishment of a detention facility in Albany.

Mr P.B. Watson: No; just a facility, and there already is one at Young House.

Mr D.T. REDMAN: Some of the commentary that I have picked up on—this might be another example of the opposition bending the truth a bit—suggests that the opposition is looking to build a facility down there where the kids can be taken into detention.

Mr P.B. Watson: Instead of being flown to Perth by plane after eight o’clock at night when there are no facilities. All we want is a facility, which we have at Young House. That is why I am asking you the question.

Mr D.T. REDMAN: It is always the position of the Department of Corrective Services to either release a person on bail or put that person into the care of a responsible person. That is always the first position. It is only ever as a last resort that they are taken to Perth. The other thing members must be mindful of is the issues that sit behind these cases. Often the government can share with the public only a certain amount of information about what the person had done previously, the reason that person is there, and the consequences of a number of events that the person had done wrong.

Mr P.B. Watson: I am talking only about the ones after eight o’clock at night who have broken their curfew and are flown to Perth at the cost of the government, the child’s family and the child.

Mr D.T. REDMAN: I reiterate that it is always the last resort to send someone to Perth, no matter what time of day it is.

Mr P.B. Watson: No. That is the policy from your office.

Mr D.T. REDMAN: No matter what time of day it is, it is always the first preference to keep the person in the local area. That will always be our position.

The member also asked whether there would be something in the budget for staff members at Young House. The budget process is being undertaken right now and I will not comment on it except to say that we are committed to early intervention and diversionary strategies, and that it certainly is not our preference to send people on a plane to Perth as a first resort; that is always the last resort. Members need to be very careful when commenting publicly when they do not have the information on the circumstances as to why that happens.

JUVENILE REMAND CENTRE — GREAT SOUTHERN

180. Mr P.B. WATSON to the Minister for Corrective Services:
I have a supplementary question. Will the minister give me an undertaking today to meet with me and the staff of Young House to discuss options for Young House to obtain government funding to expand its services to help the kids in my electorate?

Mr D.T. REDMAN replied:
Yes.

AGRICULTURAL SECTOR — GOVERNMENT SUPPORT

181. Mr M.J. COWPER to the Minister for Agriculture and Food:
This government has demonstrated strong support for the agricultural sector. Can the minister update the house on this government’s investment in agriculture and the vision it has for this very important industry?

Mr D.T. REDMAN replied:
I thank the member for Murray–Wellington for his question and interest in the matter. I will highlight the Premier’s and the Leader of the National Party’s responses today in answer to a number of questions: this government makes decisions and strongly supports the sectors that make a difference to the Western Australian economy. It is on those foundations that we can build a great state of Western Australia. One sector that makes a significant contribution to our economy is the agricultural industry. We spent a little bit of time getting some information on capital investment in agriculture. It is hard to find good information about what was achieved by the former government. In fact, the challenge in presenting this graph I am holding up to show members was to get a scale on the left-hand side of the document, which captures a little colour at the bottom, to depict the Labor Party’s capital investment in agriculture when it was in government. Again, all the Labor Party talked about were forward estimates, reviews and ideas, which were certainly not supported by its actions.

Several members interjected.
Mr D.T. REDMAN: We can see what this government has already achieved, let alone what it is committing to achieve in the future: investments in Muchea; investments in the state saleyards strategy; $9 million of investment in the “new genes for new environments” facility; of course, investments in the Ord–East Kimberley project—the first time rice has been grown in the Ord for 27 years and again a substantial investment; and support worth $30 million for the Australian export grain innovation centre to put our foundations on the ground in grains research and innovation in Western Australia.

Mr D.A. Templeman interjected.

The SPEAKER: I owe you a dollar for some peace, member for Mandurah, and I formally call you to order for the first time!

Mr D.T. REDMAN: Of course the Gascoyne irrigation project is another investment. The chart I held up shows some lost opportunities from the very good economic times that the Labor Party went through when it was in government. Those lost opportunities were its lack of investment in agriculture, its lack of policies and its lack of decisions. That is not the mistake that the Liberal–National government will make in our term of government.

JOONDALUP HEALTH CAMPUS — EMERGENCY DEPARTMENT

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

On 3 March the minister claimed that Joondalup Health Campus emergency department redevelopment would reduce ambulance ramping.

(1) Can the minister confirm that, despite this claim, Joondalup hospital still has the worst ambulance ramping statistics in WA, with 103 hours in March alone?

(2) What can the minister offer the people of Joondalup after this measure has clearly failed?

(3) When will the minister eliminate ambulance ramping at Joondalup hospital?

Dr K.D. HAMES replied:

(1)–(3) Ambulance ramping is a difficult issue. I took the opportunity in the past few weeks when Parliament was not sitting to pay a surprise visit to a couple of our hospitals. I did not tell them that I was coming. Specifically, I visited Sir Charles Gairdner Hospital and Fremantle Hospital. I ended up going later to Royal Perth Hospital but for a different reason. I spoke to the ambulance drivers who were waiting at Sir Charles Gairdner and Fremantle Hospitals. In fact, there was no ramping on the day I went. I just went on a normal weekday in the afternoon. I think it was Thursday.

Mr R.H. Cook: It clearly wasn’t on 14 March.

Dr K.D. HAMES: I did not get to Joondalup.

There was no ramping at either of those two hospitals. I had the opportunity to talk to those drivers about ramping. I asked what was causing the ramping and why there was so much delay in people getting into hospital. I asked that particularly since the view was that the four-hour rule would start 20 minutes after an ambulance arrived at a hospital as an incentive to get patients into the hospital.

This is diverting from the member’s question, I know, but it is important for him to know this because if he ever gets on this side of the chamber, he will understand one of the difficulties of the job.

Interestingly enough, the drivers said that a lot of ambulances that are ramped at those hospitals are actually transport ambulances. Therefore, a vehicle transporting a patient who has already been assisted, treated and managed at Armadale–Kelmscott Memorial Hospital or at Peel Health Campus goes to Fremantle Hospital and sits there waiting for a bed. The patient has already been treated and is being managed but the transport vehicle is still an ambulance and still counts in the ramping figure once it is there longer than 20 minutes. The ramping figure is therefore not a true reflection of the problem and probably overstates it. But not so at Joondalup. The ambulances ramped at Joondalup are not transporting patients anywhere, unless they are taking them to Peel. It was assumed that, as soon as that emergency department opened with its huge increase in capacity, it would reduce some of that wait. Since that time there has been a massive increase in the number of patients presenting at the hospital. The question is whether this is an effect of the four-hour rule, which enables people to be treated quickly in an area where there is a general practitioner deficiency, or whether people are just going to the hospital for treatment. The way to tell that is to look at the admission percentage figure. If it is the same percentage as in the past, we would expect the total number and types of patients to be the same; and they are. The admission rate therefore is the same. However, there has been an increase in patients presenting to that hospital of between 10 and 15 per cent since the day it opened its doors—that is, only a month or so. These are therefore early days.

Mr R.H. Cook: A month and a half.
Dr K.D. HAMES: There are efficiencies to be made. That emergency department is not yet running at maximum efficiency, but ramping is a concern. I have not looked at the latest figures referred to by the member. I will go back and look at them and see why that is the case, but these are early days. It is a bit early to try to judge after four to six weeks.

Mr R.H. Cook: You’re the one who said it would make a dramatic difference.

Dr K.D. HAMES: I did.

Mr R.H. Cook: “Significant”, I think, is the word you used.

Dr K.D. HAMES: Yes, I did. I thought it would. I expect that it will, but it is disappointing that after the first four weeks there is no significant reduction. We will look into the reasons for that. It may be to do with the efficient operation of management of patients through that ED.

JOONDALUP HEALTH CAMPUS — EMERGENCY DEPARTMENT

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

I have a supplementary question. What responsibility does the minister take for failing to develop Joondalup hospital as a tertiary hospital, meaning that the people in the northern corridor will continue to remain subject to delays and overcrowding?

Dr K.D. HAMES replied:

I made it quite clear to the member before. I do not think members opposite understand the difference between a tertiary hospital and the services that will be provided at Joondalup. Joondalup will be providing all the services that are usually provided in a hospital of that size. Like Royal Perth Hospital and Sir Charles Gairdner Hospital, Joondalup will be providing all those services except quaternary services—the very top-end services such as cardiac transplants and the like. However, the key difference is that Joondalup will not be a state hospital for the distribution of patients. That means that if a patient in Narrogin gets sick and is transferred to the city, the patient goes to a tertiary hospital such as Royal Perth, Sir Charles Gairdner or Fremantle. Joondalup hospital, therefore, will not have patients transferred to it from all over the state. It means patients will have sole access to a tertiary hospital that provides all those same services that a tertiary hospital provides without having to compete with the rest of the state. Instead of Joondalup hospital having beds taken away by people who might come to the city from outside the metropolitan area, that hospital will be able to concentrate all its services and provide for local residents.

BOULDER POLICE POST

Petition

DR G.G. JACOBS (Eyre) [3.08 pm]: I present a petition signed by 466 people. It is certified as conforming to the standing orders of the Legislative Assembly, and reads —

To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned, say that the closure of the Boulder Police Post is a blow to the safety of residents and business owners in Boulder.

Now we ask the Legislative Assembly to respect the wishes of the people of Boulder and immediately re-open the Boulder Police Post.

[See petition 382.]

GOLDEN BAY — HOUSING DEVELOPMENT

Petition

MR P. PAPALIA (Warnbro) [3.09 pm]: I present a petition bearing 418 signatures. It is certified as complying with standing orders, and reads as follows —

To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned, say that the proposed housing development at Golden Bay will produce a massive windfall profit to the Barnett government of $200 million.

Now we ask the Legislative Assembly to call on the Barnett government to allocate a fair share of the profit (being $15 million) to the local community to fund:

a. Australian Football facilities at Lark Hill Sport Complex (home for the Secret Harbour Dockers Football Club servicing Golden Bay, Singleton and Secret harbour),
b. a new Surf Club at Secret Harbour (servicing Golden Bay and Secret Harbour beaches),
c. upgrades to the old Rhonda Scarrott oval in Golden Bay, and completion of the dual-use path from Singleton to Mandurah.

[See petition 383.]

**PINJARRA–MANDURAH BUS SERVICE**

*Petition*

MR M.J. COWPER (Murray–Wellington — Parliamentary Secretary) [3.09 pm]: I have a petition that has been certified as correct. It has 30 signatures and states —

To the Honourable Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled:

We the undersigned say that: The Murray Shire is growing at 6.5% pa and this year alone 150 new jobs have been created in the Pinjarra Industrial Estate, a new 200 place apprentice training facility has opened, a new swimming pool will open soon in Pinjarra and Indigenous training at Fairbridge is continuing to be an outstanding success.

Additionally a new bus service will service those travelling to and from the Pinjarra Paceway and Race Club, new sub-divisions, schools, shopping centres, aged care and medical facilities.

Residents of the Murray District, who travel to Perth for work, study, medical appointments or recreation are compelled to drive their cars and when they choose to use public transport are compelled to compete for limited parking at the Mandurah Train Station.

The dual lane Pinjarra road is now WA’s busiest provincial road outside of the Perth Metropolitan area and carries large volumes of traffic to and from Alcoa’s Pinjarra and Wagerup Operations.

Fuel prices are now making Public Transport a necessity in the Murray District, and those outlying towns such as Dwellingup, Waroona and surrounds will be able to park and ride at Pinjarra, taking further pressure off parking at Mandurah Train Station.

Now we ask that the Legislative Assembly to support our campaign for the Government to provide a regular bus service between Pinjarra and Mandurah.

Your petitioners therefore humbly pray that you will give this matter your earnest consideration and your petitioners, as is duty bound, will ever pray.

[See petition 384.]

**NORTHERN SUBURBS RAILWAY LINE — OVERCROWDING**

*Petition*

MR J.C. KOBELKE (Balcatta) [3.11 pm]: I have a petition that conforms to the standing orders of the Legislative Assembly. It contains 287 signatures and states —

To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned, call on the Barnett Government to address the serious overcrowding on trains from Stirling Station caused by its refusal to order any more train carriages. As a result commuters are struggling to get to work and appointments on time.

Now we ask the Legislative Assembly to ensure the Barnett Government immediately order at least thirty additional train carriages.

[See petition 385.]

**MIDLAND RAILWAY LINE — OVERCROWDING**

*Petition*

MR M.P. WHITELY (Bassendean) [3.12 pm]: I have a petition from 44 of the 46 people I approached at Bassendean train station this morning. It states —

To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned, are opposed to the Barnett Government’s decision to ignore the train overcrowding occurring on the Midland line by refusing to order any more train carriages. Commuters are struggling to get to work and appointments on time.
Now we ask the Legislative Assembly to ensure the Barnett Government immediately order at least thirty additional train carriages.

[See petition 386.]

COST-OF-LIVING INCREASES

Petition

MR C.J. TALLENTIRE (Gosnells) [3.13 pm]: I have a petition signed by 43 people. It conforms with the standing orders of the house. It reads —

To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned, say

1. The State Government’s recent increases in fees and charges to householders are disproportionate and unfair.
2. Many people are struggling to get by and these increased charges are causing unnecessary hardship.

Now we ask the Legislative Assembly

3. To voice the case of householders aggrieved by these increases in fees and charges.
4. To give relief for WA householders trying to balance the household budget.

[See petition 387.]

PAPERS TABLED

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

BUSINESS OF THE HOUSE — PRECEDENCE OF PRIVATE MEMBERS’ BUSINESS

Standing Orders Suspension — Notice of Motion

Mr R.F. Johnson (Leader of the House) gave notice that at the next sitting of the house he would move —

That so much of the standing orders be suspended as is necessary to enable private members’ business to have priority from 4.00 pm to 8.00 pm on Wednesday, 6 April 2011.

PARK HOME RESIDENTS

Notice of Motion

Mr M. McGowan gave notice that at the next sitting of the house he would move —

That the house calls on the Barnett government to take urgent action to help permanent park home residents obtain greater certainty in relation to their living arrangements into the future.

RESOURCES LEGISLATION AMENDMENT (SKILLED LOCAL JOBS) BILL 2011

Withdrawal of Notice of Motion to Introduce

Notice of motion withdrawn by Mr E.S. Ripper (Leader of the Opposition).

SKILLED LOCAL JOBS BILL 2011

Notice of Motion to Introduce

Notice of motion given by Mr E.S. Ripper (Leader of the Opposition).

INFRASTRUCTURE INVESTMENT — POPULATION GROWTH

Notice of Motion

Mr E.S. Ripper (Leader of the Opposition) gave notice that at the next sitting of the house he would move —

That this house condemns the Barnett government for its failure to invest in basic infrastructure across Western Australia, in particular its failure to purchase additional trains and buses or to construct new roadworks to keep up with population growth.

YOUTH UNEMPLOYMENT

Matter of Public Interest

THE SPEAKER (Mr G.A. Woodhams): Members, today I received within the prescribed time a letter from the Leader of the Opposition in the following terms —

I wish to raise the following as a matter of public interest today.
“That this House notes with deep concern that WA’s youth unemployment rate has increased from 8.5% in February 2008 to 21.7% in February 2011 and that up to 40% of the WA community are not benefiting from the boom because they are working in industries with no direct connection with the resources sector, or living on fixed or vulnerable incomes.”

The matter appears to me to be in order and if at least five people will stand in support of this matter being discussed—I note that there are—the matter can proceed.

[At least five members rose in their places.]

MR E.S. RIPPER (Belmont — Leader of the Opposition) [3.18 pm]: I move—

That this House notes with deep concern that Western Australia’s youth unemployment rate has increased from 8.5 per cent in February 2008 to 21.7 per cent in February 2011 and that up to 40 per cent of the WA community are not benefiting from the boom because they are working in industries with no direct connection with the resources sector, or living on fixed or vulnerable incomes.

I note with great disappointment that the Premier is not in the house to discuss this very important matter, and neither is the Deputy Premier or the Leader of the National Party. We are discussing whether ordinary Western Australians will benefit from the resources boom, which the Premier has gone so far as to deny is occurring. His lack of concern and care about this issue is shown by his absence from the house and by his failure to be prepared to participate in this debate. He cannot ignore this debate. This is a very important debate about the future of the state.

Mr B.J. Grylls: I will listen until you become irrelevant.

MR E.S. RIPPER: The Leader of the National Party has at last arrived, but there are only two ministers on the front bench and only five members of the government prepared to participate in this very important debate.

The Premier, “No Boom” Barnett, says that we do not have an economic boom, but I have in front of me information presented by the Department of State Development to a Western Australian Council of Social Service conference. Nicky Cusworth, who represented the Department of State Development at that conference, gave a speech about the Western Australian economy and the benefits derived for Western Australians. Obviously, I do not have the text of her speech, but I have a copy of her PowerPoint presentation that refers to a strong WA economy—a $150 billion state economy; strong economic indicators; robust forecasts driven by an expectation of a strong resurgence in resources investment; and a resources boom mark II. That is the official advice from the Department of State Development to the WACOSS conference entitled “Ways to Make a Difference”. In another slide, it is claimed that the boom will be fuelled by the strong economic growth of China and, to a lesser extent, India.

We had the Premier out the front of this place denying that there is a resources boom so that he can avoid responsibility for fairness in the boom and so that he can avoid responsibility for delivering benefits to the people of Western Australia while his own department is clearly giving him alternative advice. What Ms Cusworth says is very, very interesting, and I will quote from her a little later.

My major concern is this: there is a resources boom but the people of Western Australia are missing out. At last, the Premier arrives! There is a resources boom, but the people of Western Australia are missing out. There is evidence for that. Bankwest conducted a study on what it calls financial fitness, and it produced something called the “Financial Fitness Index 2011”, which indicates, according to research from Bankwest, that over one-third of people living in Western Australia are financially unfit. This result is despite the fact that 44 per cent of households have become more conservative in their spending compared with the situation a year ago. The document continues to claim that the third annual Bankwest “Financial Fitness Index” found that 35 per cent of people living in Western Australia are classified as financially unfit and have little or no savings, high housing costs relative to their income, inadequate insurance, and few assets. Now that is a sign that too many Western Australians are missing out on their fair share of our economic prosperity.

I now go to what Nicky Cusworth told the WACOSS conference entitled “Ways to Make a Difference”. One of her slides was headed “Who is benefiting from the boom?” She divided the community into three groups. Group 1 was those with a direct connection to the resources sector and associated industries. Under the title “Missing out?” was group 2, which comprises those working in industries with no direct connection with the resources sector, and group 3, which comprises those living on fixed or vulnerable incomes, casual workers, Centrelink beneficiaries and self-funded retirees. She described group 2—that is, working people in industries with no direct connection with the resource sector—as being in the position of trying to stay connected; there were warning signs for that group, including mortgage stress. The most vulnerable group was group 3, with many being indirectly harmed by the progress of the resources boom. Most alarmingly, in another slide, she indicated that up to 40 per cent of the Western Australian community could be in either group 2 or group 3. We are talking about a really significant issue. We are talking about 40 per cent, potentially, of our population...
missing out on its fair share of the benefits of the boom because this government will not step up to the plate and manage the boom to ensure that the benefits are distributed fairly.

Why are people missing out? Firstly, let us look at the government’s economic policy. The government has a resources-only focus. There is no industry policy. There is no discussion about information technology or biotechnology or defence industries. There has been a pathetic performance in tourism. There has been no effective action whatsoever on local content. There has been no effective action in delivering benefits to local industry from our major projects. We have a failure to invest in training. If we want to spread the benefits of the boom to other Western Australians, and if we want to manage the boom effectively to avoid damage to many businesses not connected to the resource sector, we have to invest in training. Nevertheless, we have 3600 fewer people in apprenticeships than was the case in 2008. That is the dismal performance by this government on apprenticeships. We are not seeing the government investing to deal with disadvantage. This is a major opportunity to overcome disadvantage—to unlock labour from disadvantaged geographic areas and disadvantaged demographic groups, thereby fulfilling the economic need for more labour to service the resources boom and fulfilling the social need and the social justice need to spread the benefits of the boom to more people. What better way to do this than getting people off welfare and into work? Has the government shown any interest in doing that? No, it has not.

If we look at the government’s financial policy, we see another reason people are missing out. The whole infrastructure program is dominated by the pet projects of the Premier and the pet projects of the Leader of the National Party. Therefore, we do not have sufficient investment in our electricity network; that has been a half a billion dollar failure. We do not have sufficient investment in Horizon Power. The latest information from the Economic Regulation Authority is that there will be a $300 million underinvestment in the infrastructure needs of Horizon Power. We do not have enough investment in the Water Corporation, and the government will be required, I think, to make an emergency decision, perhaps outside the budget process, on a very expensive expansion of the southern seawater desalination plant. We do not have enough investment in roads. According to the Auditor General, the backlog in road maintenance is $800 million, and our shadow Minister for Transport has identified that this government is spending $1 billion less on roads and rail in a four-year period than Labor spent on roads and rail in its last four years in government. We do not have enough investment in public transport, as shown by the government’s wilful failure to order sufficient trains in 2008. The government will pay, but, more importantly, commuters will pay day by day, week by week, month by month for two years following the government’s belated placing of that order for railcars—if the government ever gets around to placing that order.

We then come to social policy and the 46 per cent increase in electricity prices, the 30 per cent increase in gas prices and the 30 per cent increase in water prices. The government has taken additional dividends out of those utilities. In fact, the government has had to go so far as to issue formal written directions to the electricity utilities in order to extract those additional dividends. Clearly, the boards did not agree that those dividends were in the commercial interests of the organisations. The government had to go down the path of formal written directions telling those boards to cough up more money because the utilities are taking more from the people of Western Australia and the government needs more money from them for general revenue. The government cries poor on this issue. It says that if it does not increase electricity prices, there will be a massive increase in debt. It says it is already subsidising electricity prices too much. The opposition has done some research on this matter, and looked at the balance between the operating subsidy that the government pays Synergy and what the government takes from the electricity utilities in the form of dividends and income tax equivalents. The opposition found the following figures. In 2009–10, the operating subsidy was $179.1 million. The total dividend from the electricity utilities was $149.1 million, and the income tax equivalent payments came to $57 million. Therefore, although the government cries poor and says it needs to take more money out of people’s pockets because it is subsidising electricity, it actually took $27 million net out of the electricity system in 2009–10. The subsidy the government pays is more than outweighed by what it collects in dividends and in income tax payments.

The same can be said for the 2010–11 budget. The net payment from consumers of electricity to the government in 2010–11 is $33 million. The Treasurer comes in here, cries poor and says there will be too much debt unless we increase electricity prices. He is already into the pockets of ordinary Western Australians as they pay their electricity bills, for $33 million. These electricity price increases are nothing more than a sneaky new tax! If members look at what the government is proposing to do in its financial plan, they will see that the government will collect $1.457 billion on a net basis over the next three years from the electricity utilities. That is, after all, operating subsidies. If the government’s financial plan is implemented, over the next three years the government will also collect $1.825 billion on a net basis from the Water Corporation. If the government’s financial plan is implemented, over the next three years the total amount that the government will rip out of the pockets of ordinary Western Australians, as they pay vastly increased electricity and water bills, is $3.283 billion. That is a pretty substantial revenue flow. That is a tax in anyone’s language! We will certainly be talking to the people of
Western Australia about how, while the government cries poor and says it is subsidising electricity, it already has its hands in people’s pockets. The government collected $27 million last year and $33 million this year and is planning to collect $1.47 billion over the next three years. It is a sneaky new tax and it is a way of getting at people. The government is subsidising its pet projects at the expense of delivering the services and the infrastructure that ordinary people need. The government should look at this figure and realise there is a problem. Youth unemployment in February 2008 was 8.5 per cent; in February 2011, it was 21.7 per cent. Need we say more about the government’s failure to distribute the benefits of this boom to ordinary Western Australians?

MR F.M. LOGAN (Cockburn) [3.31 pm]: I also refer to the presentation that was undertaken by the Western Australian Council of Social Service as part of its conference named “Ways to Make a Difference”. I will comment on what sort of social dividend Western Australians will get out of the multi-speed economy that is being created by this government. There is a boom, and yet the Premier went before the rally on local content and told everybody that there is not a boom. Of course there is a boom. There is a boom in the mining and resources sector. There is a boom in the oil and gas sectors and the Premier knows that. The boom in that sector is in a multispeed economy that is being created by this government. What is the social dividend that will be paid to people in Western Australia? Nicky Cusworth had some comments on that. She said —

Persistently disadvantaged groups are being hit hardest by the economic climate of WA —

through rising living costs, and greater disconnection from the education, training and services that would support their capacity to participate and benefit from the boom.

We heard from the Leader of the Opposition about the consistent decline that we have seen in the investment in training in Western Australia. The number of apprentices has dropped off dramatically in Western Australia. We heard from the Leader of the Opposition about the consistent decline that we have seen in the investment in training. The figures put together by WACOSS is a summary of that lack of investment in training. We see a massive jump from nine per cent youth unemployment in 2008 to 21.7 per cent in February 2011. What a shocking legacy to leave to Western Australia! That is the result of the multispeed economy that is being created by this government. If we look at the overall unemployment figures, we see the areas and the suburbs that are being affected. Fremantle is at 7.2 per cent unemployment. Kwinana is at 10.6 per cent unemployment. Perth is at 8.7 per cent unemployment. In the Liberal-held Wanneroo region the unemployment rate is 7.4 per cent compared with the state average of 4.2 per cent. In these suburbs the unemployment rates are in some cases nearly double the state average and in other cases more than double. Increased unemployment is occurring right now in the middle of a resources boom. Nicky Cusworth identifies those at greatest risk of social exclusion and missing out on the social dividend as sole parents, jobless families, Aboriginal people, Torres Strait Islanders, people with disabilities or mental illnesses, seniors, low-income earners, homeless people, people who are at risk of homelessness, migrants and refugees. Those people are being kicked by this government as a result of the multispeed economy and its lack of investment in services and in training, and its absolute obsession with increasing utility costs and overall costs.

Let us go back and look at the utility cost increases. Those groups of people that I just read out are the ones who are suffering as a result of the introduction of these utility costs increases imposed by this government. The cost of electricity has increased by 50 per cent over two years. The cost of water has increased by 36 per cent over two years. These are the compounded figures. Gas has increased by 36 per cent over two years. Some of the figures have also been taken from this report. The national CPI figures for other aspects of people’s home economies show that housing costs have increased by 5.9 per cent, health costs by 4.2 per cent and education costs by 7.8 per cent. Families are struggling with all those costs. A significant proportion of those costs have been unfairly and unnecessarily applied by this government.

The picture that we are creating here is one in which the government has a multispeed economy, a resources boom and an oil and gas boom. In other sectors of the economy the unemployment rate has jumped over 10 per cent, particularly youth unemployment. People on the lowest incomes in Western Australia are suffering even greater privations created by this government. Does the government then take any actions to address the multispeed economy and alleviate the pain and suffering it is causing for families, particularly low-income families? We do not see that at all. If members look at how these families are responding to these increases in utility costs and how they deal with the affordability problems coming out of the utility price increases, we can see that the government is making it worse. We have seen a jump from 71 000 people in 2008 struggling to pay their electricity bills to over 100 000 in February this year. That is a 47 per cent increase in families in Western Australia struggling to pay their electricity bills. In 2009–10, 17 223 residential gas customers—that is, families—were disconnected, which is a three per cent increase. Why? The reason is that the government has allowed companies such as Alinta to increase utility prices. There has been a 57 per cent increase in the number of people who are legally pursued by the Water Corporation for the non-payment of water bills. That is the legacy the Premier is leaving for Western Australia; people are struggling to pay their utility bills, people are unemployed, and the government is failing to address any of these problems. The government is making things worse.
We know what will come out in this year's budget. We know the government will increase electricity costs. We certainly know the government will increase water costs. In Western Australia the Liberal–National government will once again kick the poor in its 2011–12 budget. That is what it will do—it will kick the poor. The government has been kicking the poor for the last two years, as evidenced by the figures that I have just put on record in Hansard here in Parliament. I can guarantee that you, Mr Speaker, will see the same old story in the 2011–12 budget: “Let’s look after our mates in business. Let’s chase after those iconic projects. Let’s leave a reminder of how great we are as a government and how great I am as a Premier. Let’s leave behind a palace on the hill for the administration of politics in Western Australia. We will do it all at the expense of the poor in Western Australia!”

Mr C.J. Barnett (Cottesloe — Premier) [3.40 pm]: The opposition cannot seem to decide whether it believes there is a boom or not. It has been wandering around for the past six months saying that the Western Australian economy is in a boom. Now it is saying that youth unemployment is too high, which I agree with, and that people are finding it tough to cope with utility prices, which I also agree with. So, what is the opposition’s position?

Mr E.S. Ripper: You are not delivering the benefits of the boom.

Mr M.P. Whitely: You are mismanaging the boom.

Mr C.J. Barnett: So, members opposite do not know!

Mr M. McGowan: Do you think there is one? Is there a boom?

Mr A.P. O’Gorman: It is a multispeed economy.

Mr C.J. Barnett: A multispeed economy! As I have said from the day after the election, this economy is not in a boom environment. Yes, I have consistently said that the mining industry is going through a big expansion phase. The petroleum industry prospectively has a large number of big projects, and I believe the projects will happen, but most of them are still in the planning and development stage. Some of them are now starting to appear on the ground. As I have consistently said, look around other parts of the Western Australian economy: the retail sector has been sluggish, and continues to be; the tourism industry is doing it tough; the property sector is flat; and new housing construction is at low levels. This is not a boom environment. I do not know that members opposite even know what a boom is. Traditionally, a boom is a period of highly escalating prices, including property and asset prices. I do not see much evidence of that.

Mr P. Papalia: They will all be happy now you have told them that!

Mr C.J. Barnett: I am not going to put up with the member for Warnbro!

I do not see much evidence of that happening in the marketplace at all, but, yes, we have strong demand for commodities and strong investment foreshadowed in the mining and petroleum industry. That is an opportunity for this state to grow strongly, and it is an opportunity for all people in this state to benefit. That is what this government is setting about doing.

Members opposite raise, quite appropriately, the issue of youth unemployment. It is a continuing frustration of successive governments that young people bear a disproportionately high level of the unemployment rate, whatever that rate might be. In Western Australia at the moment, the unemployment rate is 4.4 per cent. I think most economists would regard that as pretty well at full employment level. It is below the Australian national rate of five per cent. Employment levels generally are high; unemployment is low. The youth unemployment rate is 16.2 per cent. It is not what members opposite quoted. That is too high. It is a tragedy that 16 per cent of young people are unemployed. I also note that the youth unemployment rate in Western Australia, at 16.2 per cent, is the lowest rate of all Australian states. Yes, it is too high, but it also happens to be the lowest of any Australian state. The opposition should look at some of its Labor colleagues in other states; their records are not all that flash.

It is an absolute desire of everyone that we build on skills and that we provide young people with the opportunity to complete a secondary education, to go into apprenticeships and training programs, to get their first job, whether it be in the private or public sector, to acquire further skills on the job, and to be able to move into successively better paid, more interesting and more enjoyable work. I believe that is happening. There are great opportunities in this state for young people; probably better opportunities here than those found anywhere else in Australia and probably in most parts of the world—certainly if we compare the situation with Europe or North America. Young people have an opportunity, and, yes, they might need to move to where the work is—it might not necessarily be here. They may have to work hard at their education and training to get those chances, but the opportunities are certainly there in this state. Compare the prospects of young people in Western Australia with those in, say, Tasmania. Why are all the young people leaving Tasmania and going to Melbourne and Sydney? It is because there are no prospects for them in Tasmania; they do not see prospects. Young people in this state do not face that dilemma. There are chances, and, yes, they might need to go into regional areas, they
might need to go to the Pilbara, they might need to commute reasonably long distances across Perth, but there are employment prospects. Talk to employers—I am talking generally—and one of their greatest frustrations is attempting to secure workers who are qualified, and even unskilled workers who will be reliable and will do the job. Members can talk to retailers and others; they struggle to attract and maintain employees. It is particularly difficult to get people to work in the Pilbara. There are all sorts of reasons for that, and I am not taking a blame position —

Mr E.S. Ripper: It cries out for a government program, though, does it not—or a government effort?

Mr C.J. BARNETT: If members look at the backbone of our economy, it is the mining and petroleum industry, with agriculture —

Mr W.J. Johnston: And small business.

Mr C.J. BARNETT: You make a speech later, sunshine. I am sure everyone will vacate the chamber when you get to your feet!

Mr M. McGowan: You are a bit grumpy today.

Mr R.H. Cook: He’s at his arrogant best!

Mr E.S. Ripper: You have got five people here for your speech!

Mr C.J. BARNETT: I am not particularly interested in the opposition’s debate. I will sit down if they want me to.

The mining and petroleum industry directly employs 76 000 people. That is a very significant part of the workforce of this state. It is hard to find a family that does not have some connection to the mining and petroleum industry in this state. It is a good employer. It provides training, it provides employment and career opportunities, and it is a high-paying industry. That is why average weekly earnings in this state are probably close to 20 per cent above the national average. That gets disbursed. People spend their money. They go shopping and they go to entertainment venues. People buy vehicles and home appliances. That money disburses and spreads throughout the economy. We always think about the second, third or fourth order tasks, but the first task of a government in a resource-based economy is to secure big projects to get investment underway to ensure employment, and then to work to make sure those benefits distribute across the economy. If we do not get the projects, there is nothing to work with. We would have a Tasmanian situation. Why does Tasmania have high unemployment? Why does it have bleak prospects? It is because they do not secure projects or they do not want to. This state, and this government, is pretty good at securing major projects, but we still have a long way to go and a lot of hard yards to do.

Mr M. McGowan: Which ones?

Mr C.J. BARNETT: I will answer the member’s question in a minute.

Mr M. McGowan: I can’t think of any you have secured!

Mr C.J. BARNETT: Can’t you? Okay.

Mr W.J. Johnston: Name one.

Mr P. Papalia: Name three.

Mr C.J. BARNETT: My job is not to educate the uneducated!

Mr E.S. Ripper: You cannot name one resources project.

Mr C.J. BARNETT: Members opposite could not think of three things they did in government during the election campaign! They could not think of three things after eight years in government! They could not think of three.

In terms of training and apprenticeship, yes, it is critically important that we, through our schools and our training institutes, provide quality training and opportunities for people, and encourage young people to progress. I agree with the member for Cockburn on some things he said about the operations of steel fabricators and other workshops in Kwinana. I listened to him late last year, and we took action.

Ms M.M. Quirk: It is not my electorate.
Mr C.J. BARNETT: No! It is not my electorate either, but I go there! I have been there three times this year. I am going back and members will see the work flow.

Mr M. McGowan: I go there every day.

Mr C.J. BARNETT: The member lives there, does he not?

Mr R.H. Cook: Have a cup of tea with a few mining executives—that is your effort. You made no systemic changes at all.

Mr C.J. BARNETT: “A cup of tea with a few mining executives”? The mining executives are the heads of the four biggest companies operating in this state, and three of the four biggest companies in this country. A cup of tea with them—does the Deputy Leader of the Opposition think they gave up their Saturday morning lightly? No.

Mr R.H. Cook: Yes, I do. They needed to get your arse out of the fire! They are in as much trouble as you are because they know the public will condemn you for the lack of employment in areas like Kwinana.

Mr C.J. BARNETT: Does the member realise that work —

Mr R.H. Cook: What has been your response? You took a media crew down to Kwinana!

Mr C.J. BARNETT: I will sit down, Mr Speaker. The member is not even interested enough to think what is happening in that area. I took on board the comments the Deputy Leader of the Opposition and others made. One company is sending down its entire procurement team in a bus to go through —

Ms M.M. Quirk: interjected.

Mr C.J. BARNETT: Again the member sniggers. What do members think they will be doing? They will spend the whole day down there going through the specifications, the equipment and the way the contracts are presented. They will break them up into smaller contracts, with the instruction that they will deliver more work for those workshops. That is not a bad outcome. The member for Girrawheen sniggers; the member for Cockburn does not snigger. That is what one company is doing. The others have already started breaking up tender work and contracts to make sure it flows. I expect to see those workshops busy towards the end of this year; if not, when I go down again in a couple of weeks I expect to see more work happening than was the case at the time of my two visits earlier this year.

With respect to training, this state has provided an additional $50 million for a further 17 000 training places. They are important. Every government needs to do that. The number of apprentices and trainees in training has reached an all-time high in this state of 39 600 as of 31 January 2011. There are more apprentices and more trainees in total in WA now than ever before in this state’s history.

Mr E.S. Ripper: There are 3 600 fewer apprentices. That is a traineeship figure; it is not an apprenticeship figure.

Mr C.J. BARNETT: That is because the composition of the workforce is changing in this state. Members opposite come in here and grizzle, but I will repeat the figure for members: the number of apprentices and trainees in training —

Mr E.S. Ripper: It is 958 higher after two years.

Mr C.J. BARNETT: I will repeat it once again, if the Leader of the Opposition will not listen: the number of apprentices and trainees in training has reached an all-time high of 39 600 as of 31 January 2011. I am not saying it is perfect, but it happens to be an all-time high. That is a fact.

Mr E.S. Ripper: It is 950 higher than it was two years ago, and the partnership element is lower.

Mr C.J. BARNETT: That is a fact. It is at a record level. I am concerned that 16 per cent of young people are still not working, are not in traineeships and are not doing apprenticeships. They should be and I want them to be. Some members on this side will give examples of what they are doing in their electorates to help support training. The member for Cockburn has made a good contribution to this debate because, with a couple of exceptions, he has been positive and constructive. He has not just sat there and thrown insults across the chamber—trite, inane comments. He has actually done a bit of work in his electorate and he has drawn my attention to some of the problems.

Ms M.M. Quirk: It is his electorate.

Mr C.J. BARNETT: Yes. He knows a bit about the industry, and he deserves some credit for that. I have listened to him —

Mr P. Papalia: You’re calling for guest workers. You don’t want to train people in Western Australia.

Mr C.J. BARNETT: That is it. There is no point.
MR M.J. COWPER (Murray—Wellington — Parliamentary Secretary) [3.51 pm]: Following on from what the Premier was saying, the government introduced a range of initiatives to help employers retain apprentices and trainees during the economic downturn, including through the securing out-of-trade apprentices initiative. In addition, to assist employers and students, the state is working with employers to pilot programs for more flexible and responsive apprenticeships.

It just so happens that yesterday I was in Kewdale, and I visited a large trucking company there. The gentleman who owns that company, whose name is Peter Clark, told me about an initiative under which his company will be a bit more inventive when it comes to getting apprentices through their trade training. For those members who are interested, I have with me an article from February–March 2010 on the motor of Western Australia. People are looking at ways in which they can help those who may have learning difficulties to become valuable apprentices. Mr Clark told me that one of his employees who is dyslexic was not doing particularly well in conventional training through TAFE. Through the C.Y. O’Connor training facility, employers are bringing people into the workplace. They are setting aside portions of their factories into which they can bring apprentices from not only their factory, but also surrounding factories in Kewdale, and put them through competency-based testing and training that will help these people reach a level of competence. These are small ways in which the state government is supporting industry in getting people into a position in which, in the near future, they will be valuable workers in critical parts of our economy. I would like to put that document on the table for the remainder of the day for those members who may be interested in some of the innovative ways in which industry, with government, may be able assist those people who perhaps were not feeling comfortable in a conventional training environment.

[The paper was tabled for the information of members.]

Mr M.J. COWPER: I commend the way in which industry has tried to deal with this issue and urge members to look at this article.

There are other problems with apprenticeships. I was in Kwinana and I talked with a company that manufactures tanks. It employs a range of local people. It has also brought in some 457 visa people from outside. They have been here for a fair bit of time, and their families have now joined them. They have applied for and been successful in gaining citizenship in Western Australia. This is the sort of migration that we want and need in Western Australia in support of the five-pronged attack of this government to get the number of workers that will be needed in this state in the near future.

Things are tough out there on the ground. I have talked to various companies around the place, and I have found that particularly the small to medium-sized businesses that employ, say, 20 to 30 people are not particularly happy with the chequebook style of employment that some of the big mining companies are engaging in. The small to medium-sized businesses invest in putting a number of apprentices through a training program, and then the chequebook from some of the big projects in the north comes out. In the case of the tank manufacturer in Kwinana to whom I was talking, he said that he had had 18 apprentices over the past four years, and only three had completed their apprenticeships. This is another issue that we need to address. These apprentices reach a certain level of competency, and all of a sudden they are whisked away to take up other employment opportunities. Obviously, there is great competition to employ people to do some of the work in other places. Perhaps I need to discuss privately with the minister ways in which we can get greater input from some of the big companies out there so that they can provide their fair share of money and training facilities, along similar lines to what is occurring down my way, which I am extremely proud of and which I have mentioned in this place ad nauseam. The Premier came down to my area with the Minister for Regional Development and officially opened a facility for 200 apprentices. If the facility reaches its full capacity, it has the potential to cater for up to 350 new apprentices. So we have to look at ways in which we can be innovative and get people into these jobs.

I will give another example of ways in which we can be creative in trying to increase the number of apprentices. Last week I had the pleasure of hosting my colleague on the other side the member for Maylands, who came out to Fairbridge. We were looking at some other issues regarding a passion that she has for horses, but at the same time I gave her an opportunity to look at some of the fantastic work that we are doing with Indigenous people there. I am not sure whether it was while the member was there, but I came across a program that is being run through the Department of Corrective Services. I think I was with a previous member of this place, Gary Snook, the former member for Moore. People from the Chamber of Minerals and Energy of Western Australia were also there last week, and I showed them around. A group of Indigenous men from Karnet Prison Farm were there on day release, and they were being tutored in the art of open-pit mining extraction. Simulators are set up there, and there is an area in which there is—it is not a quarry—an extraction pit. I think there is some sort of implication in using the word “quarry”. However, there was the opportunity to put these young people, who were a bit of a captive audience, through some training, so that when they come out of prison they will have some real, meaningful skills that will help them to get a job straight up. Great work is being done in partnership with Fairbridge and also the state government’s Department of Corrective Services. I see the minister sitting in the
chamber. He may have some knowledge of this. When these young Aboriginal men leave prison, they will have certification so that they will be able to get a job straightaway, whether it be on a fly in, fly out basis or anything else that they want to do. They will have meaningful, well-paid jobs, which will hopefully see them veer away from a life of crime.

No doubt the member for Cockburn comes into this place with honourable intent. Of course, there is always more that we can do in providing training and education for the people of Western Australia, and in particular the young people. A whole range of matters can be explored to get private enterprise, in particular, to invest in this area also. I think partnerships are the way to go. I commend the member for raising this issue on that front. It is a very complex issue and one that is not going to be solved overnight. There are many complexities, and we will work through them as best we possibly can. Collectively as a government, and with the opposition doing its job, we may see some results that will hold us in good stead for the future, because we are going to need it.

MR A.J. SIMPSON (Darling Range — Parliamentary Secretary) [3.59 pm]: I thank the member for Cockburn for his comments. He raised a number of important points. Although the state’s youth unemployment rate was 19.8 per cent in February 2011, the rate for Western Australia is significantly below the national average of 23 per cent. WA’s figure is better, but it is not as good as it could be. I understand the situation we are facing at the moment. The Office of Youth has secured some funding through the Department for Communities for training directed towards a mentoring program. This is a strategy that is part of the Council of Australian Governments national partnership for youth coaching and mentoring. This strategy is aimed at helping young people move towards their career goals through further training and to enter the workforce when they reach the end of high school. I have had the opportunity of working with The Smith Family for a number of years and seen first-hand its great mentoring program to help students either take up a university degree or to enter the workforce. Through the Office of Youth, the state government is currently conducting a statewide survey and consultation to identify ways to improve and extend the strategy further, with a new strategic framework for youth mentoring expected to be delivered later this year. The Office of Youth expects the youth mentoring reform strategy to play a significant role in reducing youth unemployment in Western Australia.

As the member for Cockburn indicated, high youth unemployment is never a good sign in an economy because our youth are our future tradespeople who we will rely on to build the nation in the future. I think as a government we need to be a bit more conscious of the need to put more into training. The member for Murray—Wellington referred to a number of ways that the government has been proactive, one of which was to exempt training fees to try to get more people into training. The government has looked at a number of other ways to try to get more people into training, including through workforce development. I think we are doing a fair bit in that process. I am pretty excited that later on this year we will kick-off the National Partnership for Youth Attainment and Transitions. Its aim is to mentor young people at school through training towards their career goals in the workplace. It is a very exciting project.

DR M.D. NAHAN (Riverton) [4.02 pm]: Clearly, the issue of youth unemployment is a serious one for us all, and one that has been with us for a long time. During the 1990s and through the first part of the last decade, youth unemployment on a national basis was often as high as 25 per cent—then from 2005 to 2008, it dropped very sharply in Western Australia to below double digits for the first time in many years. That was an impressive outcome. Research indicates that the relationship between many young people and the workforce has been tenuous. When the global financial crisis hit, there was a very sharp drop in youth employment and a resultant reliance on welfare, particularly in areas such as Cockburn and Kwinana. It is a challenge to bring those young people to the workforce.

I have been interviewing—I will continue to do so—businesses in my electorate, particularly in Canning Vale, to find out what issues they have with the workforce generally and with youth. I am not arguing that the larger fabrication manufacturers in Kwinana are not struggling for work—some of them are—but in Canning Vale they are not, as they are fully employed. Their biggest issue is getting workers, getting people to become apprentices, and those who do, to stay, and when they finish their training to continue with them. It is a tough labour market.

In one instance, there are very high levels of youth unemployment, and in other instances employers say they cannot get workers, particularly youth workers. It is a real problem. In 2009 people from the Commonwealth Department of Education, Science and Training undertook a survey in Cockburn, Rockingham and Mandurah and identified very rapid growth in youth unemployment during the GFC. A couple of things that come to mind from that is that those areas, especially Kwinana, have suffered what statisticians describe as social dislocation in the form of poverty or dislocation from the workforce and the general community. It is the most socially dislocated area in the metropolitan area, on par with many places in rural Western Australia. One of the things that that study showed—this is relevant to reducing unemployment in the Kwinana area if the larger manufacturers are given local content—is that in 2006–07, only 22 per cent of youth in Kwinana finished high school; in Cockburn, it was 40 per cent; and in my electorate, it is more than 60 per cent. Also, the rate of students in Kwinana who finished a tertiary course, whether with a certificate or otherwise, was five per cent. In my electorate, it is in the realm of 30 per cent.
There are serious problems in certain areas of our community; they are longstanding and they are deep. When we experience massive growth everywhere, people are drawn into the workforce, but the rates of employment fall off again as soon as the economy slows. This is one of our biggest challenges. In raising this issue, particularly in highlighting youth unemployment, the opposition has done a very good job. The question is: how do we go about it? As the Premier said, the first thing we do—particularly where there is intractable unemployment or groups, particularly youth, unconnected with the workforce—is create demand for employment overall. In Western Australia, our retail sector is basically national; our housing sector is in a deep funk, despite the excessive boom that took place two or three years ago; and many other sectors are slow. Western Australia has a very robust mining sector, and, therefore, it can be said that the mining and petroleum sector is growing very rapidly. But if we do not work hard in preparing to get those projects across the line, the proponents will not come. The people who will be hurt the most will be unemployed youth—the ones the opposition says it is most concerned about.

Mr E.S. Ripper: We support the projects. Don’t think we don’t support them.

Dr M.D. NAHAN: The opposition criticised the government for focussing on the big projects. Well, that is focusing on growth and on job creation. If we do not focus on getting the large projects over the line, there will not be any fabrication and there will not be any jobs for youth.

Mr R.H. Cook: That is an absurd argument.

Dr M.D. NAHAN: No, it is not.

Mr R.H. Cook: Are you saying you can’t walk and chew gum at the same time? He’s not that bad.

Dr M.D. NAHAN: The member for Kwinana cannot. I said quite clearly that the primary task is to get the projects over the line and do the hard yards in terms of planning and identifying projects. For instance, we hear continuous concern about the Browse project at James Price Point. It is quite clear that if we do not have a zone for our future LNG projects to be developed, they will not be developed. Look at Inpex Corporation; it is going offshore.

Mr F.M. Logan: You don’t have to kick the poor at the same time.

Dr M.D. NAHAN: We are not kicking the poor.

Mr F.M. Logan: You are focussing on the projects and kicking the poor at the same time.

Dr M.D. NAHAN: No; we are not. If the member calls creating jobs kicking the poor, he has a warped sense of the argument. The second task is to make sure that people can participate in the jobs that open up. The real question we have to ask is: why has there been for such a long time, and still is, chronic youth unemployment in Kwinana, Rockingham, Cockburn and Mandurah? Even when the fabrication sector was fully employed in 2007 and 2008, in the member for Cockburn’s own words, youth unemployment in those areas was more than 10 per cent.

Mr F.M. Logan: No they weren’t. That’s not true.

Dr M.D. NAHAN: That is what the Australian Bureau of Statistics says.

Mr F.M. Logan: That is not true.

Dr M.D. NAHAN: So we have a problem that full employment in the fabrication sector is not going to solve the hardcore youth unemployment in the areas the opposition is talking about. We need to come up with some options. Firstly, I would ask: why are kids dropping out of school? Why are only 20-odd per cent of kids in those areas finishing high school? If they do not finish high school, the unemployment rate is going to be over 10 per cent—look at the data; it is almost predetermined. I did not hear opposition members say anything about that, and opposition members represent those areas. Do they not know about it?

Mr W.J. Johnston: It is not true.

Dr M.D. NAHAN: It is not true.

MR W.J. JOHNSTON (Cannington) [4.10 pm]: I look forward to the Premier leaving, because he said he did not want to listen to my speech. I refer members back to the actual matter we are dealing with today. For the benefit of the member for Riverton, I point out that in February 2008 the youth unemployment rate in Western Australia was not 10 per cent; it was 8.5 per cent. If he had read the resolution, he would have known that. This resolution, which has been very well prepared and submitted by the Leader of the Opposition, points out that there are many people in our community who are not benefiting from the boom. I draw the attention of members to the words of Professor Barry Marshall, quoted in The Australian today, who said the government was penny-pinching and full of apathy when dealing with Western Australia’s future and was putting a brake on Western Australia’s efforts to attract top scientists to this state. It is not just fabrication factories that the Premier is missing out on.
I also point out that the media release about a Bankwest survey on school expenses that was published on 23 January stated—

School expenses—including uniforms, textbooks and excursions—are putting a further squeeze on the family budget with the cost totalling close to $1 800 per year for each Western Australian child.

Later in the media release, one of BankWest’s executives is quoted as saying —

The family budget is under strain and education is one cost which is hitting the hip pocket of parents across Western Australia.

It is not just the issues of employment and workshops down in the south that is having an impact. It is interesting to see the government forecasts put to the Western Australian Council of Social Service conference. Economic growth is expected to be five per cent for 2010–11, accelerating to 5.75 per cent and up to 6.25 per cent in 2012–13. It hardly says that this is a poor state.

I want to tell a story about a man in my electorate, Gary, who runs the pizza shop at the Carousel Shopping Centre. The member for Gosnells also knows him well. He spent $230 000 buying his business and today it is closed. He walked away from his business because the retail sector in the state is in freefall. If you go into Carousel Shopping Centre on a Thursday night, you will see that by 8.00 pm people are not shopping. The retail industry in this state is in grave danger of collapse.

Half of employment in this state is in small business. Once upon a time you could not run into a Liberal without them talking about small business. Now the Premier never talks about it. There is no concentration on issues of advanced industries or advanced engineering; they have completely gone from the Premier’s lexicon. “Small business” are words that are no longer heard from the Premier in this state.

It is not only those people who are suffering. We also have to think about ordinary folk who are living on fixed incomes. It is exactly these people this resolution talks about. I will just share a few quotes from people who have returned surveys to my office. A 76-year-old gentleman from Queens Park said —

Get rid of Barnett’s government and we might have a chance to do something about being ripped off.

A 78-year-old woman from Queens Park, writing about what she thinks the agenda should be for this state’s $831 million surplus last financial year, stated —

I would certainly help our struggling, worthy pensioners and our homeless people.

A nurse from Cannington, when asked what she would spend money on, answered—

On health. As a public hospital nurse, I see the total neglect in our health care every day. People should not be treated like this. The lack of money spent on the elderly is a crime.

These are the things that ordinary folk in this state are saying.

An elderly couple from Lynwood said they would like to spend more money on improving hospital facilities. Another couple, a 73-year-old and a 70-year-old, from Langford said —

At least the Premier could make it a little easier for the pensioners who are really struggling with the extra charges.

What does the Premier do instead? He takes a quarter of their pension increase by increasing the rates for the Homeswest properties.

A 59-year-old gentleman from Ferndale asked the Premier to reduce electricity and water charges. The Premier once said, “Why don’t you come to this chamber and tell me what it is that people in your electorate want?” That is exactly what I am doing for the benefit of the Premier. A 70-year-old woman from Beckenham said —

Colin Barnett has made especially pensioners on their knees, the federal government has given pensioners a good for our money to keep us going. Colin Barnett took it from us, gave it to the rich people.

A 59-year-old lady from Langford said —

Western Australia has become a very expensive place to live. There are many people who do not benefit anything from the mining boom with their jobs and they are the ones who need assistance.

These are the words of ordinary people. We hear that the Premier has been down to Kwinana with the four CEOs representing Woodside and these other companies. We do not hear him talking about the needs of pensioners. We do not hear him talking about the needs of small business. He says there are 150 extra apprentices and trainees in the state, but he neglects to say that there are fewer apprentices now than there were two years ago and than there were when we were in government three years ago. He does not tell the whole story. In his typical way he just spins, worries about focus groups and does not come here and explain in truth what is happening.
MR M. McGOWAN (Rockingham) [4.16 pm]: This motion is about the 40 per cent of households across Western Australia that are not benefiting from the boom in Western Australia’s economy and the mining boom. This is not our figure. This is a figure produced by none other than Nicky Cusworth, a former chief economist of the Chamber of Commerce and Industry, who is now a senior bureaucrat in the Department of State Development. Not only did she say it, but also she put it in writing. Forty per cent of households across this state are going to miss out on the upcoming economic success of this state. Quite frankly, that is disgraceful.

The government should actually look at how it can share the wealth and success of Western Australia above what it is doing today. All the Premier said was, “We are securing the big projects”—like he is some sort of Reaganomic, trickle-down economist and that is all he needs to do. My question to the Premier is: what big projects? Gorgon was already on the cards. The Premier himself admitted in this house that CITIC Pacific was a project of the former government. Boddington Gold was a former government project. Pluto was a former government project. Worsley was a former government project. If members look across all the big projects, they will see that they are all former government projects.

The big projects the Premier has put his name to are Browse and Oakajee, and where are they? All the Premier’s meddling and interfering—because he is a frustrated captain of industry who never had the guts to go out there and be a captain of industry—has resulted in those two projects not going anywhere. Where are they? The Premier says, “I am getting the big projects”. I cannot think of any big projects the Premier has got. All of them were in place before the Premier arrived in office, and they are the basis of the economic success of Western Australia.

Then we go to the public projects. Where are they? Everything the Premier has opened is a former government project—the Perth–Bunbury highway, the state theatre, the Perry Lakes redevelopment, the Geraldton waterfront, Rockingham General Hospital, the Albany Entertainment Centre, the floating dock at the Australian Marine Complex. The one project that is going full steam ahead is the Premier’s palace, and that has to be done within a year. Lord Farquaad over here, the king of Far Far Away, is out there making sure the Premier’s palace gets up as soon as possible. It is full steam ahead on the palace. Lord Farquaad will be sitting in his palace, looking out over his subjects. He will make sure that his palace is completed within one year, and all those other things have not happened.

If we want to make sure the benefits of the success get to ordinary Western Australians, how about doing something about those poor Homeswest pensioners? They sit there in their homes while the Premier rips away their one-off increase in the pension.

Question put and a division taken with the following result —

**Ayes (24)**

Ms L.L. Baker  Mr W.J. Johnston  Mr P. Papalia  Mr C.J. Tallentire
Dr A.D. Butt  Mr J.C. Kobelke  Mr J.R. Quigley  Mr A.J. Waddell
Ms A.S. Carles  Mr F.M. Logan  Ms M.M. Quirk  Mr P.B. Watson
Mr R.H. Cook  Mr M. McGowan  Mr E.S. Ripper  Mr M.P. Whitely
Ms J.M. Freeman  Mr M.P. Murray  Ms R. Saffioti  Mr B.S. Wyatt
Mr J.N. Hyde  Mr A.P. O’Gorman  Mr T.G. Stephens  Mr D.A. Templeman (Teller)

**Noes (28)**

Mr P. Abetz  Mr G.M. Castrilli  Dr K.D. Hames  Ms A.R. Mitchell
Mr F.A. Alban  Mr V.A. Catania  Mrs L.M. Harvey  Dr M.D. Nahan
Mr C.J. Barnett  Dr E. Constable  Mr A.P. Jacob  Mr D.T. Redman
Mr I.C. Blayney  Mr M.J. Cowper  Dr G.G. Jacobs  Mr A.J. Simpson
Mr J.J.M. Bowler  Mr J.H.D. Day  Mr R.F. Johnson  Mr T.K. Waldron
Mr I.M. Britza  Mr J.M. Francis  Mr W.R. Marmion  Dr J.M. Woollard
Mr T.R. Buswell  Mr B.J. Grylls  Mr P.T. Miles  Mr J.E. McGrath (Teller)

**Pairs**

Mr P.C. Tinley  Mr M.W. Sutherland
Mrs C.A. Martin  Mr C.C. Porter
Mrs M.H. Roberts  Mr A. Krsticevic

Question thus negatived.

**CONSERVATION LEGISLATION AMENDMENT BILL 2010**

**Receipt**

Bill received from the Council.
BUILDING SERVICES (COMPLAINT RESOLUTION AND ADMINISTRATION) BILL 2010

Consideration in Detail

Resumed from 23 March.

Clause 49: Costs and expenses —

Debate was adjourned after the clause had been partly considered.

Clause put and passed.

Clauses 50 to 52 put and passed.

Clause 53: Failure to comply with order: offence —

Mr M. McGOWAN: I do not want to particularly delay this legislation, but I must say that I raised the provisions of this clause during the second reading debate. The provisions deal with offences and penalties that apply to people who might commit an offence under the legislation. I indicated that I had received correspondence from the Housing Industry Association about this issue. The association was concerned about the scale of penalties to be applied to people who might commit an offence under the legislation. Under the provisions a person must not fail to comply with an order of the Building Commissioner or a building remedy order from the commissioner; and if someone does fail to comply, they are liable to a fine of $50,000, $75,000 or $100,000 and imprisonment for 12 months. The concern of the Housing Industry Association is that those are pretty hefty penalties. Can the minister advise us how he came up with penalties of that scale and whether he thinks those sorts of penalties are appropriate or whether they need to be reduced to lesser amounts as part of his amendments to the bill? I realise they are maximum amounts but I must say that they seem a bit heavy to me.

Mr T.R. BUSWELL: The member is right. The penalties probably are a point of contention with the Housing Industry Association, although I understand there have been further negotiations with the HIA such that when we deal with matters regarding a failure to provide notice for a range of administrative issues, which is contained within the Building Services (Registration) Bill 2010, a different regime of penalties will apply. I think that is fair. It will be for things such as failing to notify a change of address and various other notifications that are required of registered builders. I should also point out that there is an amendment in my name on the notice paper that will add a defence of “without reasonable excuse”. I do not think we will be terribly apologetic for insisting that builders comply with orders of the Building Commission. All too often people would work through the process with the Building Disputes Tribunal and, quite simply, non-satisfactory outcomes would be delivered by the builders in following the orders that were made. The member might have an alternative view. My view is that, in any building situation, I expect builders to follow orders of the Building Commission, especially when those orders and the processes that we have talked about previously are subject to appeal to the State Administrative Tribunal and to other bodies. I do not think that is unfair.

On the point about imprisonment for 12 months, ultimately that is a matter for the courts to determine relative to the seriousness of the offence. We are trying to ensure that there is adequate incentive for the builder to comply with a lawfully obtained or lawfully delivered order of the Building Commission or with a remedy order of the State Administrative Tribunal; otherwise, it is pointless having the process.

Mr M. McGOWAN: I do not disagree that people should comply. I think the point that was being made was that the level of potential penalty might be out of kilter with the level of offence. The Building Commissioner may order that someone paint a wall that was not painted, or perhaps the builder should have had a sign up showing his Australian business number. I am trying to think of examples of orders that could be made by the Building Commissioner. The Building Commissioner also might put in place much more stringent orders and might even make orders against not only the builder, but also the purchaser of the building service. We are not just talking about builders. It seems to me that a fine of $50,000 for a first offence might be a bit over the top. One way of mitigating some of the concerns of the housing industry might be for the minister to give a little guidance on some examples that he considers might warrant more severe penalties, what orders the Building Commission might make and what someone might be prosecuted for. If people will not be prosecuted for minor breaches, that might give the industry a bit more comfort that it will not be hit with major penalties.

Mr T.R. BUSWELL: If a consumer and a builder work through the process and the builder does not comply with an order, I would expect that a fine would be levied. I think that is an entirely acceptable outcome. The member raised the point about the quantum of the fine. There are a couple of things to point out. My understanding is that this does not involve orders in and around the administrative side of complying with registration; those orders are dealt with separately under the Building Services (Registration) Bill. Generally, they would be orders to either rectify faulty workmanship or pay money when that rectification cannot be done for one reason or another, or there is some other reason for the builder to be forced to pay money to the consumer. I also understand that these fines are consistent with the fines contained in the national occupational
licensing framework and also with fines levied in other jurisdictions. Although it is not specifically referred to in the bill, I understand that the fine is a maximum fine and that the courts will have the capacity to levy a penalty of up to that amount. Again, it is important that the industry understand that we are serious about protecting consumers. We heard lots of stories during the second reading debate about circumstances in which it was difficult for people to compel builders to comply with orders that they obtained through the process. Again, I point out that this process starts with the Building Commission and appeals can be made to the SAT. I assume that everyone is comfortable with the process by which orders will be made. It is entirely consistent that we should accept that penalties will be applied when those orders are not complied with by the builder.

Mr C.J. TALLENTIRE: It seems to me that there is potential for a crossover with planning approvals. For argument’s sake, a wall may have been put up but it is not exactly where it should be; it might be 50 centimetres out of alignment. But there could be faulty workmanship as well. Therefore, the question that arises is: what consistency is there between fines that arise through the planning approval process and the fines under this bill?

Mr T.R. BUSWELL: It is a fair question. The advice I have is that these fines are consistent with fines that the local government can impose under the building act. The member is talking about fines imposed under the planning act. My advice is that they are comparable, but I do not have the exact quantum for the member, other than to say that from my experience in local government, some planning issues, particularly the issue that the member raised about the incorrect positioning of a fence or a retaining wall, are quite difficult to resolve because the cost of remedy is quite significant. I do not have a specific answer. The bill before us effectively does not deal with those planning issues. As the member rightly pointed out, it deals with issues of building workmanship and complaints brought against builders under this dispute resolution process for the purpose of protecting consumers.

Mr M.P. MURRAY: The first issue that concerns me is imposing a fine on a company, not an individual. Should a fine be imposed on a company or on an individual, and what would happen if the company folded?

Mr T.R. BUSWELL: The advice I have is that, of course, in the first instance it is the company. If the company goes bust, for want of a better term, there is the capacity to pursue the directors, although I understand that there are some defences available to the directors in that case. I assume that, ultimately, the courts would determine that matter. Certainly, if a company folds, which, unfortunately, happens from time to time, there is capacity to pursue the directors of that company within the framework of this legislation.

Mr M.P. MURRAY: The other issue that concerns me is failing to comply with a remedy order. I am not quite sure, but I think that the gentleman who has brought these issues to my attention has also been to see the minister. He has been through the system over a period and has not been able to get the remedy order complied with, yet no fines have been imposed on the company. I am trying to reconcile the remedy order with the fine. In the first instance, people want the job fixed. How do we get around that?

Mr T.R. BUSWELL: Speaking frankly, that is why we are changing the system. When I had ministerial responsibility for this area, there were lots of complaints about outcomes delivered to consumers by the Building Disputes Tribunal. If the member is talking about the individual I think he is talking about, I know it had a huge impact on their quality of life. Often it is those stories or life experiences that people share that cause us to take an interest in these areas. One of the reasons that it has taken so long to get this bill to this place—it was nearly brought in under the previous government—is that I was consistent that we deal with the issue of the Building Disputes Tribunal, and that is what we have done. The member will find that this will deliver much better outcomes in terms of clarity of process and understanding of outcome. It will also provide a clear capacity to fine entities when enforcement does not occur.

The member for Rockingham raised the issue of the quantum of fines. I do not have a problem with the maximum quantum of the fines at all, because I have seen the impact on the lives of people of shoddy builders—albeit they are in the minority—who refuse to accept their contractual responsibilities.

To provide a more fulsome answer to the member’s earlier question about who can be pursued, cover is also available to individuals through the home indemnity system in Western Australia in the rare instance that a builder goes financially out of business. I would like to think that what we have in this bill, and what we have already in place in and around the home indemnity regime, will provide adequate cover.

I apologise for not doing this earlier, and now move —

Amendment put and passed.
Clause, as amended, put and passed.
Clause 54 put and passed.
Clause 55: Transfer of proceeding —
Ms J.M. FREEMAN: I am interested in clause 55, “Transfer of proceeding”. I note that proceedings can transfer from court to Building Commissioner, from Building Commissioner to State Administrative Tribunal, and then back from SAT. I am interested to know whether regulations will set how those transfers will happen. Who will determine how those transfers will occur?

Mr T.R. BUSWELL: I understand that it relates to the capacity of the Building Commission or SAT to make an order for the builder to pay money. In a case in which an order is made for a builder to pay money, there are limits on how much each court can determine. The Building Commission’s limit is $100 000. The SAT’s limit is $500 000. And for matters above $500 000, the case goes to court. This gives the capacity to transmit matters between jurisdictions, depending on where the ball lands.

Clause put and passed.

Clauses 56 and 57 put and passed.

Clause 58: State Administrative Tribunal internal review —

Ms J.M. FREEMAN: Clause 58(3) states —

The State Administrative Tribunal constituted … may —

(a) affirm the order …
(b) vary the order that is reviewed; or
(c) set aside the order …

A person aggrieved by a building remedy order made by the Building Commissioner can go to SAT. Last time we discussed this, I raised the issue of costs in the matter of a person who takes a home building work contract complaint to the Building Commission, receives an order from the Building Commissioner and the builder appeals the decision to the SAT, which sets aside the order. I wonder whether the minister has had an opportunity to consider the matter and whether it is suitable for an order to be set aside and another order substituted such that costs will not apply to the person who, in good faith, went to the Building Commissioner as a person aggrieved, got an order against a builder, only to have the matter appealed to SAT and in the review have costs awarded. The minister may recall when I raised the matter. Will the minister clarify it now?

Mr T.R. BUSWELL: I thought it was a good point when the member first raised it. I think it is a good point now. I thank the member for refreshing my memory on that. I am advised that in the circumstance the member has outlined, it would be highly unlikely for SAT to award costs against the individual. That is the advice I have been given. The best I can offer up today is for us to have another look at the matter. I am trying to work out if this bill has already been to the other place.

Ms J.M. Freeman: No; it has not.

Mr T.R. BUSWELL: I have a few on the boil and can get a bit confused.

When this bill is transmitted to the other place, we can have a look at that and how SAT has perhaps treated, not similar, but not —

Ms J.M. Freeman: There was a similar situation in the Equal Opportunity Commission.

Mr T.R. BUSWELL: Yes, but a lot of those decisions should probably have been overturned. I am only joking.

Ms J.M. Freeman: There were orders against people who had issues taken across and had costs awarded against them. So it is not something that —

Mr T.R. BUSWELL: Let me describe what I think the member is asking so that we can get a little more information—if the member is happy for me to do that.

Ms J.M. Freeman: Yes.

Mr T.R. BUSWELL: I do not want to hold up the bill now, but I am sure the member’s colleagues in the other house will follow it up. Basically, the consumer makes a complaint to the commission. The commission makes a determination or an order in favour of the consumer. In other words, the consumer, in good faith, accepts the outcome determined by the commission. The builder then appeals to SAT and upon review of the case SAT disagrees —

Ms J.M. Freeman: And sets aside the order that is reviewed or substitutes an order.

Mr T.R. BUSWELL: Yes—it disagrees with the outcome of the commission, and sets aside the order, does whatever it is that it does, and in the process awards costs, which are the responsibility of the consumer, who only appeared before SAT because the builder appealed the determination of the commission in the first place. If the member is comfortable that that is what we are talking about—I am not going to get that advice now because I cannot—when the bill is transmitted to the other house, I will ask the minister to have a look at it. I am sure the
member’s colleagues in the other place will pursue the matter. I am advised that SAT will take account of those matters or facts when making a determination. The member may have different advice from her engagement in a different jurisdiction and I take it from her nodding that she does. However, we will take it in good faith that we will look at the matter in the other place.

Clause put and passed.

Clause 59 put and passed.

Clause 60: Authorised persons —

Ms J.M. FREEMAN: I understand this section is about inspections and investigations. I understand the purpose of having a public service officer or someone under the Public Sector Management Act to be the authorised person for the purpose of this bill. It is not uncommon in these sorts of jurisdictions. I am, however, wondering why no consideration was given to include the capacity to authorise local government officers, who are often out and about, to undertake inspections, especially when clause 63 can limit the powers of the authorised person conducting the inspection. I understand inspection is a very arduous and important position to take, but it seems to me it is a limitation that we possibly may not have wanted to put in ourselves, given the role local government plays in this area.

Mr T.R. BUSWELL: The advice I have is as follows: local governments have powers to inspect and make orders. Those powers are conferred in the Building Bill 2010. Local governments have powers defined, I assume, under the Building Bill, to inspect and make orders in relation to matters dealt with in the Building Bill. That is one regime of inspection. The other regime of inspection in relation to this matter deals specifically, as the member pointed out, with inspections and investigations brought before the commission.

Ms J.M. Freeman: For disputes.

Mr T.R. BUSWELL: Yes.

Dr A.D. BUTI: I seek clarification on clause 60. Clause 60(1)(a) refers to “a public service officer”. Can that be a federal or state officer?

Mr T.R. Buswell: State.

Dr A.D. BUTI: How do we know that by the act?

Mr T.R. BUSWELL: My understanding is that the Public Sector Management Act is the act; even though it is not referred to specifically —

Dr A.D. BUTI: It is in paragraph (b).

Mr T.R. BUSWELL: Paragraph (a) or (b). I am not sure how, in Western Australian legislation, the term “public service officer” could be interpreted to mean anything other than a Western Australian public service officer. It would be like the term “police officer” — perhaps that is a bad example; I might retract that. That is my understanding. I agree it does not specifically say “Western Australian public service officer”, but we are pretty comfortable with that definition.

Clause put and passed.

Clauses 61 to 63 put and passed.

Clause 64: Compliance inspections —

Mr T.R. BUSWELL: I move the amendment in my name on the notice paper to clause 64 —

Page 48, line 14 — To insert after “records of a” —

local government or other

Mr M. McGOWAN: Considering we have examined clause 64 in great detail, I think it is incumbent that the minister explain to the house what the amendment is so that we can work out how it fits within clause 64.

Mr T.R. BUSWELL: This proposed amendment is based on a request from industry and local government. The request was effectively to enable the existing regime to operate for some months following the passage of this bill pending the introduction of the Building Bill. It is really a transitional mechanism, as I understand it, that we are introducing at the request of the industry to assist it in the transition from the old regime to the new regime.

Amendment put and passed.

Mr T.R. BUSWELL: I would like to move a second amendment to clause 64 that appears on the notice paper in my name. I move —

Page 48, line 15 — To delete “of permits” and insert —

or issue of building and demolition licences under the Local Government (Miscellaneous Provisions) Act 1960 and permits
Mr T.R. BUSWELL: Certainly. Again, it simply helps with that transition by referencing the old act in this act; in other words, it provides that transition mechanism between the old set of arrangements and the new set of arrangements that was requested by both local government and the building industry.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 65 and 66 put and passed.

Clause 67: Powers after entry for compliance purposes or investigation —

Mr M. McGOWAN: I raise clause 67, again as a consequence of correspondence from the Housing Industry Association. They have expressed some concerns about the powers contained here. I am interested in advice from the minister on whether the powers here are more extensive than the powers that were in place beforehand. How does the minister envisage these powers will be exercised by any authorised person who uses this provision to enter certain premises? The minister is receiving advice. While he does that, I point out that it seems to me the powers are quite broad and provide quite extensive powers to an authorised person. In what circumstances does the minister expect they will be used? Is it to enter into a place of business to seize equipment, such as computer hard drives, laptops or records? Does it also mean that households can be entered to do the same? What will the provision be used for in practice as opposed to what is written here? I think people would like to know that. What is often in legislation is far more extensive than what is the practical application of legislation, once it is passed.

Mr T.R. BUSWELL: That is a good point; I can understand the concerns of the HIA. As I understand it, the Building Commissioner and the HIA have met and discussed this matter. There has effectively been an exchange of correspondence subsequent to those meetings. The government has indicated, importantly, to the HIA that the use of these powers will effectively be restricted to people who conduct investigations for the purposes of conducting a prosecution. People engaged in activities such as investigations for the purposes of workmanship, and other matters conducted by building inspectors, will not have the right to exercise these powers. Clause 63, as has been pointed out to me, provides the head of power, or the enabling clause, to enable the Building Commissioner to limit the powers of an authorised person. The HIA has raised a valid concern. The government has responded by saying: yes, we acknowledge that but there may be occasions when building inspectors are conducting investigations for the purposes of prosecution. That prosecution will generally be for breaches of this and other acts, such as building without a licence—I can find some other examples for members shortly—rather than for the everyday work of inspectors as it relates to investigating complaints about quality of workmanship.

Clause put and passed.

Clause 68 put and passed.

Clause 69: Use of force and assistance —

Ms J.M. FREEMAN: I seek some clarification. Clause 69 relates to the use of force and assistance to exercise a power under the act. I suppose “may use assistance” is a broad aspect. Given that this is such a legally technical part of the bill, and that in Australia, both now and in the past, some builders did not have English as a first language, I wonder whether “assistance” includes the provision of interpreters to ensure that people fully understand their responsibilities under this legislation relating to compliance and investigation.

Mr T.R. BUSWELL: That is a good question. I think the member for Nollamara raised the same point earlier in relation to another clause. Clause 69(3) indicates —

An authorised person may request a police officer or other person …

Ms J.M. Freeman: Would that include interpreters?

Mr T.R. BUSWELL: The bill does not specifically say that, but that may be required. The authorised person must be able to communicate with the person who is being investigated. Therefore, I can only assume that the authorised person would sensibly use resources available to them.

Ms J.M. Freeman: Including interpreters?

Mr T.R. BUSWELL: The resources available could include interpreters, whether they are interpreters for communicating in other languages, or perhaps for people with other challenges in life. I recently attended the Housing Industry Association building awards at which a lot of families of Italian descent, in particular, did very, very well.

Ms R. Saffioti interjected.
Mr T.R. BUSWELL: They are fantastic builders. The other week I alerted the house to the presence of the elder statesman of a family—whose name escapes me now—who won for building a magnificent residence in Applecross.

Mr C.J. Tallentire: A “McMansion”?

Mr T.R. BUSWELL: No, this was not a “McMansion”.

Mr C.J. Tallentire: A moderately-sized dwelling, was it?

Mr T.R. BUSWELL: The member would term the garage a “McMansion”. It was very, very impressive. It was built by a father and a son. It was fantastic. It was a good night. It was not Zorzi Builders.

Ms R. Saffioti: Whereabouts?

Mr C.J. Tallentire: Zorzi?

Mr T.R. BUSWELL: No. Spadaccini Homes? I will find the name. It was a great night and a great family.

Ms J.M. Freeman: Now the minister has that in Hansard, all I want in Hansard is that you will use interpreters.

Mr T.R. BUSWELL: I said “interpreter”.

Ms J.M. Freeman: Good. Thank you, minister.

Clause put and passed.

Clause 70: Obstruction —

Mr C.J. TALLENTIRE: Looking at clause 70, a penalty exists if a person who is an authorised person is obstructed from going about their inspection duty. The penalty is a maximum fine of $10 000. When we consider the sorts of circumstances in which this situation could arise, we could be looking at some situations in which a degree of violence is involved and a degree of obstructive behaviour that would basically be thuggery. A $10 000 maximum penalty seems very minor when talking about the sorts of strong-arm tactics that someone might use to stop an authorised officer making an inspection. An authorised person might have had some reason to think some poor quality workmanship was going on or reason to suspect that something was not quite right, and, therefore, have quite legitimate reasons to visit the property and make inquiries. If an authorised person is obstructed from going about their duties in any way, we could have very serious consequences. It would mean that people would not be able to gather information necessary for an inquiry, and that authorised persons would become hesitant to go about their duty; they would be scared about doing it. For this legislation to really carry the weight that it needs, it needs the potential for a more significant penalty than a fine of $10 000.

Mr T.R. BUSWELL: That is very good point, member, and perhaps a salient reflection on some aspects of the building industry in Western Australia. It is important to understand that this offence relates purely to the act of obstruction. If a building inspector is assaulted or is subject to any other form of violence, I expect that other aspects of the law would deal with that matter. I need to point out, as discussed in considering clause 69(3), that an authorised person, the building inspector, “may request a police officer or other person to assist”. The member for Gosnells makes a valid point. I will explain why the figure is somewhat tempered in a second. I can only imagine that from a practical point of view, a building inspector who had an inkling that they would be putting themselves in harm’s way—acknowledging that those outcomes cannot always be predicted, because people react for a range of reasons and in a range of ways—would utilise that clause that gives them the capacity to take a police officer with them. If the authorised person is on the site and they are assaulted, that is a whole different kettle of fish. This is not meant to be a cover-all for that sort of behaviour. The point was made to me that occasions may arise, albeit very limited, when a householder or someone else inadvertently obstructs. The idea here is not to punish such people. This is an attempt to come up with a fair penalty in cases of hindrance or obstruction. We acknowledge that it may not always be the big, bad, burly builder who is engaged in that obstruction. As the member for Collie–Preston pointed out, these things can create huge stresses for people; we have seen that happen. Normal people can act in ways that are quite out of character. I would hate to think that those people would be subject to fines that are too onerous.

Ms J.M. Freeman: This is the maximum in any event. You would have mitigating circumstances.

Mr T.R. BUSWELL: I accept that. One would hope so. I think we are comfortable that there are enough other aspects of the law that provide the protection that the member for Gosnells is talking about.

Mr C.J. TALLENTIRE: I thank the minister for that explanation. I put it to the minister that in some circumstances a person may be acting on behalf of a company that does not want the authorised person to make the inspection. In that case, I would have grave concerns. Perhaps the person may be committing their first offence of some sort of obstructive behaviour and the company would know that and that it would be unlikely to incur —
Mr T.R. Buswell: The legislative head of power is not quite in our reach, but my understanding is that the fine for companies can be up to multiple of five times the amount in clause 70.

Mr C.J. Tallentire: I thank the minister for the explanation. Is the minister saying that the term “person” in this clause can refer to a company? Could we almost interchange the word “person” with “company”?

Mr T.R. Buswell: Or “corporation”. We have not got the legislative head of power, but I accept the advice I am given that the fine in that instance can be up to five times the amount for an individual.

Mr C.J. Tallentire: Therefore, the fine could be $50 000 for a company that is obstructing an authorised person from making an inspection. If we imagine the scale of liability that could be involved on a building site for a major building in Perth and the building company prevents an authorised person from doing an inspection, we are talking about an occasion of poor workmanship that could quite easily cost millions of dollars. A $50 000 fine in those circumstances would seem very minor.

Mr T.R. Buswell: That is a fair point. However, if someone obstructs on authorised officer, that is not the end of the investigation. The authorised officer has a variety of powers to turn up a bit later on. Admittedly, they may run out and scrub whatever they scrub off their hard disk. I am no expert on that sort of stuff, but I do have a smartphone. The authorised officer could return, well supported by other resources and with other legal means, to gain access to the property for the purposes of conducting the powers conferred on them by the legislation. Just because someone is obstructed in the first instance does not mean they go home. The person would come back with a few things, making sure that they took action under clause 70 and using some of the other mechanisms under the act in order to get the information.

Mr M.P. Murray: I have just quickly consulted with my colleagues. Looking at it the opposite way around, if the building inspector does not carry out his duties of due diligence, are there any fines or any comeback on, say, the authorised person?

Mr T.R. Buswell: I am assuming that the member does not mean if the building inspectors obstruct themselves.

Mr M.P. Murray: No; I am sorry. Some I have seen probably would!

Mr T.R. Buswell: The important point to make—we had the discussion about the definition of public servant—is that these people are either members of the Western Australian public service or employed under that act. If a person does a half-baked investigation, the legislation does not specify a penalty, but I can tell the member that if a person is not doing his job properly, and that person is a public servant, a whole range of penalties are available. Let us talk about a scenario in which the inspector may be a friend or acquaintance of the builder. I assume that would not happen very often, but it may.

Ms J.M. Freeman: No, that’s not what the member is talking about.

Mr T.R. Buswell: I might ask him what he is talking about.

Mr M.P. Murray: The point I am trying to make is that the authorised person may have gone through and said, “Yes, that’s right; that’s right”, and it is not right. In that case we were talking about, the accusation was that the building inspector should have picked something up earlier. I am asking about what happens if he is found to be wrong in the future. If the authorised person has not carried out his inspections properly, what, if anything, is in the bill to address that?

Mr T.R. Buswell: No, the bill contains no fines for the authorised person, other than that it subjects that person to the same accountability mechanisms that apply to members of the public service.

Mr M.P. Murray: Doesn’t that then cause a problem because no responsible person has made a decision?

Mr T.R. Buswell: I can understand the thrust of the member’s argument, although, from my point of view, if the commission is conducting an investigation and it makes a determination that the person is not happy about and is not satisfied with, and one of the reasons is that he does not think that the building inspector investigated or reviewed the matter appropriately, that person has the capacity to appeal to the State Administrative Tribunal. I imagine, as part of that, that if one of the reasons for the appeal was the quality of the investigation, those issues could be teased out then.

Ms J.M. Freeman: Can I just clarify what the minister was saying about obstruction? If a person does not believe that he hindered or obstructed and he is given a penalty, would he have the capacity to appeal to SAT or would he have to defend himself in the Magistrates Court, which would apply to him the fine for the —

Mr T.R. Buswell: I am sorry, member; I was just getting some more information. I will provide a bit more information in answer to the member for Collie–Preston, and then the member for Nollamara can jump up.

Member for Collie–Preston, I want to point out an important issue. The advice I have on clause 100, in part 9, which we will deal with a bit later, is that there is no liability on an individual building inspector, but that
exclusion from liability or protection from liability under clause 100 does not extend to the state. In other words, if at a time down the track it is shown that a poor quality inspection, or whatever, created a liability for the state, the consumer can pursue the state, but not the individual building inspector. I am sorry, member for Nollamara.

Ms J.M. FREEMAN: My question was about obstruction, and I want to get clarification of that. My assumption is that if someone has obstructed, that case will be taken to the Magistrates Court to impose the penalty.

Mr T.R. Buswell: Yes.

Ms J.M. FREEMAN: The question I have is: does the person have to defend himself in the Magistrates Court, where the rules of evidence apply, versus the capacity to go to SAT, where there is a broader procedural aspect in that the person is able to put his case that he did not obstruct, so that the merits of the matter would be looked at rather than deciding it on the rules of evidence?

Mr T.R. BUSWELL: I understand that any action brought under clause 70 for obstruction would be dealt with in the Magistrates Court.

Ms J.M. Freeman: Okay. So there will not be the capacity to go to SAT.

Mr T.R. BUSWELL: No.

Mr M.P. MURRAY: Will the minister please bear with me while I use a recent example from the Carnarvon floods? A house was put onto stumps, if you like, but they were round concrete fillers. That was passed by the building inspector. When the floods went through, the dirt was washed away from underneath the house. There have been great problems about who is responsible for that. There should have been proper footings, but there were not. It was a cyclone-proof house that weighed 35 tonnes because it had a heavy base. When the water went under the house, it took away the dirt. One half of the house fell down and it broke in half. Now the argument is about who is responsible for that. Is it the builder, the building inspector, the shire or others? That is probably the point that I am trying to make, and I do not think I quite got an answer to that question.

Mr T.R. BUSWELL: The advice I have is as follows: in that instance, when this regime is in place, that individual would have the opportunity to bring a complaint to the Building Commissioner in the first instance. The Building Commissioner would then investigate that complaint, as I understand it. That investigation would effectively determine who had responsibility for that particular circumstance. This is where it gets a bit challenging. If that responsibility rests with the builder, the Building Commissioner is in a position—to issue a remedy order against that builder. If it transpires that the issue is with the local government authority, which, as part of that building approval process, made a mistake that subsequently created the issue, my understanding is that under this legislation, no action can be taken by the Building Commissioner against the local government authority, although the Building Commissioner would be in a position to produce the evidence that the individual could use to take action against the local government. The inspectors we are talking about here are inspecting in and around complaints. This is a complaint-handling mechanism. That mechanism would deal with the situation the member has outlined. However, the outcome would effectively depend on whom the Building Commissioner deemed to be liable for the consumer’s problem. If the builder was liable —

Mr M.P. Murray: So he had no —

Mr T.R. BUSWELL: Yes. However, if it were local government, the evidence gathered by the Building Commissioner would be available, as I understand it, to that individual to take action against the local government.

Clause put and passed.

Clauses 71 to 75 put and passed.

Clause 76: Terms used —

Ms J.M. FREEMAN: The definition of dangerous situation reads —

… means a situation where there is an imminent and high risk to people, property or the environment…

Will that include asbestos dust given there is an argument that asbestosis is a disease of long latency?

Mr T.R. BUSWELL: Yes; perhaps in a demolition as part of a job or an addition. I cannot think of any others. I am aware of a situation in Geraldton—within the member for Geraldton’s electorate— with the Department of Housing, in a significant subdivision in a place called Beachlands, where following some demolitions asbestos has emerged in the sand. It is not a building issue but it is a similar sort of case. It is a serious matter. It would certainly qualify easily as a dangerous situation if that is created as part of the process.

Clause put and passed.
Clause 77: Dangerous situation, emergency remedial measures —

Ms J.M. FREEMAN: I should have asked this earlier but I am inquiring in relation to clause 77(1)(b) whether a dust issue, other than asbestos dust, would require immediate measures to be taken to identify, assess or reduce the risk. I know of a case involving demolition in the member for Bassendean’s electorate during the really hot days when strong easterly winds were blowing. Would that include dust or would it be covered by the subsequent remediation notice? The difficulty with that would be that by that stage the dust would all be blown into the area.

Mr T.R. BUSWELL: It would depend on the situation. We are talking about dangerous situations. My advice is that if the inspector was of a view that it was a potentially dangerous situation, the first job of work would be to stop the creation of the dust and the second job of work would be to determine whether indeed the dust does constitute a dangerous situation, and then how to work out how to remedy that. I cannot give an overarching solution, but my understanding is that is how it would apply in practice.

Dr A.D. BUTI: Regarding occupational safety and health issues, where would the authorised person sit if an inspector is on-site for workplace safety matters? Who would have primacy?

Mr T.R. BUSWELL: The advice I have is that these powers are conferred in addition to everyone else’s powers. My advice is that in terms of practical on-the-ground application, it would be decided on a case-by-case basis. I would like to think that if there is an OSH issue and a WorkSafe person and a person from the Building Commission are on the ground, they would work out an appropriate course of action between the two of them. I do not think this establishes the pecking order, for want of a better term. We can only hope that commonsense will prevail. I do not think we can legislate to provide any better outcome.

Clause put and passed.

Clauses 78 to 92 put and passed.

Clause 93: Terms used —

Mr T.R. BUSWELL: I move —

Page 71, after line 7 — To insert —

(d) a building licence issued under the Local Government (Miscellaneous Provisions) Act 1960 section 374; or

(e) a demolition licence issued under the Local Government (Miscellaneous Provisions) Act 1960 section 374A.

This is another case in which an amendment is being moved to enable effectively the old regime to apply to the up-and-running new regimes. It is a tidy-up, consistent with a number of other amendments we have moved as we have moved through this bill.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 94 to 97 put and passed.

Clause 98: Incriminating information —

Dr A.D. BUTI: My first reading of clause 98(1) is that it seems to be trying to override the very well established principle of no self-incrimination or the right to not answer a question or provide information that may incriminate oneself.

Mr T.R. BUSWELL: I will read the advice on my red sheet. Clause 98 is a standard provision used to uphold a person’s common law right of privilege against self-incrimination. Clause 98(1) requires a person to answer a question or provide information to help the Building Commissioner issue a remedy order or help an authorised person in a compliance investigation. This will ensure that dealing with complaints can proceed quickly and efficiently. Clause 98(2) protects a person from being prosecuted on the basis of self-incriminating information given in answering any question or providing information to help the Building Commissioner or authorised person.

Mr M. McGOWAN: Can the minister outline a circumstance in which that might be the case? I understand from what he just said that, on occasion, someone might have to provide information even though it might be self-incriminating. I assume that would concern issues of safety or something of that nature, but a person cannot be prosecuted for providing that information. It is difficult to quite understand the circumstance in which this power might be required.

Mr T.R. BUSWELL: I have a very simple example that may or may not address the issue. The advice I have uses the example of a footing. When an inspector or authorised person asks a tradesperson whether he put
reinforcement in the footing and the tradesperson says no, that would lead the commission to take action to account for the fact that the footing had been done inappropriately. My understanding is that the person could not be prosecuted as a result of providing that information. That is the only, but essentially simple, example I have been given.

**Dr A.D. BUTI:** Is the minister saying that the tradesperson cannot refuse to give the information, but the information cannot be used as grounds for prosecution?

**Mr T.R. BUSWELL:** Yes.

Clause put and passed.

Clauses 99 to 102 put and passed.

Clause 103: Confidentiality —

**Mr C.J. TALLENTIRE:** I seek the minister’s assurance that this clause will not compromise the actions of a public officer or a former public officer who might be about to engage in what is commonly called whistleblower-type activity. I seek the minister’s assurance that this clause will not override their right, indeed their responsibility, to disclose information that may well be in the public interest.

**Mr T.R. BUSWELL:** My advice is that under paragraph (b) a person can disclose information if they are required to or allowed to by other written laws. I hope that gives the member the cover he is requesting. My advice is that it does allow that. Certainly, there is no intent to create a framework by which people will be discouraged from engaging in activity that the member calls whistleblower-type activity. I am not sure whether our legislation is called whistleblower legislation, but certainly there is the capacity to divulge information if someone is required to or is allowed to by other written laws.

Clause put and passed.

Clauses 104 to 108 put and passed.

Clause 109: Regulations —

**Ms J.M. FREEMAN:** Although these will be very broad regulations, has the minister assured himself that they in no way have the capacity to override or change the underlying operations of the bill and that they will keep within the stated provisions of the bill? In this way, I reflect on clause 109(1), which states —

The Governor may make regulations prescribing all matters that are —

(a) required or permitted …

(b) necessary or convenient …

I want to make sure that that does not give the capacity to override or change the underlying operations of the bill. In particular, I go to subclause (6), which states —

The regulations may provide that contravention of regulation is an offence, and provide, for an offence against the regulations, a penalty not exceeding $5 000.

I suppose I want some guidance on how we are creating regulations and then fining people for not complying with those created regulations. How does the minister regard that as ensuring that there will be no compromise of the overriding and underlying operations of the bill?

**Mr T.R. BUSWELL:** The member might ask me the last part again, as I was listening to some advice on the first part. Clearly, the intent is not for the regulations to usurp the bill. The comfort the member can take from that is that regulations are ultimately reviewable by Parliament. I am therefore confident of and comfortable with that. The last part of the question related to the $5 000 penalty.

**Ms J.M. Freeman** Making regulations that can make contravention of regulations an offence, and apply their own penalty.

**Mr T.R. BUSWELL:** Basically, the advice is that regulations detail certain processes. They can also determine that it is an offence not to follow some of those processes, and the penalty for that offence would not exceed $5 000.

Clause put and passed.

Clauses 110 to 138 put and passed.

Title put and passed.
Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clauses 1 and 2 put and passed.

Clause 3: Terms used —

Mr T.R. BUSWELL: I move —

Page 2, lines 24 and 25 — To delete the lines and substitute —

building permit means —

(a) a building permit granted under the Building Act 2010; or

(b) a building licence issued under the Local Government (Miscellaneous Provisions) Act 1960 section 374 before that provision was deleted by the Building Act 2010;

In moving this amendment, I simply point out to the house that it is, again, one of those transitional amendments that enables effectively the existing regime to operate while we wait for the Building Bill 2010 to come fully into force.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 4 put and passed.

Clause 5: Claims as to registration —

Mr M. McGOWAN: I raise the point that there is a range of provisions that carry penalties. A point I made earlier during debate on another bill was that the fines were quite high. This clause concerns people saying that they are registered when they might not be registered. Sometimes there might be a misunderstanding or perhaps the registration has just expired. The concern that has been expressed to me is that some of these penalties might be a bit high. For instance, in another case—perhaps I will find it later on, but I will just raise it right now—there is a penalty of $10,000 for failing to notify the board of a change of business address. I am seeking an indication of how the minister has arrived at these penalties and whether he thinks the penalties are appropriate considering that some of the offences might be quite minor.

Mr T.R. BUSWELL: The advice I have is that this is comparable with the fine and/or penalty regime that exists under the national licensing framework. We are comfortable with the quantum of the fines, noting of course that it is a maximum fine. If a person wants to attempt to mislead a consumer into thinking they are a registered builder—with all of the benefits to the consumer that go with that—when they are not, I think it is fair and reasonable that we seek to pursue them with a significant penalty. I understand the industry’s concern. It would be fair to say that the government is keen to work with industry to make sure that these penalties are not used for purposes other than those for which they were intended, but quite clearly we are focused on protecting consumers and delivering a better outcome. The point the member made about the quantum is noted, but my view is that that is a fair amount in order to dissuade people from trying to create the impression they are registered when they are not.

Clause put and passed.

Clauses 6 to 8 put and passed.

Clause 9: Classes of building service practitioner and building service contractor —

Mr C.J. TALLENTIRE: I seek clarification from the minister regarding clause 9(2). Is there the potential that a body may be registered but the employees of that body may not be registered? What is the process to determine whether or not a person approaching a registered builder can be sure that those individuals working on their property, on their dream home, are actually going to be registered persons with all the necessary skills that a consumer would expect the persons doing the work to have?

Mr T.R. BUSWELL: It is a good question and I thank the member. I refer the member to clause 21. The advice I have is that when we are talking about a body other than an individual in the building industry—for instance, a
corporation or a partnership—there has to be a nominated supervisor, and that nominated supervisor has to be registered. The protection the member is seeking, rightly so, is provided by the requirement that the body have a registered supervisor who would bring to the job the standards and skills that the member talked about.

Mr C.J. TALLENTIRE: I appreciate the explanation, but I think that is a worrying set of circumstances for consumers, because so often people have a job supervisor, someone who comes around to the site when construction is underway, but that person will not be permanently on-site. It still leaves open the situation that somebody might think they are paying to have registered builders, people with a particular quality of skills, working on their home, but in reality all they have is a supervisor who is occasionally on-site who has those registered skills. I do not think this really reassures consumers at all. It really makes bare the fact that too often in the building industry we have unskilled people doing jobs that can cost people lots of money in the future when things have to be repaired. It means that people could have the worry that comes with shoddy workmanship. This is not really in keeping with the expectation of members of the community in seeking assurances that the workmanship that they are paying for is of the highest standard.

Mr T.R. BUSWELL: It is a good point. I should point out, though, to the member that even when the builder is an individual—for instance, Sally Smith, builder—there is no guarantee that that individual will be on-site for the totality of the job. People come and go, and often even individual builders may have more than one job. It should be acknowledged that this is not just for the building of a house; it can be for additions, renovations and the like. However, the point the member raised, as I have been advised, is picked up in the Building Bill. The Building Bill requires the builder to have inspections by an appropriately registered person done at certain times during the construction. In other words, at the end of the construction there would have had to have been certain times during the construction—I do not have the exact details—when inspections of that site would have to have happened. Those inspections would have checked for workmanship and the various issues that the member raised. I think expecting that the registered person, under clause 9, would be on site for the whole time is not practical and will not happen. I am looking at another clause. Under clause 18(1)(e), in order to become registered an applicant has to demonstrate that they have adequate arrangements in place to ensure that building services to be carried out by the applicant will be managed and supervised in a proficient manner. There is a fair bit of coverage in the bill to ensure that the quality of service is delivered by a registered individual body or person of suitable standing.

Clause put and passed.

Clauses 10 to 13 put and passed.

Clause 14: Further information —

Mr M. McGOWAN: I want to briefly raise an issue that the Housing Industry Association raised about clause 14. It had a concern that this broad power to require further information is way beyond what is in the current legislation. Its concern is that this will make the renewal process more difficult than the current system and will potentially add more red tape. The association supports the move to a triennial licensing system, but it suggests that this additional power provided to the board might make life a lot more difficult for builders than it currently is.

I am aware that the government has launched red tape reviews and so forth, but we often see that it creeps back into legislation. I am interested in how the minister envisages this power being used and how he answers the concern that more red tape will be created for builders as a consequence of this law.

Mr T.R. BUSWELL: This is in line with some of the other questions that the member has asked about issues brought to his attention by the Housing Industry Association. My advice is that this matter has been the subject of some discussion between the government and the HIA. Again, an understanding has been clarified by the government for the building industry that seeking further information under clause 14 will generally be restricted to cases in which there is what I would best term a non-normal application. What may a non-normal application be?

Mr M. McGowan: Abnormal.

Mr T.R. BUSWELL: Yes. An abnormal application could perhaps involve someone from overseas who has not been able to access the diploma-type training in Western Australia or a person who is using experience rather than formal qualifications in relation to registration. In those cases, the board will use these powers to seek further information and/or qualification of the provided information to support the processing of that abnormal application.

Clause put and passed.

Clauses 15 to 37 put and passed.

Clause 38: Terms used —
Mr T.R. BUSWELL: I move —

Page 25, lines 5 and 6 — To delete the lines and substitute —

*building work* means work for which a building permit is required;

This amendment will change the definition of “building work” as it currently appears in the bill so that building work has the meaning in section 3 of the proposed building act—that is, it is work for which a building permit is required. Members may recall that we amended clause 3 of this bill, with the unanimous support of the house—it was probably one of the high points of the evening so far—to extend the meaning of “building permit” to include a building permit granted under not only the proposed building act, but also section 374 of the Local Government (Miscellaneous Provisions) Act 1960. This amended definition of “building work” will bring some consistency to the bill and will enable us to effectively transition from the existing framework to the new framework.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 39 to 44 put and passed.

Clause 45: Decision on application for approval —

Mr T.R. BUSWELL: I move —

Page 28, lines 2 to 9 — To delete the lines.

This amendment links back to the change we made to the definition of “building permit” in clause 3. This amendment will remove an unnecessary replication of that definition.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 46 put and passed.

Clause 47: Conditions of owner–builder approval —

Mr T.R. BUSWELL: I move —

Page 29, lines 27 and 28 — To delete “permit granted under the *Building Act 2010*; and” and substitute —

permit; and

Again, this amendment will remove the reference to a permit granted under the proposed building act such that the permit will include building licences issued under not only the proposed building act, but also the Local Government (Miscellaneous Provisions) Act 1960. Again, this amendment will bring consistency to that transitional mechanism.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 48 to 52 put and passed.

Clause 53: Disciplinary matters —

Mr T.R. BUSWELL: I move —

Page 33, lines 22 and 23 — To delete “*Building Act 2010* or” and substitute —

*Building Act 2010*, the *Local Government (Miscellaneous Provisions) Act 1960* or

Once again, this amendment will simply provide consistency with previous amendments.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 54 to 148 put and passed.

Clause 149: Section 25A amended —

Leave granted for the following amendments to be considered together.

Mr T.R. BUSWELL: I move —

Page 80, line 27 — To insert before “granted” —

issued a building licence or
Page 81, line 10 — To insert before “granted” —
issued a building licence or

Again, these amendments will alter the definition to pick up the changes that have been made to the bill and will provide consistency.

Amendments put and passed.
Clause, as amended, put and passed.

Clauses 150 and 151 put and passed.

Clause 152: Section 25FA amended —

Mr T.R. BUSWELL: Before I move the amendments, I seek some clarification from you, Mr Speaker. If I, perchance, wished to move some amendments to earlier clauses in the bill —

Mr R.F. Johnson: You would have to recommit the bill at the end of consideration in detail. You cannot amend earlier clauses.

Mr T.R. BUSWELL: I am not asking you!

The SPEAKER: I think the Leader of the House’s advice is succinct, profound and accurate.

Mr T.R. BUSWELL: In that case, I will do that at the end of consideration in detail.

Leave granted for the following amendments to be considered together.

Mr T.R. BUSWELL: I move —

Page 82, line 21 — To insert after “date” —
the building licence is issued, or

Page 82, line 22 — To delete “granted” and substitute —
granted,

These amendments are part of the ongoing minor changes being made to be consistent with previous clauses.

Amendments put and passed.
Clause, as amended, put and passed.

Sitting suspended from 6.00 to 7.00 pm

Clauses 153 to 155 put and passed.


Mr T.R. BUSWELL: I move —

Page 84, after line 19 — to insert —

(4) After section 374 insert:

374AAA. Local governments not to issue building permits in certain circumstances

(1) A local government must not issue a building licence to commence or proceed with any building work with a value of $20 000 or more unless the licence is issued to a person who —

(a) is a building service contractor, as defined in the Building Services (Registration) Act 2010 section 3, registered in a class of building service contractor prescribed by the regulations for the purposes of this section; or

(b) has been granted owner–builder approval, as defined in the Building Services (Registration) Act 2010 section 38, to carry out the building work.

(2) A person who for the purposes of obtaining or attempting to obtain a building licence from a local government makes a representation or statement that is false in a material particular in relation to —

(a) the value of building work to be carried out under the building licence; or

(b) the fee or charge payable in respect of the carrying out of the building work; or

(c) whether the person is registered, or has been granted approval, under the Building Services (Registration) Act 2010,

commits an offence.

Penalty: a fine of $10 000.
This is simply dealing with the transition from the old system to the new system and will enable a provision on the role that local governments can fulfil to be placed into this bill, rather than the Builders’ Registration Act. This is nothing other than a transitional clause.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 157 to 159 put and passed.

Title put and passed.

Reconsideration in Detail — Motion

On motion by Mr T.R. Buswell (Minister for Transport), resolved —

That the Building Services (Registration) Bill 2010 be reconsidered in detail for the purpose only of considering the minister’s amendments to clauses 32, 35 and 36.

Reconsideration in Detail

Clause 32: Notification of change of address —

Mr T.R. BUSWELL: I move —

Page 22, line 13 — To delete “$10 000.” and substitute —

$5 000.

This is the first of a handful of amendments that will reduce the maximum penalty for a series of notification-related issues from $10 000 to $5 000. These changes have been agreed to by the government following consultation with builders’ representatives, including the Housing Industry Association and the Master Builders Association.

Mr C.J. TALLENTIRE: I appreciate that perhaps the minister has just received advice from the industry that it does not like the penalties that the government had initially endorsed. However, we need a bit more explanation of that. I find it absolutely extraordinary that, at this late stage, a bill that has been before the house for several months at least, and which has been in preparation for a long time, is suddenly changed. I will concede that amongst these penalty amendments, some offences would seem to be of a fairly minor nature; however, I do not think that is true of all of them, which is particularly worrying to me. Perhaps the Premier and the minister have taken calls from senior people in the building industry—I do not know whether it is Dale Alcock or anyone else in the HIA—who have put it to them that these penalties are too severe. That is okay for some of these amendments, and perhaps it could be argued that a penalty of $10 000 for failing to notify change of address is severe. But I do not think that is the case for some of the other changes, and I will certainly be arguing the case in other clauses.

From the outset, the minister needs to explain why, at this very late stage, he has suddenly taken on board this advice from the building industry. If the building industry and its members are not capable of analysing legislation that is coming before the Parliament or providing feedback in a timely manner it raises questions about their competency and leaves us wondering about their true motivation here. They comprise a body of people who make massive profits out of the business of providing and selling new homes. If they are not able to organise themselves to engage in debate on legislation, that is a poor reflection on them. Why, at this late stage, is the minister suddenly going weak at the knees to the demands of the building industry?

Mr T.R. BUSWELL: I find the member’s statements outrageous. I have sat in here for the entire debate and I have heard the member for Rockingham argue that the fees are all too high. I indicated to the member for Rockingham that we would deal with some of the more minor or administrative issues at the appropriate time. The opposition kindly enabled us to move through this bill with some speed. As we attempted to deal with this new environment of haste and mutual cooperation to deal with this legislation, it took me a while to get these amendments onto the table. I have not had a phone call from Dale Alcock or anyone in the building industry on these matters. I think the member just needs to cool his jets a bit. This is not part of some grand conspiracy to rip off the consumer and feather the pockets of these builders, who the member would assert will all fly off to Cannes for the film festival in a few weeks’ time. I earlier gave a very clear indication to the member for Rockingham that we would address the quantum of the fine for some of these administrative matters. That is what we are doing. I am happy to work through each of them, but the member for Gosnells needs a bit of a reality check. He has not uncovered some great conspiracy between the government and the building industry. The member for Gosnells should check Hansard. For a number of the matters raised by the member for Rockingham, we maintain that we feel it is an adequate level of penalty. That position is not supported by the building industry. We are not rolling over and having our bellies tickled by the building industry. We are attempting to provide some realistic penalties for fees that, in my view, are either relatively minor in nature—
administrative—or on which we, as a government, can obtain information through alternative means. We will
deal with those in due course.

For the purpose of this amendment, and whilst not attempting to deflate the quality of the member’s argument, I
think that a $10,000 fine for failing to notify a change of address is a little steep. I think a $5,000 fine is probably
fair. The member is right; that is the view of the building industry. I am not sure that Dale Alcock or others have
raised this as an issue. They definitely have not raised it with me. I cannot vouch for the Premier. I suspect there
are probably other, more significant issues that they would choose to raise with the Premier. I know that there
has been a significant ongoing process of negotiation between government officials and the building industry to
try to resolve some points of difference. In some areas we have not agreed. I have outlined those to the house. In
some areas, including some of these, we have agreed. If the member reflected on the Hansard, he would see that
on balance we disagree on more areas than we agree on. In fact, a number of those areas were highlighted by the
member for Rockingham. The member for Gosnells just needs to calm down a bit. I am happy to deal with each
amendment on its merits. The reason they are a little out of order from that in which they would normally be
dealt with by the house is that I simply could not get the amendments in front of me quickly enough. I apologise
if that has caused some consternation. There is certainly no backroom deal between the
government and the building industry on these amendments.

Mr C.J. TALLENTIRE: The minister’s explanation of why these amendments have arrived so late in the
Parliament was no explanation at all. He apologised for them arriving so late, but he gave no satisfactory
explanation for why they have arrived so late. I am prepared to concede that the amendment to clause 32 deals
with an offence of a fairly minor nature. I do not think that is true of some of the other clauses. Yes, the minister
is right; there was debate about some of the penalties being perhaps a little on the severe side. We need to bear in
mind that these penalties are maximums. All kinds of discretion would be used. I do not think that some of the
amendments to other penalties should be contemplated at this stage, unless the minister can provide justification,
firstly, for why these amendments have arrived in the house so late, and, secondly, for their nature. Some of the
offences that are dealt with in some of the clauses we are going to come to are quite serious. In fact, had we had
the opportunity to debate those clauses with these amendments in mind, we would have gone into greater detail
and highlighted how the offences are quite serious. I am prepared to accept that clause 32 could stand amended,
but I do not think that is the case with some of the others. I await the minister’s explanation—not his apology—
of why these amendments have arrived so late, given that the government has had months to receive these
amendments. I first made a speech on this legislation in November last year on the last day of sitting for the year.
If the minister is telling me that he has some legitimate reason for these amendments arriving in the house today
after all that time, I ask him to please let me know. I cannot see what it is. I ask the minister to please advise us.

Mr M. McGOWAN: I am a bit rusty on where we are up to. Are we dealing just with clause 32?

Mr R.F. Johnson: We have recommitted the bill to deal with those amendments.

Mr M. McGOWAN: Are we dealing with clause 32 or are we dealing with them all en bloc?

Mr R.F. Johnson: Each one separately.

Mr M. McGOWAN: We are dealing just with clause 32, which is about notification of a change of address. The
amendment seeks to reduce the penalty relating to a change of address. That seems okay to me.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 35: Notification of certain offences —

Leave granted for the following amendments to be considered together.

Mr T.R. BUSWELL: I move —

Page 23, line 12 — To delete “$10,000.” and substitute —

$5,000.

Page 23, line 15 — To delete “$10,000.” and substitute —

$5,000.

Page 23, line 20 — To delete “$10,000.” and substitute —

$5,000.

Mr D.A. TEMPLEMAN: We are seeking to amend lines 12 and 15 on page 23 of the bill. Is that not repeated?
The two subclauses appear to be the same.

Ms J.M. Freeman: One is for charged; one is for convicted.
Mr D.A. TEMPLEMAN: Okay. I am inquiring about the background to the definition of “serious offence”. The definition appears, from memory, in the preliminary part of the bill. I take the point of the member for Gosnells. The minister is seeking to reduce the maximum penalty from $10,000 to $5,000. This is one example of when a clear explanation of the amendment needs to be given, because we are talking about serious offences. Why would the government propose to reduce a maximum penalty when it relates to a serious offence? The minister may need to give the house an example of the sorts of offences that might be seen as serious. This clause deals with a serious offence, so the minister needs to give a very good reason for proposing a reduction to the maximum penalty. We moved an amendment to clause 32 because that was seen as a minor anomaly or issue; however, the alarm bells ring when I see the words “serious offence” and we seek to reduce the penalty from $10,000 to $5,000 in clause 35(1) and 35(2). Along the lines of the member for Gosnells’ question, I ask the minister to again give the reason we are talking about serious offences and yet proposing to reduce the maximum penalty.

Mr T.R. BUSWELL: I will deal with the definition of “serious offence” as contained in subclause (3). It is important to understand that this is not a penalty for the offence; this is a penalty for failing to notify the Building Commission of the offence—whether the person was charged or was convicted in a commonwealth or other jurisdiction. This is not the penalty for the offence. There is no reduction in the penalty for the offence; that was dealt with under the relevant law. This is a penalty for failing to notify the Building Commission of either the charge or the conviction.

I am not going to die in a ditch over this. I am happy to tell the NBA that the Labor Party does not want this changed. I am not sure that is necessarily the view of the opposition lead speaker and members opposite might want to talk to him about that. I do not think that we need to get to that point. The NBA’s view is that this is a notification issue. The reason the fine for the offence does not need to be $10,000 but $5,000 is the Building Commission has access to the court records, and to other records, that should enable it to inform itself of these matters should it be required to do so. Again, this is not a die-in-the-ditch issue from me. I am sure it is not a die-in-a-ditch issue for the Building Commission. However, it is an argument that was put by the NBA. By way of comparison, I draw the member’s attention to clause 34, “Notification of financial difficulty”. We did not agree to a change in the fine for failing to notify of financial difficulty, because it is very hard to obtain information about the financial position of builders. Yes, if a builder goes into extreme financial difficulty, we can obtain the information, but it is hard to do as an interim step. This amendment is not trying to reduce a penalty. The view of the building industry, via the NBA, is that this is a fine for a notification offence, rather than a charge or a fine for an offence and there are alternate mechanisms by which the commission can avail itself of this information. For the record, I contrast the government’s refusal to change the penalties for things like “Notification of financial difficulty”. At the end of the day, these matters always involve ongoing and often last-minute negotiation with the building industry. I do not see this as a great concession to the industry. We talked before about the fines that matter, including refusing to act on the direction of or an order by SAT. To me, they are the fines that matter. I clearly indicated that there were some administrative/notification issues for which the government was prepared to entertain some of the building industry’s suggestions, and that is all this amendment is. I do not know why it has just appeared. I assume it is because negotiations went for some time. However, if this is a major issue for the opposition, I am happy to tell the building industry that the opposition did not support this. They spoke about the fines being too high, but when —

Mr C.J. Tallentire: Only on some points; not on this.

Mr T.R. BUSWELL: Members opposite presented an argument that the fines for failing to comply with an order of the commission could be too high.

Mr C.J. Tallentire: Not in relation to these clauses.

Mr M. McGowan: I am happy to respond.

Mr T.R. BUSWELL: All I am saying is that in our view although the offences are serious, alternate notification mechanisms are available and are reflected in the change of penalty, but a change of penalty has not applied to those notification issues for which there is no other mechanism by which to find out that information.

Mr M. McGOWAN: During the course of the second reading debate, a range of penalties were raised. I presented the arguments provided to me by the housing industry; some of which I agree with and some of which I do not agree with. For instance, in clause 32, dealt with a moment ago, a penalty of $10,000 for failing to provide written notice of a change of address struck me as a little excessive. I presented that argument and the minister agreed with that argument. I did not present an argument in relation to clause 35, which is the clause we are dealing with. The housing industry wrote suggesting that clause 35 and the failure to provide notice of having been charged with a serious offence was a breach of civil liberties and an unnecessary imposition on privacy. On balance, I would probably disagree with the industry. I think it important that people are aware that a registered builder has been charged, if not convicted, with a serious offence. I took a different view to the Housing Industry Association and did not raise the matter during the course of the debate. Whether the maximum penalty is
$10 000 or $5 000 is really quite immaterial to me. I do not think the opposition has a view one way or the other on that. However, we do have a view about the change of address provision whereby someone can be fined for failing to notify the authority that they had moved from an industrial unit to the lot next door. It seems a bit extreme to be fined to that degree for failing to provide such notification, and the opposition is pleased the government amended that. We do not object to these amendments; they are not of great importance.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 36: Notification of disciplinary action —

Mr T.R. BUSWELL: I move —

Page 23, line 31 — To delete “$10 000.” and substitute —

$5 000.

My arguments in support of this change are similar to those I presented earlier.

Amendment put and passed.

Clause, as amended, put and passed.

BUILDING SERVICES LEVY BILL 2010

Second Reading

Resumed from 17 March.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1: Short title —

Ms J.M. FREEMAN: This bill will become the Building Services Levy Act 2010. Given that this is a taxing bill, can the minister tell me why it has not been called the building services taxation bill; and, can the minister tell me why it was necessary to add this taxing bill to operate the commission, given that the Building Services (Complaint Resolution and Administration) Bill 2010 is a fee-for-service bill and has fees throughout it and fees for its operation? Why will this not be called the building services taxing act, because it will go beyond fee for service? If it is not beyond fee for service—the minister has said it will just cover the operations of the Building Services (Complaint Resolution and Administration) Bill 2010 and the Building Bill—then I cannot see how that can possibly be, given that fees are incorporated within the bill.

Mr T.R. BUSWELL: It will be called the Building Services Levy Act 2010 because we think it imposes a levy. The member is referring to the issue of the cost of the application fee to apply to the Building Commission for the initiation of a dispute resolution, and my advice is that, in theory, we would argue that that covers the cost of the initial review of the application and the other costs of that process, which are far greater. The application fee is not a cost-recovery fee. The balance of the costs of the provision of that dispute service will be covered by this levy.

Ms J.M. FREEMAN: The minister just told me that the application fee is not a cost-recovery fee.

Mr T.R. Buswell: No; that is not right, member for Nollamara.

Ms J.M. FREEMAN: That is what the minister just said.

Mr T.R. BUSWELL: No, that is not correct. I said that the application fee covers the cost of the servicing of the initial application, but it does not cover the totality of the cost of providing the dispute resolution service.

Ms J.M. FREEMAN: So the totality of the cost of the dispute resolution will be covered by a building services levy. Can the minister give me his understanding of the difference between a levy and a tax?

Mr T.R. BUSWELL: I think this is a good example of the difference between a levy and a tax; this is a levy and a tax is a tax. A tax is land tax; a tax is income tax; a tax is a capital gains tax; and this is a levy.

Dr A.D. Buti: Explain it!

Mr T.R. BUSWELL: No, I was asked for an example, and I think that is a pretty good example. The member can jump up all night on this issue, and I think I will just keep referring back to that answer.
Ms J.M. Freeman: The authority of Matthews v Chicory Marketing Board (Vic) [1938] HCA 38; (1938) 60 CLR 263 states, according to my notes, that a tax is a compulsory extraction of money by a government for public purposes, being neither a pecuniary penalty nor a fee for service rendered. Given that, and given that that is what is happening in this case because it is not a fee for service and it is not fee recovery, and that it is not a pecuniary penalty—we have just gone through pecuniary penalties—can the minister deny that this Building Services Levy Bill 2010 fits within the definition in that authority and is therefore a tax?

Dr A.D. Buti: It’s a big fat tax.

Ms J.M. Freeman: It is a big fat tax.

Dr A.D. Buti: Don’t mention the word!

Mr T.R. Buswell: I do not dispute at all the learned findings in that particular case, and I am sure that parliamentary counsel has provided us with many hours of wise guidance in relation to this bill. We are very comfortable with the use of the word “levy”. I can only assume that parliamentary counsel would have advised us should it have been of the view that this levy should have been called a tax. With all due respect to the member’s remarkable powers of research, it is my view that it is a levy tonight, it will be a levy tomorrow, and I guarantee that when the opposition is over on this side and has to change it, it will be a levy then.

Ms J.M. Freeman: Can the minister tell me whether it is a taxing bill? Has this legislation been brought in because the government needs a taxing bill to raise funds to operate the services of the building services complaint resolution process on a fee-for-service basis?

Mr T.R. Buswell: My understanding is that this levy, as with a number of other levies, is levied through the mechanism that is broadly referred to, without specifically being identified as, a taxing bill. However, notwithstanding the broad use of that term to describe the mechanism, we are still calling it a levy. It is the Building Services Levy Bill.

Ms J.M. Freeman: But a taxing act?

Mr T.R. Buswell: It will be administered, member, as are other levies, through a taxing act, using the broad definitions of a taxing act.

Mr M. McGowan: I admire the member for Nollamara’s research and knowledge of this issue, and congratulate her on her eruditeness in quoting the Commonwealth Law Reports—very impressive! I am also surprised that the much-lauded fellow who won the university prize for economics or whatever could not tell us the difference between a tax and a charge, but in any event I digress.

My question is about what this legislation will actually mean and the impact it will have on people applying for building approval certificates. In earlier debate, as I recall, the minister indicated that there will be costs, but if I am building a house in Rockingham for $400 000 or $500 000 under a house and land package, or I am putting on an extension to my home for $300 000 or whatever, what will be the cost on me as opposed to what it is under the existing system? What will the government be imposing upon ordinary folk additional to what they pay now? Will there be a reduction from what they currently pay? If there is to be an increase, we need to put on the record what ordinary householders will be paying additional to what they currently pay. Does the minister have any information he can table for us so that we can have a look at exactly what the expected cost increases will be on an ordinary family building a house?

Mr T.R. Buswell: The advice I have is that the levy will be 0.09 per cent of the cost of construction or the cost of the contract, so a construction cost or contract of $300 000 will result in a levy of $270. People will still be required to pay local government a fee for the processes that sit around the building licence that local government will still participate in. The fee that local government will charge will be determined by regulation and, as I understand it, it is still subject to some final negotiations. The current fee is somewhere in the vicinity of 0.318 per cent. The advice I have is that the combination of the two new fees—that is, the pared-back local government fee and the 0.09 per cent building levy—will be similar to the fee currently charged by local government. I use the word “similar” because it may be a little over; however, the flipside to that is that there will be significant benefits to people contemplating construction. They will be able to use private certifiers—we will deal with it in the Building Bill—to get their building licences issued more quickly. Faster issuing of building licences will mean, on the balance of probabilities, faster construction time, which will save costs. The second thing—I hope that this does not happen to many people—is that there is no doubt in my mind that they will get access, when it is required, to a better dispute resolution process. Any impacts will be marginal, but the benefits in respect of timeliness and better dispute resolution will be significant. In my view, that is one of the reasons that, of all the issues the building industry has raised with the government, the imposition of the levy has not been a significant issue. The member may have alternative feedback, but my advice is that that is not seen as being a significant issue from an industry point of view.
Mr M. McGowan: I have had some feedback that there are some concerns amongst some sections of the industry—particularly the Master Builders Association, perhaps for the bigger projects—about what this cost might mean. Some have called for a capping of the amount, depending on the size of the project; I probably would disagree with that in principle. I am more concerned about the exact impost on an ordinary family building a house valued at between $300 000 to $500 000, and what this levy will cost versus the existing system. The minister said that he thought there would be a mild increase, but he also said that there would be benefits because the Building Bill would provide for private certification. As the minister knows, the two are not linked; one can always embrace private certification without putting up the cost of obtaining a building approval certificate via this levy. The two are not linked, and although I accept that there will be benefits from private certification, I do not accept that one necessarily follows upon the other. Therefore, we need to know exactly what the cost increase will be for ordinary families building a house in suburbia or in a country town—areas like mine. If one is building a house on the Anchorage estate in Rockingham, and the cost of construction is $500 000, what additional fee will this legislation impose, as opposed to what is currently being paid? I am absolutely positive that the minister should have this information to hand.

Mr T.R. Buswell: I can provide a little more clarity; however, we have to understand that the local government amount I am about to give is still an estimate and yet to be finalised. As I understand it, under the current system, the charge for residential is 0.318 per cent of the estimated value of the proposed construction, inclusive of GST. Under the proposed new system, the building levy will be 0.09 per cent and it is anticipated that local government charge will be 0.18 per cent—although I have to stress that there is still some —

Ms J.M. Freeman: So it’s only a third of the existing amount?

Mr T.R. Buswell: Well, 0.18 per cent versus 0.318 per cent, so —

Mr M. McGowan: No, you said 0.3 per cent for the first one.

Mr T.R. Buswell: I said 0.318 per cent. Currently for residential, as I understand it, one pays the local government 0.318 per cent of the estimated value of the proposed construction. The proposal is that one pays a building levy of 0.09 per cent. The current estimate of what will be paid to local government—which we are now calling the permit authority—is 0.18 per cent. However, I have to stress that that is yet to be finally agreed to by local government and the government; 0.18 per cent and 0.09 per cent is 0.27 per cent, inclusive of GST, versus the current rate of 0.318 per cent, inclusive of GST. On those figures, one is marginally better off under the proposed new system. The reason I said earlier that it may be marginally higher is that that 0.18 per cent is yet to be finally struck with local government, but the advice I have is that, on that information, it will not be any more than what one is currently paying. I add the caveat that the deal with local government is yet to be finalised. However, it is a government regulation so we have some influence over that.

Clause put and passed.

Clause 2: Commencement —

Ms J.M. Freeman: I have an administrative question for the minister. The Building Services (Complaint Resolution and Administration) Bill levy goes into the building services account. Clauses 1 and 2 come into operation when the bill is assented to, but clause 3 comes into operation on the day on which clause 94 of the Building Services (Complaint Resolution and Administration) Bill comes into operation. We will not be able to open the building services account until the bill receives royal assent, and that is where the building service levy money has to go. It will be prescribed on that date. Clause 94 relates to when the building services levy may be prescribed. I assume that prescription will therefore come at some period after assent of the Building Services (Complaint Resolution and Administration) Bill. Will that be a period of one month, two months, three months or six months? How long will it take to set up a building services account?

Mr T.R. Buswell: My understanding is that it will have effect on the same day. The Interpretation Act gives us the ability to take certain actions on the assumption that certain things will happen, so the account will be set up.

Ms J.M. Freeman: I have a question on commencement that goes to clause 3, the Building Services (Complaint Resolution and Administration) Bill and how it is prescribed. In respect of establishment, I have some background in setting a levy through the workers’ compensation jurisdiction. That is usually done through an actuarial process; I am not entirely sure how the levy amount is being established for this legislation, how the public will know what processes are taken into account, including the operational costs, and how we will be able to look at the costs in terms of the industry. The actuarial assessment of what the workers’ compensation levy should be is published, along with the premium. I am wondering whether clause 3, and how it will operate, will also be published.

Mr T.R. Buswell: Member, can we deal with clause 2 first?

Clause put and passed.
Clause 3: Imposition of building services levy —

Mr T.R. BUSWELL: That is a good question. What the member is really asking is: what will be the accountability mechanism by which the Building Commission can make sure that it is not charging too much? The rate will be set by regulation, and it will, therefore, be subject to scrutiny by the Parliament. There is no accountability mechanism as such, or no actuarial process as may be the case when workers’ compensation premiums are set. However, when the annual accounts of the Building Commission are presented through the budget process as part of the Department of Commerce, members will clearly see the revenue that has been generated from the levy, and the expenses that have been incurred by the Building Commission in fulfilling the role that we are conferring upon it. Therefore, the ultimate scrutiny of this legislation will be the extent to which the levies raised in any one period cover the costs incurred in that period. I expect that there will be a relatively fine balance between the two; and, if there is not a balance, there will be significant scrutiny by the Parliament, as has been the case with the imposition of certain other limited levies—not taxes—by the government. But it is a fair question.

Clause put and passed.

Title put and passed.

Leave granted to proceed forthwith to the third reading.

Third Reading

Bill read a third time, on motion by Mr T.R. Buswell (Minister for Transport), and transmitted to the Council.

BUILDING BILL 2010

Second Reading

Resumed from 10 November 2010.

MR C.J. TALLENTIRE (Gosnells) [7.51 pm]: I am very pleased to continue my remarks on the Building Bill 2010. I must say that since I made my previous remarks, we have come a long way. On Tuesday of last week—Tuesday, 29 March—the manager of opposition business, the member for Rockingham, gave a speech to the Housing Industry Association of Western Australia, in which he expressed the Labor Party’s support for the introduction of the six-star energy efficiency rating system. I also issued a media release on that day, calling on the government to quickly move to introduce the six-star energy efficiency rating system. I was very pleased that on Friday I received a media release from Hon Simon O’Brien, the Minister for Commerce, saying that the government would be bringing in the six-star energy efficiency rating system. That is good news. That means that at last we will be able to solve the problem whereby the wrong house is built on the wrong block, and people are encumbered with expensive energy bills in trying to cool a house that has a vast amount of glass facing the sun, and trying to heat a house that lacks insulation and other such things.

Therefore, this bill will be a positive step forward. It will mean that Western Australia will have a better quality of housing. Some 20 000 new dwellings are built every year in Western Australia. We need to start now to make those houses more energy efficient. This change has faced strong opposition from many people in the building industry. I note that in the December 2010 issue of Building News, which is put out by the Housing Industry Association of Western Australia, the president urged members to fight like hell and to ask Santa to give them a “get out of six-star pass”. The HIA argued that the introduction of the six-star energy efficiency rating system would definitely increase the cost of building a new home, and that was a cost that consumers would not be able to wear. However, what they never, ever pointed out was that with rising energy costs, any increases in building costs—if they exist at all—would evaporate immediately.

I also need to acknowledge that many members of the housing industry are positive about this measure. I do not hear them very loudly, but they are there. They are keen to ensure that there is better quality housing in Western Australia. I note, for example, that Griff Morris, who owns the company Solar Dwellings, makes the point that good design does not cost any extra, but poor design incurs massive costs over the life of the building. That sums up very well why we need to bring in this six-star system in Western Australia. Thankfully, we are moving forwards. There will be a phase-in period before this system becomes mandatory. However, the government should tell people that they can go to a builder today and ask for a six-star rated home. I am not seeing that at the moment. There is no advertising to tell people that they can insist today that they get a six-star rated home. I get the impression that many builders want to flog off any of their houses that do not meet the six-star rating system. They want to do that before the system becomes compulsory on 1 May 2012. The 12-month phase-in period will officially start on 1 May 2011. We need to let consumers know that they can request a six-star home today, and they will then not be encumbered with massive energy bills in the future.

We need to deal with the sensationalism that is contained in some of the reporting about the additional costs that will be incurred in building better quality dwellings. I realise that some of the profit margins of builders come
down to the fact that they buy in bulk and have components that may not meet the six-star rating, and that they may want to get those components through the system before they start talking about six star. I noticed in the weekend press that Summit Homes is advertising that it is producing a six-star rated home. It is excellent news that consumers can now choose that higher energy efficiency rating.

Of course, one argument that the housing industry has put is that we should not put all the focus on new homes; we should look also at the existing housing stock. That is a legitimate argument. How can we bring in a system that will improve the quality of the existing housing stock—all those homes that we go back to each night, many of which were built many years ago? There are many ways in which we can do that. One method is the mandatory disclosure system. This is clearly identified in the Council of Australian Governments’ “National Partnership Agreement on Energy Efficiency”. The COAG agreement presented the case for the six-star rating system. It also presented the case for mandatory disclosure. Mandatory disclosure means that in the future, every home that is put on the market for sale or for rent must be given an energy efficiency rating. That makes perfect sense, because it means that the consumers—the buyers or renters of the property—will be able to buy or rent with better knowledge. When people buy a car, they can see the fuel efficiency rating sticker on the car windscreen. They can look at the website www.greenvehicleguide.gov.au and see how much fuel the vehicle consumes. That level of information should also be presented for existing homes. A mandatory disclosure system is absolutely essential if we are to deliver that. The question that then arises is: what legislation will we use to bring in mandatory disclosure? The COAG agreement does not dictate that, because each state has different legislative arrangements that may allow for mandatory disclosure to be brought in.

Mandatory disclosure has existed in the Australian Capital Territory for at least 12 years and exists in many other countries. Therefore, there is nothing really new here; it is just how we go about doing it in Western Australia. That is why I have on the notice paper an amendment to clause 93 of the Building Bill that would bring into effect a potential opportunity to develop mandatory disclosure of energy ratings, whether or not an occupancy permit is required for the building. Details can be described later through regulations, but at least we will have the head powers in the Building Bill—soon to be Building Act—that will allow for mandatory disclosure regulations to be drawn up in the future. We do not want a situation in which we have to wait for legislation to be prepared and go through the Parliament before we get mandatory disclosure. There is great enthusiasm in the community for mandatory disclosure. People have been working as home sustainability assessment professionals for many years and have the skills to help undertake these sustainability assessments. There is also enthusiasm in the real estate industry; real estate professionals would like to be involved. Given suitable training, they would like to provide that sustainability assessment for homes. There are some great opportunities there. I know that the minister has concerns about a regulatory impact statement and the position of such a document on the issue of mandatory disclosure. I have received information from the federal government, from the Department of Climate Change and Energy Efficiency, that the Western Australian government has submitted to it the regulatory impact statement for Western Australia. There is no way that the minister should be allowed to say in this place that there has been a delay in getting the regulatory impact statement. The case for Western Australia is solid and has been presented to the commonwealth. Indeed, the commonwealth has a plan, and I cite a document from the office of the Minister for Climate Change and Energy Efficiency that states that the department intends to have the consultation regulatory impact statement in the public domain by May 2011. Therefore, all this is imminent and I think that it is imperative that we ensure that the legislation before us can provide the legislative mechanism for mandatory disclosure so that we can get on and do not lose any further time. It will make a big difference to the fairness of the marketplace; if we have better information in the market, people can make better decisions. It will be totally consistent with the “National Strategy on Energy Efficiency”, which, after all, the Premier has signed off on. Measure 3.3.2 states that mandatory disclosure of building energy efficiency will come into Western Australia. The Premier committed to that back in July 2009. This will be the other part of the equation. We have done the six-star rating; that is great. Let us now make sure that existing properties are covered by this mandatory disclosure system. That way we can ensure that the quality of our housing continues to improve so that people do not face ridiculously large fees, charges and energy bills on their properties.

MR P. PAPALIA (Warnbro) [8.03 pm]: I rise this evening to speak about the Building Bill 2010 on behalf of the member for Bassendean, who is unable to be here. He has asked me to raise a specific issue that has been brought to his attention by a number of local governments in his electorate. They would like the Minister for Housing to listen to their concerns and consider whether it might be possible to amend the legislation to take into account their specific concern. They say that under part XV of the Local Government (Miscellaneous Provisions) Act 1960, local governments have fairly broad-ranging powers to issue notices regarding health and safety at building sites and that councils, despite these powers, are reluctant to do this until they have first explored possible negotiations with the landowner. If that negotiation is unsuccessful, the council is entitled to enter the property and carry out the terms of the specific notice. The local governments are specifically concerned about the recovery of costs associated with that enforcement. At present, the council can claim the money, and if there is no voluntary payment made by the people involved in the building, the council has cause
for action in civil jurisdiction. The councils in the member for Bassendean’s electorate are proposing that a more workable solution to this problem would be for the council to be entitled to place a charge over the land to preclude its sale until the amount outstanding from the order is paid.

The member for Bassendean has given me a practical example of a situation in which builders at a construction site in Bassendean spread dust and debris throughout the neighbourhood. This caused considerable distress to the residents and the builders received the maximum $5,000 fine. Although the Town of Bassendean has recently adopted a local dust law proposal to give rangers powers to issue infringement notices to builders, the issue of liability for costs associated with enforcement under the Local Government (Miscellaneous Provisions) Act still remains. Therefore, the local governments are proposing that an amendment to this act would allow them greater certainty when acting in such instances and would ensure that costs could be recovered without them having to pursue the individuals concerned through the courts. I propose this amendment on behalf of the councils in the member for Bassendean’s electorate. I am also told that a similar provision exists in section 372 of Health Act 1911. The understanding of the local governments is that the provision is not used very often, but is reasonably effective in securing money owed. This concern has come from the member for Bassendean on behalf of local councils he represents, including the City of Swan, Town of Bassendean and the City of Bayswater. I leave it with the Minister for Housing.

DR A.D. BUTI (Armadale) [8.06 pm]: The opposition sees many aspects of the Building Bill improving the industry. We will have a chance in consideration in detail to look at those various provisions. I have also received correspondence from a number of councils, including my own, the City of Armadale, and also the Shire of Goomalling. I am sure that my National Party friends in this place will be interested in what I have received.

Ms M.M. Quirk: Regular correspondence, member!

Dr A.D. BUTI: I actually do get regular correspondence from the Shire of Goomalling!

Mr D.T. Redman interjected.

Dr A.D. BUTI: Well, there we go. The shire has produced very fine people by the sounds of it!

One issue about the bill that has been raised by a council, and I had even thought of it before receiving the correspondence, is that the bill seeks, in some respects, to delineate between planning and building. Let us face it, there is a major frustration when people want to build, because councils are often very slow in giving building approvals. The purpose of this legislation is to try to lessen the time it takes for building approvals to be granted by councils. The delineation between planning and building will be an issue for some councils, especially those that are stretched for resources. Some departments in various councils will have trouble with this delineation, because if building and planning are not closely related or connected, there may be issues with each department contravening the other’s policies. Therefore, it will be interesting to hear from the Minister for Housing about how this bill may be able to alleviate that problem, because building approval may be given, but it may result in noncompliance of a planning requirement. I am not sure if there is any easy way around that, but it is a possibility and I am told that some planning departments in councils are concerned about it.

It is unclear from my reading of the bill what legal liability local governments will have if they give certification based on deficient information. If the information provided to them is incorrect, and they certify a building approval, what legal liability is attached to the council? I am also unsure about how the bill deals with complaints about encroachment issues and the obligations of local governments to check the compliance of proposals with all the written laws of the land, particularly the obligations that result from their need to apply written laws on behalf of public authorities in this state.

The Shire of Goomalling wrote to me and presented some interesting issues that are of particular concern for people who live in the country. One of the shire’s major concerns is the cost factor that may result from the need for inspections. In reference to clause 36 of the Building Bill, the shire’s letter states —

This section deals with the aspect that a Building Surveyor can list the inspections and tests as he or she considers necessary for the proposed construction.

In principle, this is excellent but in practicality it could be difficult and onerous on the owner in as much as a city based or private Building Surveyor could stipulate numerous conditions of inspection and tests which could be unnecessary and terribly expensive for country housing owners.

This is because the expertise has to travel from the metro area and we know that even in Goomalling—132km from Perth, you cannot get an expert to do an inspection for less than $800 because of travelling costs and time. Imagine the cost that the owner would have to bear if the Building Surveyor has listed 10 or more inspections.

The shire also raises the issue of self-inspections. If self-inspections are allowed to take place, it raises the question of whether the quality of the self-inspection would be up to the standard that the government would
want to achieve through the Building Bill. There is no doubt that this bill is necessary; I am just raising some of the concerns of the shires and cities. I look forward to further examination of this bill in the consideration in detail stage.

**MS J.M. FREEMAN (Nollamara)** [8.12 pm]: I rise to contribute to the Building Bill 2010. The Minister for Housing will have to indulge me because it was some time ago when we discussed the three other building bills. I hope that I do not repeat myself —

**Mr T.R. Buswell**: I have never known you to repeat yourself, although you put very similar arguments!

**Ms J.M. Freeman**: The minister just cannot resist, can he? I was being charitable. Next time I will just repeat myself and give the minister no consideration.

**Mr T.R. Buswell**: Then I might say that you are just repeating yourself.

**Ms J.M. Freeman**: The minister probably would.

**Ms M.M. Quirk**: If he got it right the first time, you would not need to repeat yourself.

**Ms J.M. Freeman**: That is probably right but I am too polite to say such a thing. I think that it is worthy of putting into Hansard that if the minister got it right the first time, I would not need to repeat myself. If he answered my questions in a way that dealt with the issues, I would not have to repeat myself either.

In any event, I will raise a number of issues relating to Nollamara and I would like the minister to clarify whether some of those issues will be dealt with by the Building Bill. I understand that the Building Commissioner will be able to deal with a number of issues. A builder built a property in Hancock Street in Nollamara after making an agreement with the original owner of the property. Many properties have been subdivided in the area. In that agreement, the builder built a property for a woman at the back of the lot. The land was split and the woman kept the land at the back and three units were built at the front. Unfortunately, the original owner of the property came to an untimely end. He was killed because he had links with organised crime. The house then became the subject for some time of an investigation into whether it could be confiscated under the Criminal Property Confiscation Act. That investigation has now finished. For the past three years the property has sat uncompleted, as a shell of a building, in front of a house that has been completed. The investigation discovered that the property was not in the dead gentleman’s name but was in the name of his wife. On that basis, the property could not be held under the proceeds of crime legislation. In the meantime the uncompleted building sat there deteriorating and decaying and was a cause of concern for the residents. I have pursued this issue with the City of Stirling. Obviously rates are not being paid on the property. However, it is the city’s view that it will not take any legal action because there is not a significant amount of debt owing to it. The builder had put a caveat on the building but nothing has come from that. I want to know about the building code that the bill adopts and what effect the bill will have on buildings in our cities and urban development and on how urban design has an impact on our communities and neighbourhoods. How can this bill assist to bring a matter like that to completion for the benefit of the neighbourhood, given some of the complexities of that case? The solution to that may be a planning responsibility, which I accept. Can the City of Stirling or another local government put time lines on that type of process through the Building Bill?

Another example concerns properties in St Andrews. Some of the properties are worth about $1 million, which is a bit unusual in my part of the world. Many people bought their land with the caveat that they had to build a property within three years. After one gentleman started building his house, his relationship split up. The couple have been disputing in the Family Court which party would come out with what and the building has remained unfinished for 10 years now. I followed up the matter and the told the City of Stirling that there was a caveat to the purchase of the land that meant a development had to be built within a certain time. That owner had not built a property so that he could get an advantage over his former partner in their dispute over the property. I asked the City of Stirling whether it could do something about that but was told that it could not. It said that the caveat on the land was put there by the developer but that nothing could be done about it once the developer had gone. All the other neighbours have built very expensive properties and have watched the turret extravaganza across the road lie unfinished for 10 years. The only thing that the City of Stirling can do is make the owners ensure that the site is secure, because it was dangerous. There is a quite ugly fence in front of the property. There is no doubt that the City of Stirling has been trying to pursue this matter. I understand that the other bills we have dealt with may assist the neighbours’ ability to take action and might also help the city to go through a different dispute resolution mechanism. Is there anything in the code of practice or the Building Bill that can assist the neighbours? They do not want to have to engage in a formal dispute. They want reasonable parameters to take into account that when dealing with people’s properties there is a responsibility on the neighbours to complete the construction of their buildings so that our communities can enjoy the physical amenity around them.

I raised another issue previously and I wonder whether it is covered in the Building Bill. Nollamara and Mirrabooka are experiencing the rapid subdivision of large blocks. I believe that we should not keep expanding our suburbs out into the urban fringes and that we need smaller blocks and redevelopments. There are obviously
issues about facilities and infrastructure. Many of the areas that are being developed were developed by the Department of Housing in the 1950s. They are large blocks that may have been surveyed with precision at the time. However, on many occasions—I do not know whether other members have experienced this—people have come into my office and told me that a builder is encroaching onto that person’s block and is claiming that it is part of the builder’s property. Adverse possession in Western Australia, which is a common law claim, is a common law concept and has a common law basis in that a person can say, “I have had possession of this land for this period of time, I have had use of it and I have made use of it. I should continue to use this land and it should not go across to the neighbour because suddenly there has been a new survey process.” However, that common law process is very complex in that people need to get lawyers and other surveyors involved. It is very intimidating for many people who have what they believe to be their property encroached on by developers who are developing land next door and who can afford the advice to say, “This land is owned”. As I understand it, the impact of the Building Bill will extinguish adverse possession, which is of serious concern to me. The adverse possession process in New South Wales, as I understand, is much simpler in that people can go through a mediation process to determine how the ownership of the land is, I suppose, resolved. That issue is of serious concern, especially if someone is developing a small-lot development where 40 or 50 centimetres can make quite a bit of difference in where the fence is positioned and how the property is developed. In those instances, neighbours suddenly have what they believe is their land encroached on and their rights undermined. I seek some understanding of how the Building Bill will give them remedy.

In terms of the skilled building surveyor signing off on developments, one of the issues that I am dealing with involves the community at the Mirrabooka Mosque, which got a pergola built outside its building. The pergola was signed off and the mosque community relied on the people who assisted them in that. The community has used the pergola as an additional place for worship when the mosque gets too full. Unfortunately, some time later—the pergola has been there for some five or six years—the City of Stirling came to the community and said that the pergola cannot be used for worship because it is not a place for worship, it is a pergola. I have to say that anyone who would give planning approval for a pergola off a mosque must have thought, “Well, they’re not going to use it for a barbecue; it will be used for worship and congregations.” Therefore, I ask the question: will there be some sort of assurance that the skilled building surveyor signing off on the approval has taken the proper use of the building into account? I suppose that goes to something that the member for Armadale asked about how it crosses those lines of planning and building.

I have raised the matter of dust control previously and we determined that it could be covered by provisions in some of the previous legislation; however, I am also interested to know which provision in this legislation deals with dust control and site demolition and how it will be enforced to ensure that dust control occurs. I understand that it may come under the provisions of clause 94. Dust is one of the major concerns when there are a number of developments in an area, as people are knocking down buildings and shifting sand around, especially if they are doing small-lot development so that they can fit a few more buildings in. These are all issues that I am interested in talking about; where are they provided for and how will this bill give some relief to the people in the community I represent? How will this legislation have some practical application for those people and what is going on in their community? Massive building is occurring in their suburbs.

I noted that the member for Gosnells talked about the six-star energy efficiency rating system. As I understand, New South Wales, Victoria, Queensland and South Australia have a mandatory internal plumbing system in all new buildings called the purple pipe system. I wonder whether that will be taken into account in the six-star rating system or whether it will be a code that will fall under the Building Bill. Purple pipes, or fit-for-other-purposes pipes, are water pipes that run not potable water, but water that can be used for toilet flushing or laundry. In Western Australia we are suffering a massive water shortage, as we know, and nearly 18 per cent of internal water used is for flushing toilets. We certainly do not need precious potable water for that purpose. I understand that rainwater tanks are somewhat controversial in Western Australia. I have a rainwater tank that never fills up. It rains very rarely at this time, so it does make it very difficult. However, there are other options, such as community bores, which, with a purple pipe could actually be linked to flush toilets; recovery water, such as grey water, that can go through charcoal filters; or, when it does rain—hopefully it will on Thursday—road run-off-type storage systems in communities that could be connected to a household. I understand an example in our own context is in Brighton-Butler, which has a low-cost scheme to water all outside areas in the suburb using the community bore. To do that, people have been encouraged to have a fit-for-use third water pipe, a purple pipe, in their homes. Therefore, with that in mind, I ask how the Building Bill will be able to meet some of the environmental challenges in our community and address the immediate environmental concerns that we have, in particular the lack of water in our community and I suppose, for want of a better word, the misuse of our water. We need to use other water, recycled water and other mechanisms effectively in our community so that potable water, drinkable water, can be saved for the purpose for which it is needed.

Those are the sorts of issues that I wanted to raise about the Building Bill. I have a few questions that I will, obviously, go through in consideration in detail.
MR T.R. BUSWELL (Vasse — Minister for Transport) [8.27 pm] — in reply: I propose to briefly respond. Obviously, the Building Bill 2010 has transitioned through a couple of different ministers in the house. My understanding is that a number of issues have been raised, some of which relate to the Building Bill and some of which have absolutely nothing to do with the Building Bill. We will deal with those issues at the appropriate time during consideration in detail.

Member for Nollamara, I am not sure that the Building Bill deals with communal bores. Of course, I will seek proper advice about that matter. I think the issues that the member raised about unfinished properties are important but, again, I am unsure about the extent to which the bill deals with them. However, I understand how those issues would impact on communities that are affected by unfinished properties in their neighbourhoods.

As I said, we will go through the issues members have raised during consideration in detail, which I think is an appropriate forum. However, I will make one point about local government’s response to the Building Bill. I think it is fair to say that that response has been mixed; some local governments embrace the government’s reform agenda and others do not. Clearly, there was an issue that revolved around, in part, the variable speeds and variable levels of complexity that local government wrapped around the building approval processes. It would be fair to say that the performance of some Western Australian local government bodies in issuing simple building licences, for example, for single residential buildings on lots that are approved with full planning in place, was mixed and varied. The performance of some local governments was good, while the performance of others was absolutely disgusting in that people were forced into delays that were inexcusable and unexplainable and that ultimately cost them a lot of money. I will not name any local governments. Members would be able to reflect on the local governments in their own areas. Local governments should be given a word of warning because, quite clearly, this bill has been designed to reduce the role that local governments play, whilst not excluding them entirely from the building approvals process in part. If they attempt to work around this reform by capturing the building approvals processes back into their planning processes, we will have to deal with them through another round of reforms. From the government’s point of view, that would be a completely unacceptable outcome. In many ways I am disappointed that I lost carriage of the development of some aspects of this bill because I am still interested in the level of control and involvement that local government has been able to maintain, in particular in the building approvals process. I do not say that that reflects on all local governments but I definitely say it reflects on some. We have to remember that for those local governments that complain about this reform, it is in part that performance that has led us to introduce this reform.

I do not wish to say too much more. We will deal with the many and varied issues that have been raised as we work through the bill in consideration in detail. In closing, I thank all members of the house for their general support and positive contributions to what is a significant bill that will reform the building sector in Western Australia.

Question put and passed.

Bill read a second time.

COMMONWEALTH HEADS OF GOVERNMENT MEETING (SPECIAL POWERS) BILL 2011

Consideration in Detail

Resumed from 24 March.

Clause 12: Restricted areas —

Debate was adjourned after the clause had been partly considered.

Ms M.M. QUIRK: Clause 12 provides that the commissioner may designate an area within a CHOGM security area which is a restricted area. In other words, it is an inner ring of a broader security area. We know where the events will be held—for example, at the state reception centre, or Fraser’s Restaurant as it is more commonly known, and at the Perth Convention and Exhibition Centre, more commonly known as the PCEC. I will use them as examples. I know it has probably not been finalised yet, but can the minister give me some idea of the extent of those restricted areas? In other words, if we are talking about Fraser’s, where will the restricted area be as opposed to the broader security area?

Mr R.F. JOHNSON: The member is quite right: the restricted areas are the inner areas within the outer areas. I am advised that 19 hotels will be used for CHOGM. We are not sure which ones the delegates are staying at yet, but obviously that will become known nearer the time. As the member quite rightly said, the restricted areas that we know of will be the convention centre, Fraser’s restaurant, Burswood hotel and Government House. They are the venues that will be restricted at this stage. There may be more as we get nearer the date and as the planning is finalised. There will be 53 heads of state and all their entourage, a few thousand in total, in Perth. When the final details become known nearer the time, I have no problem in ensuring that the shadow minister gets a briefing on all those areas that she has an interest in. That is probably all the information I can give her at this stage. If she needs any more information, I am more than happy to give it to her.
Ms M.M. QUIRK: I want to try to get some understanding of the extent of the area. I know it is very hard as it will depend on the operational exigencies and the threat advice at the time et cetera. Can I get a general feel for the size of the restricted areas? Will it be 500 metres or five metres outside the premises? How big will those restricted areas be?

Mr R.F. JOHNSON: The advice that the deputy commissioner has given me is that it will depend on the different hotels. One or two hotels have nine separate entrances whereas others have only two or three. The restricted areas will depend upon the number of entrances and exits to those hotels. I would suggest that that is the greatest number of restricted areas around those nine hotels in which the commonwealth heads of state will be staying. It is impossible to give the member an accurate answer as to whether it is 500 metres, 20 metres or whatever. It is too early to give the member that information. It is fair to say that WA Police want the least amount of restriction as possible. Obviously, it has to take into account the risk assessment of whoever is staying at the hotel and Government House, and who will be visiting Fraser’s and the convention centre, where all the heads of state will be meeting. I would suggest that there may be a greater risk around those areas because there will be so many people in one place. The restricted areas around those venues would be greater than individual hotels, depending on the risk assessment. I am advised that they will all be gazetted, which is what clause 13 will do.

Ms M.M. QUIRK: That brings up another point. Before I go on to that, I will take the example of Fraser’s. At the CHOGM briefing that I attended last night, I heard that streets such as Mount Street, Malcolm Street and Cliff Street are all likely to be in what I call the security area—the outer ring. Clearly, the constraints of entering that area will be less than the constraints of entering areas nearer to the reception centre. I suspect that the reception centre would be in the outer ring, but I want to know where the inner ring is likely to start.

Mr R.F. JOHNSON: It could be several hundred metres. As I have already said, it will depend on the venue. That is more properly answered under the clause that deals with roadblocks, because we certainly do not want to inconvenience too much those people who live very close to where there will be some roadblocks—if we can possibly help it. They may not be able to drive their vehicles for a few hours on the Friday, for instance, but they will be able to walk. We can probably give the member a better answer when we get to that clause, if she wants to ask specific questions about where the roadblocks will be. At the moment, we have a pretty good idea, but it will be for the minimum time necessary, if I can put it that way.

Ms M.M. QUIRK: The minister mentioned that these areas will be gazetted in due course, which is excellent to hear. Why was it that the New South Wales legislation was able to include an indicative core map of the declared areas? Was that considered here; and, if not, why not? Was the advice of parliamentary counsel that it could not form part of this legislation?

Mr R.F. JOHNSON: I have been advised that we have found out that some of the delegates may not want to stay in the hotels we have reserved for them, and will stay somewhere else, so it is impossible at this stage to provide that detail.

Ms M.M. Quirk: I have a spare room!

Mr R.F. JOHNSON: What is the member’s rate?

Mr D.A. Templeman: I have been encouraging them to come to Mandurah!

Mr R.F. JOHNSON: Honestly, it is too early to be able to give that information. The Asia-Pacific Economic Cooperation meeting was very different from this one. CHOGM WA will be the biggest security event ever in Australia—never mind in Western Australia! We need these extraordinary powers to ensure that the Queen and those visiting heads of state and their spouses will be, as they should be, properly protected in a way that countries should protect visiting heads of state. I cannot give the member the information yet. I can assure the member that these areas will all be gazetted. Nearer the time of CHOGM, if the member really wants a map of those areas, I will be more than happy to supply one to her. I am happy for the member to come on board in this bipartisan event for the benefit of Western Australia.

Ms M.M. Quirk: Is that why the opposition was not provided with a security briefing but the Premier was? The minister is saying we should be bipartisan, but we have not been privy to the same briefings that have been provided to government.

Mr R.F. JOHNSON: The opposition will be given a security briefing.

Ms M.M. Quirk: I understand that the Premier was given one last week.

Mr R.F. JOHNSON: I am not aware of that.

Ms M.M. Quirk: I believe it was in the last couple of weeks.

Mr R.F. JOHNSON: It may or may not have been, but obviously it is quite right that the Premier should be briefed—almost on a daily basis.
Ms M.M. Quirk: The minister is saying this is bipartisan, but we are operating with limited information.

Dr K.D. Hames: We are the government.

Ms M.M. Quirk: The opposition has to be responsible in terms of this legislation.

Dr K.D. Hames interjected.

Ms M.M. Quirk: He is not; that’s the problem.

I asked whether parliamentary counsel had given advice on how the maps could be published and whether there was any constraint from doing that.

Mr R.F. JOHNSON: No.

Ms M.M. Quirk: So the answer is that you do not know yet!

Mr R.F. JOHNSON: The answer is that it has not given us any information or indication as to why maps cannot be published or be part of the legislation. The member has to accept that Western Australia, and Perth, is very different from the situation that New South Wales faced with APEC, which had huge barricades and all sorts of things. We do not want that in Perth. We want to be more inclusive of the people. The honest answer is that I cannot give the member that information because all the details have not been finalised; it is a work in progress.

Ms M.M. Quirk: The NSW legislation referred to an “indicative map”.

Mr R.F. JOHNSON: I could give the member a map of Perth with a circle around it and say that was an indicative map, but that would be misleading and I do not want to be misleading.

Ms M.M. Quirk: Excellent.

Mr R.F. Johnson: I am glad the member for Girrawheen thinks so.

Ms M.M. Quirk: In his answer, the minister made a point about barricades and those big orange barriers—I am sure the deputy commissioner would know their name.

Mr R.F. Johnson: He is not allowed to talk.

Mr W.J. JOHNSTON: I want the minister to clarify subclause (3)(a) — the area is being or will be used directed for or in relation to a CHOGM event or the administration of a CHOGM event;

Does this mean that the business forum, the youth forum in Fremantle or the people’s forum, wherever that is taking place, will not be designated as restricted areas because they are not CHOGM events but events that happen in relation to CHOGM?

Mr R.F. Johnson: They are related CHOGM events.

Mr W.J. JOHNSTON: Clause 3 describes a CHOGM event as “any meeting, event, function or activity that forms part of CHOGM (Perth)”. Is the minister saying that the people’s forum, the business forum and the youth forum are CHOGM events?

Mr R.F. Johnson: Yes.

Mr W.J. JOHNSTON: Where in the definition clause is it made clear that those events are part of CHOGM, given that the website of the Commonwealth Secretariat defines CHOGM as being the leaders’ forum and leaders’ retreat and does not define those associated events as being CHOGM events?

Mr R.F. JOHNSON: We have gone through this before. It is covered in clause 4(2)(a), which refers to “and associated events”.
Mr W.J. JOHNSTON: When I raised this issue with the minister during the last sitting week, the minister’s commentary on this topic was that it was not pertinent because there was a restriction in the other clauses—that is, where the powers were specified to restrict the bill to CHOGM events. In some cases the minister is right, and this is one of those cases. I am trying to establish from where the power comes to make a restricted area for an event other than CHOGM.

Mr R.F. JOHNSON: Clause 4 gives us the power.

Mr W.J. JOHNSTON: What word in clause 12(1) gives the commissioner that power? Subclause (3)(a) says that the commissioner may designate an area only if the commissioner is satisfied that the area is being or will be used directly for or in relation to a CHOGM event or the administration of a CHOGM event. A CHOGM event is defined in clause 3, which states —

*CHOGM event* means any meeting, event, function or activity that forms part of CHOGM (Perth);

If the minister looks up on the Commonwealth Secretariat website what the Commonwealth Heads of Government Meeting is, it states that it is the leaders’ meeting and the leaders’ retreat.

Mr R.F. JOHNSON: That is its definition, not ours.

Mr W.J. Johnston: But where is it?


Mr W.J. Johnston: Okay. But if the minister wants to put it that way, what in clause 4 tells me that an event other than the CHOGM event is covered by that clause that we were just discussing?

Mr R.F. JOHNSON: Going back to clause 4 again—I can see which way we are going—it states it quite clearly, which why clause 4 is there, that —

Mr W.J. Johnston: Clause 4 or clause 3?

Mr R.F. JOHNSON: Clause 4, “Purpose”, which states —

The purpose of this Act is to promote the security and safety of people attending the Commonwealth Heads of Government Meeting in Perth in 2011 and associated events, functions and activities by giving police officers, certain other persons …

And so on and so forth. That is what clause 4 states. We debated that clause ad nauseam during the last sitting week, and I do not intend to keep getting up and answering the same question because I have answered it. The member does not like my answer, obviously, but I am not going to change my answer just so that the member can have one that he likes.

Mr W.J. Johnston: I’m not asking you to do that.

Mr R.F. JOHNSON: We are not going to use as a definition whatever the Commonwealth Secretariat of CHOGM has as its definition for CHOGM. We are dealing with the bill in this place, not what is on a website somewhere else.

Mr W.J. JOHNSTON: On 22 March 2011 I asked —

Minister, will these powers apply to other events planned for Western Australia during the commonwealth meeting?

The answer was no.

On 24 March the minister came into the chamber and made the following comments —

The scope of this bill needs to be flexible. As mentioned by at least two of the opposition members who spoke on this bill, part of CHOGM’s success is the informality of the arrangements. Leaders and delegates are encouraged to meet informally, without advisers, to discuss issues of importance. However, police need powers to protect dignitaries, delegates and other participants in Perth for CHOGM at whatever formal or informal CHOGM event they are attending. Accordingly, the bill should not strictly define “CHOGM Perth”, as this could lead to police not being able to use these powers to adequately protect the security of participants in CHOGM.

Fundamentally, the problem in the way the minister is saying this clause should be interpreted is that the people’s forum, the youth forum and the business forum are not part of CHOGM.

Mr R.F. Johnson: Clause 4(2)(b) relates to promoting the security and safety of the accommodation for people attending CHOGM; they are not associated events, but that is part of the security that needs to be put in place because heads of commonwealth countries will be staying at those hotels. The website that the member has been referring to does not refer to that as a CHOGM event, does it?

Mr W.J. JOHNSTON: No.
Mr R.F. Johnson: Exactly.

Mr W.J. Johnston: No, the minister needs to listen to what I am saying. I am not trying to do anything other than get clarification, but that is not what we are discussing. I understand clause 4; we had a very long debate about what it meant.

Mr R.F. Johnson: Ad nauseam.

Mr W.J. Johnston: I will not go into why that occurred. I am saying that this states that the commissioner will have the power to create a restricted area only if clause 4(2)(a) and (b) are satisfied. I have no trouble with the thought—because it is pretty clear from the words—that the commissioner will have the power to declare the Hyatt Regency Hotel a restricted area if heads of state are staying there, but what is not clear is whether he has the power to declare the Burswood convention facility a restricted area because the business forum is not CHOGM; it is the business forum.

Mr R.F. Johnson: It’s an associated event.

Mr W.J. Johnston: Yes, but this does not state “associated event”; these are not my words, they are the minister’s. It states a CHOGM event, not an associated event, and I am just trying to clarify. By the exclusion of the words “associated event”, is the minister trying to have this provision apply to only the leaders’ meeting and the leaders’ retreat? Because if it is meant to mean something in addition to those, which words on that piece of paper under clause 3 tell the commissioner that he is entitled to use these powers in respect of the business forum? Remember, there may not be a single head of state at the business forum—nobody knows whether there will be any heads of state there—so the Commonwealth Heads of Government Meeting is the meeting described by the Commonwealth Secretariat on its website. I am not asking about the meeting of the leaders; I am asking about events that take place associated with those leaders’ meetings, because if it is supposed to cover more than just CHOGM, surely we need to give the commissioner a specific head of power, otherwise how can he exercise it?

Mr R.F. Johnson: The advice I have been given is that clause 4 widens the definitions in clause 3 by referring to associated events, functions and activities; it widens the scope. That is the advice I have been given; I am not just dreaming this up. The advice I have been given by the experts at the table is that that is the reason for clause 4—it widens that particular scope.

Mr W.J. Johnston: How? Because you’ve defined a CHOGM event in clause 3.

Mr R.F. Johnson: But then clause 4 widens that scope.

Mr W.J. Johnston: But, minister, the reason you wrote the definition in clause 3 was that you wanted those words to have only one meaning in the balance of the bill; that is the purpose of the definition. Having defined it in clause 3, you can’t now say it means something else because it is defined in clause 3.

Mr R.F. Johnson: The member obviously cannot sleep at night for thinking about this.

Mr W.J. Johnston: Minister, don’t get personal; I’ve not been personal once yet.

Mr R.F. Johnson: No, I am not getting personal either.

Mr W.J. Johnston: You are! Don’t make any comment about my personal behaviour.

Mr R.F. Johnson: I was actually trying to make a bit of humour, but obviously the member is lacking humour.

The ACTING SPEAKER (Mr P.B. Watson): Members!

Mr W.J. Johnston: No, no, I’m not lacking in humour; I’m just asking you to talk about the words on this piece of paper.

Mr R.F. Johnson: I do not want to spend all night, again, on virtually the same clause. I suggest that we move on, and I will take some advice on whether there is a need to define it more clearly. If it satisfies the member, I will take the advice and later on, if necessary, I will move an amendment along those lines—is that all right?

Ms M.M. Quirk: To finish the point the member for Cannington made, minister, if it was intended that clause 12 was to cover events referred to in clause 4, it could easily have stated “a CHOGM event and/or events referred to in clause 4”. My colleague is saying that by referring to a CHOGM event, it takes the same meaning as that given in clause 3, which is of course narrower. Of course the minister knows, from his many years in this place, that the sorts of provisions that confer an unusual power would be interpreted restrictively by the courts. Anyway, that is by way of editorial.

Mr R.F. Johnson: I understand that, and I mean what I say; I will take some more advice. Yes, I will do that.
Ms M.M. QUIRK: We are very pleased to hear the minister’s offer to amend the clause if necessary. The minister described, for example, that a restricted area might be an area such as, say, a hotel. As I understand it from a briefing I went to yesterday, federal police will have the security responsibility inside a hotel and WA Police will be responsible for the outside of a venue.

Mr R.F. Johnson: The advice that I am given is that it is Western Australian law and on Western Australian land, but the Australian Federal Police will be the security operatives inside the hotel. They will be applying Western Australian law.

Ms M.M. QUIRK: Will the restricted areas be limited to Australian Federal Police officers, or will there be unsworn, authorised officers inside restricted areas as well?

Mr R.F. JOHNSON: There could well be Western Australia police officers in there as well. I would suggest that for the initial security, we would look to the AFP to assist, but that will not restrict the Western Australia police from being there. As I say, it is on Western Australian land and everybody—whether AFP officers or officers from another state who may be assisting—will be operating under Western Australian law.

Ms M.M. Quirk: Some of these dignitaries will be accompanied by their own security personnel. I assume that they will not have any powers at all within the restricted areas.

Mr R.F. JOHNSON: I can confirm that obviously nearly all the heads of state will have their own security people with them, but they will have no powers whatsoever in Western Australia and they will not be allowed to carry firearms.

Clause put and passed.

Clause 13: Public notification of restricted area —

Ms M.M. QUIRK: The minister said, in relation to the previous clause, that there will be gazettal of the restricted areas, some presumably well in advance of the actual event—sorry, I should not use the word “event”; that is a bit misleading—in advance of the Commonwealth Heads of Government Meeting. He also said that there will be publication of information in newspapers and the erection of public signs. That is my understanding. There might not be other physical barriers; it may well be limited to signs on site. Is that correct?

Mr R.F. Johnson: The commissioner does not have to take those steps under this clause if he considers that to do so would significantly compromise security arrangements for a CHOGM event. That is the only area. The rest of it will be gazetted and we want everyone to know, in plenty of time, where everything is happening.

Ms M.M. QUIRK: What is likely to be on the signs?

Mr R.F. JOHNSON: At this stage, I would not have a clue! I cannot tell the member whether they will be written in red or blue, what they will say, or whether there will be pictures! I do not know. Hopefully, we will have samples of the signs for the member to see nearer the time.

Ms M.M. Quirk: Just putting a sign up to say that it is a CHOGM-restricted area will not necessarily convey much to anyone else. Are the signs going to read, “Entry will be restricted to people having an invitation or a CHOGM conference card”? I just want to know what will be on the signs.

Mr R.F. JOHNSON: They might well read, “Only authorised people can enter this area”, but people will be coming through outer security first, so they will see one lot of signage, and when they get to the restricted area, there will be police or security officers there alongside the signs.

Ms M.M. Quirk: I think the minister is right; the restricted area is going to be less of an issue because by that stage the penny will have dropped with people that something is going on. I am more concerned about the argy-bargy you might have with people trying to access their places of residence.

Mr R.F. JOHNSON: I think we cover that further on in the bill; people will have passes. We do not want to restrict anyone who lives in any of these areas from getting to their homes.

Ms M.M. QUIRK: We do deal with that later on, but that was the main issue I wanted to raise on clause 13.

Mr R.F. JOHNSON: Okay.

Ms M.M. QUIRK: I want to talk about one other area in clause 13; I should perhaps have brought it up in respect of clause 12. I refer to businesses. I know that there will be some consultation, but has there been any further notification for businesses about the possible implications of being in a restricted area and whether there is the likelihood of any compensation?

Mr R.F. JOHNSON: I am told that the commonwealth is not advising of any compensation, but in respect of businesses that are within a restricted area, we do not want businesses to suffer; we want the cafés and restaurants to be open. All we are saying is that deliveries will not be able to be made on the Friday morning, when there will be roadblocks, for obvious security reasons. We do not want trucks or any other vehicles going
down there, other than authorised vehicles. We will be sending a letter to every business within that area so that
they are fully aware of exactly what is happening, where it is happening, the time it is happening and whatever
restrictions there may need to be. I think it is a very small ask for such a tremendous event that will benefit
Western Australia in so many ways. I think a lot of businesses will actually benefit from this.

Clause put and passed.

Clause 14: Application of Interpretation Act 1984 to orders —

Mr A.J. WADDELL: I would like the minister to explain to me the purpose of clause 14. It seems that it
provides that, for the purposes of proposed sections 8 and 12, which are to do with the creation of these restricted
areas by the police commissioner, this is not subsidiary legislation. We had a brief discussion, during the last
debate on this legislation, about the reviewability of regulations under this legislation and how they would go
through the normal scrutiny of parliamentary processes. If those regulations are not subsidiary to this legislation,
am I correct in my interpretation that the normal parliamentary review processes would not apply and that
therefore we would have no ability to double-check that the police commissioner had made an order in
accordance with the will of this Parliament?

Mr R.F. JOHNSON: I am advised that the correct forum for review in relation to jurisdiction would be in the
courts rather than Parliament. That is the advice I am given; I am happy to take an interjection.

Mr A.J. Waddell: If we flip over to clause 15, all the orders made are exempt from any judicial review, so there
is no parliamentary review and no judicial review.

Mr R.F. JOHNSON: I refer the member to clause 15(3).

Mr W.J. Johnston: That’s where the commissioner issues an order in respect of businesses when he doesn’t
have power to do it; it’s not about the order itself.

Mr R.F. JOHNSON: Or otherwise ultra vires.

Mr A.J. Waddell: So in effect we’re giving carte blanche power to the police commissioner to make whatever
order he wants—Parliament can’t come in, the courts can’t come in, and nobody can review it.

Mr R.F. JOHNSON: I am told it is reviewed by the courts in respect of jurisdicational errors. Does that answer
the member’s question?

Mr A.J. Waddell: No.

Mr R.F. JOHNSON: The advice I am given is that the restricted areas will be in the CHOGM security areas,
and that will be done by regulation. Therefore, the Joint Standing Committee on Delegated Legislation will have
an opportunity to review, through its process, those areas that the commissioner would designate, because they
would be within the restricted areas.

Mr A.J. WADDELL: Can the minister clarify what the orders made under proposed sections 8 or 12 would be
that are not subsidiary legislation, and therefore not within the purview of the delegated legislation committee?

Mr R.F. JOHNSON: The advice I am given is that the delegated legislation committee will have the
opportunity to review the restricted areas that are set by the commissioner within the overall security area. As I
understand it, some other areas could be declared at the last minute, depending on the risk assessment, and
obviously the delegated legislation committee would not have the opportunity to review that at that stage.
However, afterwards, when the total review is done, Parliament would be able to hold the commissioner to
account if an error had been made, or if the commissioner had gone beyond the bounds to which he should go, if
the Parliament had a concern about that.

Mr A.J. WADDELL: I do not believe that is what this legislation says. Clause 14(1) is very clear. It says —

An order made under section 8 or 12 is not subsidiary legislation for the purposes of the Interpretation

Clause 8(1) says —

The Commissioner may, with the approval of the Minister, by order, declare an area of land within the
State … to be an additional security area for the period stated in the order.

Clearly the police commissioner may, with the approval of the minister, make this declaration. That declaration
is not subsidiary legislation. Therefore, the delegated legislation committee would not have the opportunity,
under its terms of reference, to review that decision either before the fact or after the fact.

Mr R.F. JOHNSON: I am advised that that is correct for clause 8, but not for clause 6, which defines more
clearly the core security areas. Clause 6(1) states —
The regulations may declare one or more areas of land within the State to be core security areas for the purposes of this Act.

It then goes on to provide more detail. Therefore, that is correct for clause 8, but not for clause 6.

Mr A.J. WADDELL: In other words, clause 6 is great; we can review it. But at the last minute, the police commissioner can make an order for an additional area, and that is not reviewable. Does that not completely invalidate the purpose of clause 6?

Mr R.F. JOHNSON: The advice I am given is that that is correct. However, in clause 8(4) there is a substantial precondition in relation to whether the commissioner can declare an area.

Mr A.J. WADDELL: Therefore, if the commissioner is satisfied, there is no opportunity to review whether that satisfaction that the commissioner achieves is valid according to the will of this Parliament?

Mr R.F. Johnson: It has to be done with my approval.

Mr A.J. WADDELL: No, it does not.

Mr R.F. Johnson: Unless it is urgent, it has to be done with my approval.

Mr A.J. WADDELL: Let us call a spade a spade. We are giving the police commissioner the power to declare any part of Western Australia a security area, and there will be no review by a court or this Parliament when he does so.

Mr R.F. JOHNSON: It will not be any part of WA. It has to be in relation to CHOGM. He cannot declare Broome to be a security area when it has nothing to do with CHOGM whatsoever. The commissioner will make that sort of order only if there is a very serious security risk, and at the eleventh hour.

Ms M.M. Quirk: Where does it say that?

Mr R.F. JOHNSON: He has to do that, otherwise he has to come to me.

Ms M.M. Quirk: No, he does not.

Mr R.F. JOHNSON: Under clause 8, he does, unless it is urgent; and it would be urgent only if it was at the last minute. We could hardly describe three months out as being urgent, could we?

Mr W.J. Johnston: Why is it not reviewable?

Mr R.F. JOHNSON: It is too late to review it then, is it not? Members opposite need to have a bit of faith in our police commissioner and our deputy commissioner and our senior police officers to do the job that is expected of them.

Ms M.M. Quirk: The converse of that is: what is the problem, then, about providing that level of scrutiny?

Mr R.F. JOHNSON: It is because there would not be time to do that. If it was urgent, it would be at the last minute, I would suggest. I am advised that at two o’clock in the morning, the delegated legislation committee would not be in a position to do the review.

Ms M.M. Quirk: Exactly. So what is the problem?

Mr R.F. JOHNSON: I do not see a problem; members opposite do. Members opposite obviously do not have faith that the commissioner and our senior officers will do the right thing to try to ensure the safety of the Queen and the visiting heads of the commonwealth governments.

Dr J.M. WOOLLARD: I think from what the minister is saying that most of the security areas will come under clause 6, core security areas, and clause 8, additional security areas. The reason for that is that if at the last minute an area was declared an additional security area, this would prevent a person who might not want that additional security area from taking out an injunction.

Mr A.J. Waddell: Are you asking the minister or us?

Dr J.M. WOOLLARD: I am talking to the minister, but I could ask the member, because he would know this very well.

Ms M.M. Quirk: This is about regulations, and why these are held not to be subsidiary legislation. The next clause deals with injunctive relief.

Dr J.M. WOOLLARD: I think, from what the minister has said, that it is not anticipated that there will be many areas that will come under clause 8, additional security areas. The way in which clause 8 is worded at the moment would mean that if an area was at the last minute designated a security area —

Mr R.F. Johnson: If there was an urgent threat, obviously we would have the authority.
Dr J.M. WOOLLARD: That is right. That would mean that no person could prevent that area from being declared a security area.

Mr R.F. Johnson: Exactly.

Dr J.M. WOOLLARD: I think this is a very reasonable clause, minister.

Mr R.F. Johnson: Thank you.

Mr W.J. JOHNSTON: This is really the nub of the problem. Under the APEC legislation in New South Wales, there was no provision of the sort that is provided in clause 9—none. The provision in the New South Wales legislation allowed the minister to issue the order. If this bill was not taking away the authority of the minister, we would have a completely different situation. The minister is accountable to the people through the Parliament; the commissioner is not. The minister said a moment ago that the police commissioner would be accountable. How will he be accountable? What provision of this bill will make the commissioner accountable? I know how the minister is accountable. We can ask the minister questions, and occasionally we find out things from the minister. However, there is no provision in the bill by which we can hold the police commissioner accountable. Under clause 15, the powers of the court are set aside completely, except in respect of jurisdiction—that goes back to my questions to the minister about clause 12(3)(a). Clearly the reason that this provision was understandable in New South Wales is because in New South Wales, we were dealing with the behaviour of the minister, not the behaviour of the police commissioner. Now we have a question about the behaviour of the Commissioner of Police, not the minister. If we say that we do not trust the police commissioner, that is not the issue. The issue is not about whether a particular individual is a person of integrity or not; it is about whether the system is a system of integrity. Once the minister has set a precedent, it will be hard to reverse. I can very easily imagine a future minister who comes into the chamber and says, “We have already done this before. It is not new; we did it in the CHOGM bill.” It might be a bill to do with picket lines or strike action. The minister must understand his job. Why is there a difference between this and the arrangements for the Asia-Pacific Economic Cooperation forum? From the answers the minister gave us last week, we know that after the review of the APEC arrangements, no recommendation arose from that review that said the Minister for Police should be sidelined and made irrelevant under this bill. There was no suggestion from the APEC review, as the minister explained to us last week, for this type of arrangement. We do not agree with it. It is not a sensible arrangement to sideline the minister. This is about why the minister would give over these powers when he does not have to.

Mr R.F. JOHNSON: Under clause 15(3), the advice I am given is that if the Commissioner of Police acted ultra vires —

Mr W.J. Johnston: I am not suggesting that it would be ultra vires. It might be within power.

Mr R.F. JOHNSON: Then what is the member worrying about?

Mr W.J. Johnston: It might be done improperly or for an improper purpose.

Mr R.F. JOHNSON: That would be ultra vires.

Mr W.J. Johnston: No, it would not. How would it be ultra vires?

Mr R.F. JOHNSON: My advice is that the police believe that it would be. The member talked about APEC. The reason that the New South Wales legislation was slightly different from ours is that it had a huge area that was designated as a security area. That is very different from what we are doing in Perth.

Mr W.J. Johnston: This is about the emergency power. New South Wales had an emergency power. You directed me to it at the last sitting. When you read that emergency power, it is the minister’s responsibility, not the police commissioner’s. This is fundamental. Why don’t you want to have this power? Why are you giving this authority to someone who is not elected by the people of this state?

Mr R.F. JOHNSON: Our legislation refers to both the commissioner and the minister.

Mr W.J. Johnston: No, it is not —

Mr R.F. JOHNSON: I did not finish. Ours is the minister and the commissioner, unless the situation is so urgent that the commissioner has to make a very urgent decision. The commissioner then has to inform me, at the earliest opportunity, of what he has done. That is covered in this bill.

Mr W.J. Johnston: Yes, but you cannot reverse the decision of the police commissioner. Once he issues the order, it is valid. In New South Wales, only the police minister —

Mr R.F. JOHNSON: If it is urgent.

Mr W.J. Johnston: In the New South Wales provision to do with an urgent situation—you directed me to this—it is the police minister who issues the urgent order, not the commissioner.
Mr R.F. JOHNSON: I cannot delegate my responsibilities as minister. The commissioner can usually delegate his responsibility, if he is not around, to the deputy commissioner, if necessary.

Mr W.J. Johnston: That is not what we are talking about.

Mr R.F. JOHNSON: We are talking about an urgent situation in which I am not available for the commissioner to also get me to sign off.

Mr W.J. Johnston: Can you tell me of one occasion in Sydney at APEC when there was an urgent situation in which the minister was not available?

Mr R.F. JOHNSON: No, I cannot.

Mr W.J. Johnston: In fact, the reverse was true.

Mr R.F. JOHNSON: APEC had one-third of the number of delegates compared with the number of delegates who will attend the Commonwealth Heads of Government Meeting in Western Australia. As I said, the security area at APEC was huge. It was not a bit here and a bit there; the whole area was declared a security area.

Mr W.J. Johnston: Are you saying that there is no power in clause 9 for the commissioner to order a large area as a security area?

Mr R.F. JOHNSON: I would think that unless we suddenly got invaded by a few thousand people who were out to disrupt CHOGM and attack some of the delegates who are attending—let us be sensible; he will not declare a huge area.

Mr W.J. Johnston: That is not what I asked. I asked about the power, not whether he would do it. You are the one giving him the power, not me.

Mr R.F. JOHNSON: The Parliament is giving him the power, not me. The commissioner has to comply with clause 8(4). The member might want to read that. I hope it will give him some comfort. It relates to the size and the area.

Mr W.J. Johnston: Why don’t you want to have the authority that the police minister in New South Wales had?

Mr R.F. JOHNSON: We are different from New South Wales. I think most people would prefer the commissioner to have the power in this respect because the commissioner is on the front line. He knows what is happening and is privy to the latest up to the moment security alerts that come through, including any dangers, threats and risks. I am more than happy, as I am sure are most members of Parliament, to give the commissioner the power, in the event of a very urgent situation, to declare that area a security area. That is what most people think. If the member is not happy for the commissioner to have that power and he wants me to have it, I am sorry, but that is not what the legislation says. The legislation is designed so that the commissioner will have that power only in the case of a very urgent situation. The member is asking me to give an operational direction.

Ms M.M. QUIRK: The minister had no problem making an operational direction the other day, but I will not go into that because we have already canvassed that on radio. We are dealing with clause 14, which is the capacity to treat these declarations as subsidiary legislation. The minister has explained to us that these orders are to be used only in urgent circumstances. The member is also saying that it is his understanding that the Commissioner of Police will use the power only when it must be done urgently. Is that correct?

Mr R.F. Johnson: Only if it significantly compromises the security or safety of the CHOGM event, which is dealt with under clause 9.

Ms M.M. QUIRK: But in that provision there is the element that it will be done at the last minute or because it is urgent. Is that correct?


Ms M.M. QUIRK: Or if there is a compromise of security. There could be a circumstance when there is a compromise of security and therefore it should not be disclosed to the scrutiny of Parliament. Is that what it is about?

Mr R.F. Johnson: There is the word “and” in clause 9, as the member is aware.

Ms M.M. QUIRK: Is the minister saying that that restricts the operation of the exclusion of the review in those circumstances in which there are security implications?

Mr R.F. Johnson: It has to be urgent and security must be significantly compromised.

Ms M.M. QUIRK: That is a very small number, and it would be unlikely to occur, given the sophisticated intelligence and everything else that is happening. It is a remote possibility that that would happen.

Mr R.F. Johnson: That is my view, yes.
Ms M.M. QUIRK: On top of that, the minister also knows the processes of this Parliament. If it is likely that the matter is urgent, it would happen at the last minute. As I understand it, Parliament is not sitting the week before CHOGM. As the minister knows, the Joint Standing Committee on Delegated Legislation meets only when we are in session. Accordingly, the prospects of this, at the last minute, getting to the committee are almost nonexistent. I am at a loss as to why this clause was regarded as necessary at all.

Mr R.F. JOHNSON: I have explained the urgency.

Ms M.M. QUIRK: No. I do not know why it is necessary.

Mr R.F. JOHNSON: I will give the member an example that has just been relayed to me. If we experienced something like the Mumbai attack in which vessels that were travelling up the Swan River posed an immediate threat because they were carrying all sorts of weapons that could do a lot of damage and kill and injure a lot of people, and we had just half an hour’s notice, an urgent decision would need to be made to declare an area. I will not be sitting on the river; this is an operational matter that the police would be dealing with.

Ms M.M. QUIRK: That is not the issue. The issue is why you are not treating this as subsidiary legislation. That is the issue in clause 14. Why are you excluding it from being subsidiary legislation?

Mr R.F. JOHNSON: We will not have time to review it.

Ms M.M. QUIRK: That does not stop it from going ahead. As you know, subsidiary legislation operates at the time of gazettal or whatever way is relevant to deal with the instrument, so why is it not —

Mr R.F. JOHNSON: It would all be over by the time we did that.

Ms M.M. QUIRK: Exactly. That is why I am asking why this clause even needs to be there. I do not understand why it is necessary.

Mr R.F. JOHNSON: Parliamentary counsel thinks it should be in there; the police think it should be in there.

Ms M.M. QUIRK: Can you explain why?

Mr R.F. JOHNSON: Because they are obviously trying to cover every eventuality —

Ms M.M. QUIRK: What?

Mr R.F. JOHNSON: — of an urgent decision that needs to be made.

Ms M.M. QUIRK: That does not stop it being urgent; it does not in any way impede the operation of whatever it is that the Commissioner of Police wants to do.

Mr R.F. JOHNSON: That is the member for Girrawheen’s view, but we have a different view.

Ms M.M. QUIRK: No; I would like to know why parliamentary counsel thinks that.

Mr R.F. JOHNSON: Clause 80 deals with the review of the act, which will obviously explain a lot of this detail, and then Parliament will get an opportunity to discuss and review that. As the member knows, under clause 80, the commissioner has to do a review of CHOGM within three months —

Ms M.M. QUIRK: We want you to explain it now, minister.

Mr R.F. JOHNSON: I am sure that the member would.

Ms M.M. QUIRK: It’s your bill and we want to know why this clause is in it. That is not unreasonable.

Mr R.F. JOHNSON: It is because the Standing Committee on Delegated Legislation would not have time to review the legislation prior to CHOGM happening.

Ms M.M. QUIRK: Exactly; so why is it needed?

Mr R.F. JOHNSON: I know what the member is playing at. She has a different view from what I have and from what my advisers are telling me. Therefore, if she does not believe in this clause, she can vote against it.

Mr A.J. WADDELL: I am concerned by an element of what the Minister for Police has said. He said that if weapons of mass destruction were coming down the Swan River —

Mr R.F. Johnson: I did not say that; they were your words, not mine.

Mr A.J. WADDELL: Weapons of a devastating nature or whatever the term was —

Mr R.F. Johnson: I never said that.

Mr A.J. WADDELL: If a serious threat was coming down the Swan River, we would need the Commissioner of Police to make an urgent declaration. Is the minister telling me that, in the event of an urgent threat coming down the Swan River tonight, our police would not have any powers to act?
Mr R.F. Johnson: CHOGM is not happening; that is the advice I have been given. Of course the police would try to evacuate an area.

Mr A.J. WADDELL: Will the current powers that the police enjoy be suspended for the purposes of CHOGM?

Mr R.F. Johnson: No.

Mr A.J. WADDELL: So why do we need these extraordinary powers if the police have the power to deal with such an incident right now; and why are we exempting them from the normal review processes of this Parliament?

Mr R.F. Johnson: Because if a boat is coming down the Swan River with weapons, the Commissioner of Police has to make an urgent decision.

Ms M.M. Quirk: This doesn’t stop that.

Mr R.F. Johnson: I know that the member for Girrawheen does not like the clause. If she does not like it, she should vote against it.

The ACTING SPEAKER (Mr J.M. Francis): Could someone please stand or I will put the question.

Mr R.F. Johnson: The Acting Speaker can put the question. If the member for Girrawheen does not like the clause, she can vote against it. I will not waste any more time on this clause.

Ms M.M. QUIRK: The minister is verballing us. It is not that we do not like the clause; it is just that we do not understand it, and the minister does not understand it either.

Mr R.F. Johnson: Come on; you are doing every clause. You said that last time.

Ms M.M. QUIRK: The minister made the comment earlier about an abuse of power being the same as ultra vires. This segues into the next clause, but I want to make my comments in the context of this clause. Jurisdictional abuse and abuse of power are two different things. With one, for example, the power is conferred on the Commissioner of Police or his officers to do certain things under the legislation. If they go above that power, that can be reviewed. However, they may well just abuse their power. For example, they have the power in certain circumstances to search people, but they may use it improperly. They might decide, for example, that everyone wearing a turban around Perth should be searched. They might, strictly speaking, have the power to do that under the legislation, but it would be a highly improper use of the power. Therefore, there is a distinction. I think we will get into that in clause 15; therefore, I will not delay the passage of clause 14 anymore. I just comment that there is a distinction that we will now explore.

Mr W.J. JOHNSTON: I want to go to the question that we are somehow talking about trust. This is not about trust; it is not about whether we think a person can do their job. This is about the responsibility that people have to be properly accountable. We are giving an enormous power to one individual, a power that he could use improperly—not ultra vires, but improperly. I am not making any suggestion that that would occur, but the problem is that we can look at the history of the world today and see people who have made those decisions. Why is it that the Minister for Police does not want to hold to account the behaviour of the Commissioner of Police? What is the Minister for Police scared of? This idea that just because something is urgent the Minister for Police will not be available is ludicrous. The Asia–Pacific Economic Cooperation forum was much more likely to draw protests than CHOGM is. If there are protests at CHOGM, we should all be very happy, because CHOGM, as I explained in my contribution to the second reading debate, is an event about people from the developing world, with emerging economies, telling us what we should be doing for them. That is why there is not the same level of angst at these types of events that there is at World Trade Organization, G7, G8 or other events. I watched ABC TV news last night illustrating a story about CHOGM with video footage of violent protests in London that had nothing at all to do with CHOGM. Why does the Minister for Police not want to step up to the plate like the Minister for Police of New South Wales did? This issue is about responsibility and accountability. It is about ensuring that we do not set precedents that we will not like in the future. This concern is important, it is significant and it is about people’s responsibilities. This is no small thing. The Minister for Police can dismiss it and say that we are exaggerating—that is fine.

Mr R.F. Johnson: So, you know that none of these anarchists are coming to CHOGM?

Mr W.J. JOHNSTON: Can the minister tell me whether there is any suggestion that anarchists are on their way to CHOGM? Has he had any security briefing that has made any suggestion that there are anarchists on their way?

Mr R.F. Johnson: You would not know whether they are to be on their way at this stage.

Mr W.J. JOHNSTON: I am asking the minister.

Mr R.F. Johnson: Not at this stage, no.

Mr W.J. JOHNSTON: The minister has the intelligence.
Mr R.F. Johnson: But it is quite possible. But you’re telling me they won’t come.

Mr W.J. JOHNSTON: This is not an operational matter; this is about powers. The decision to issue an order under clause 9 is not an operational decision. If it was an operational decision, there would be no need for clause 9; it would not exist if it was an operational issue because the Commissioner of Police would already be able to act in any way he chooses.

Mr R.F. Johnson: He already has enormous powers in relation to the counterterrorism act —

Mr W.J. JOHNSTON: That is right.

Mr R.F. Johnson: But you seem concerned that he has the power under this legislation. I cannot understand your reasoning.

Mr W.J. JOHNSTON: My reasoning is pretty simple. This is about accountability. These provisions, clause 14, and clause 15, when we debate it in a moment, are about accountability; they are about setting aside accountability. This is not operational. It is not about operational issues; it is about the orders that are issued to create rights that the police will be able to exercise. The minister is asking Parliament not to delegate to him, who is accountable back to us in Parliament, but to a person who is not accountable to us. That is what he is asking us to do. Where these matters have been looked at in other states, the answers have been different. When they have been looked at and the answer was different, and when the review was held, no recommendation was made to change the procedure, because this is not about operational issues; this is about power and the authority that Parliament is granting to the Commissioner of Police for this period of time. It is not a minor thing. I know that the minister does not seem to appreciate the position that we put to him. Just because he does not understand does not diminish the important issue that we raise with him.

Clause put and passed.

Clause 15: Orders not open to challenge —

Dr A.D. BUTI: This clause was obviously put into the bill to ensure that no-one could challenge an order through the period of CHOGM in regard to clauses 8 and 12 concerning restricted areas that people are allowed to enter or not enter. I note that clause 15(4) states —

This section expires when the CHOGM period ends.

That is obviously reasonable. I would like a point of clarification from the Minister for Police to be put on the record. Would this clause allow a person to seek a declaration after the CHOGM period had ended that an order made under clauses 8 or 12 was illegal? If that is the case, the immunity provision in clause 76 would provide a defence only if it was made in good faith. Therefore, in the situation that an order under clause 8 or 12 was not made in good faith, a person would have the legal right to seek a declaration after the end of the CHOGM period and that, of course, may lead to other possible legal action, such as for wrongful imprisonment.

Mr R.F. JOHNSON: Clause 76, “Protection from liability for wrongdoing”, states —

(1) An action in tort does not lie against a person for anything that the person has done, in good faith —

The clause then continues with more explanation of that.

Dr A.D. Buti: But it has to be in good faith.

Mr R.F. JOHNSON: Yes.

Dr A.D. Buti: But my question was that if it was not in good faith, could it lead to an opening for a legal remedy.

Mr R.F. JOHNSON: If it was not in good faith, I am advised that, yes, it would.

Dr A.D. Buti: I wanted it on the record.

Clause put and passed.

Clause 16: Special powers only available during CHOGM period —

Ms M.M. QUIRK: Again, this is simply a point of clarification. Clause 16(1) states that the powers may be exercised only during the CHOGM period. I understand that will be provided by way of regulation at some stage. It also states “or in relation to, a CHOGM security area”. That is the point I want clarification on. Is a CHOGM security area a core security area, an additional security area, a restricted security area or all the aforementioned areas?

Mr R.F. JOHNSON: I am told that the member needs to refer to clause 3. It means both—the core security area or an additional security area.

Mr W.J. JOHNSTON: What circumstances would be examples of “in relation to, a CHOGM security area”? 
Mr R.F. Johnson: We’re having difficulty understanding your question. You may need to refer to clause 6.

Mr W.J. Johnston: If the minister looks at clause 16(1), he will see some words—namely, “or in relation to”. Therefore, it is not only a CHOGM security area but also in relation to a CHOGM security area. What did the minister envisage “in relation to” would authorise? I understand what the minister said in answer to the member for Girrawheen’s question; the CHOGM security area means a core security area or an additional security area. This clause states “or in relation to, a CHOGM security area”, and there are two commas in the full sentence. What does that authorise? What additional powers are being authorised to be exercised “in relation to”? It is not a CHOGM security area; it is in relation to a CHOGM security area. What does that mean?

Mr R.F. Johnson: It could be vehicles that have to be—I would not say confiscated but perhaps impounded, although even that is not the right word because that interferes with hoon acts and all the rest of it—taken away because they are deemed to be a possible risk. I refer the member to clause 31, “Power to close roads”, which covers a road in the vicinity of a CHOGM security area or a road along a route being taken, or to be taken, by vehicles that are being, or are to be, used for conveying people attending CHOGM and so on and so forth. I think the answer to the member’s question is in clause 31. That is just an example.

Mr W.J. Johnston: Would the minister say that “in relation to” would be a vehicle attempting to enter the CHOGM security area?

Mr R.F. Johnson: It could be.

Mr W.J. Johnston: If the CHOGM security area is the Hyatt, is it a vehicle going past Hill Street? Is that what the minister is suggesting? Is that “in relation to”?

Mr R.F. Johnson: It would depend where the designated security area is. I do not know at this stage whether Hill Street would be designated in that.

Mr W.J. Johnston: I am just giving an example, minister. I am trying to clarify what the phrase “or in relation to” in this clause means. It is clearly not the CHOGM security area; otherwise, it would not be in relation to it.

Mr R.F. Johnson: I am advised that the powers relate to not only a period but also a geographical area.

Mr W.J. Johnston: Clearly, that is what we are discussing. This is a geographic question.

Mr R.F. Johnson: Exactly.

Mr W.J. Johnston: So what does it mean? How far is it expanded? How far is “in relation to”?

Mr R.F. Johnson: Once those areas are gazetted, it would be within that gazetted area.

Mr W.J. Johnston: No, it cannot be because the clause states “or in relation to”. If that phrase was not included, the minister would be right; however, that phrase is there. I am trying to work out why the minister has included that phrase and what powers the minister intends to grant in addition to the security area.

Mr R.F. Johnson: I am advised that, for instance under clause 27, it is the disposal of a prohibited item surrendered, seized or detained. If an item is seized, detained or surrendered in that security area, it would not be disposed of there, it would be taken to a police station to be disposed of.

Mr W.J. Johnston: Is the minister saying that the powers that we are granting in respect of the CHOGM security area would go with the vehicle to the impoundment?

Mr R.F. Johnson: That specific power applies to that specific clause and a vehicle.

Mr W.J. Johnston: What else apart from a vehicle?

Mr R.F. Johnson: A prohibited weapon that somebody may be carrying.

Mr W.J. Johnston: A person?

Mr R.F. Johnson: The advice is that I do not think it would be a person.

Clause put and passed.

Clause 17: Restrictions on exercise of special powers —

Ms M.M. Quirk: This clause states —

The powers conferred by this Part may be exercised only in accordance with the terms of any regulations or orders made under this Act which limit —

It lists, among other things, who may exercise the powers, which powers can be exercised, where the powers can be exercised and when. We will discuss the use of those powers in subsequent clauses. We know that there will be personal authorisations for each authorised person as to what they can and cannot do. Hundreds, if not
thousands, of personnel will be on the ground who may all have differing levels of authority. There are some provisions in the legislation for what authorised persons can do as opposed to what police officers can do and what both of them can do. We also have a provision stating that these powers will be set out in regulations. Can the minister confirm that when people need to investigate whether someone is authorised to exercise particular powers, they will need to look to the act, they will need to look to the regulations and they will need to look to their own personal instrument of authorisation signed by the commissioner?

Mr R.F. JOHNSON: I understand that the powers conferred by part 3, which is in the explanatory memorandum, are subject to any regulations or orders made pursuant to clauses 6, 8 or 9, which limit those powers. I am sure that the member is aware of that.

Ms M.M. QUIRK: I do not know what the minister is talking about. I would be grateful if he could expand on that. I do not understand the explanation. That is why I am asking the question.

Mr R.F. JOHNSON: Those powers limit the powers to individual authorised persons, depending on who they are and where they are.

Ms M.M. QUIRK: There may be two authorised officers but they can effectively have different levels of authorisation of what they can or cannot do. Is that correct?

Mr R.F. JOHNSON: Yes.

Ms M.M. QUIRK: As I understood it, the limitation or expansion of a particular person’s powers can be done by their instrument of authorisation, which is signed by the commissioner.

Mr R.F. JOHNSON: Correct.

Ms M.M. QUIRK: We now have a situation in which there are also some distinctions in the legislation such that police officers can do certain things, authorised officers can do certain things —

Mr R.F. Johnson: Police officers have all the powers, always.

Ms M.M. QUIRK: I am saying that there are differentiations set out in the act between what authorised officers can do and what police officers can do in some situations. We have the substantive act and the individual instruments of authorisation. This clause deals with the capacity to make regulations to further delineate the extent or ambit of somebody’s powers or limits of authorisation.

Mr R.F. JOHNSON: That is correct, in regards to their location, for instance.

Ms M.M. QUIRK: The minister is saying that in addition to these two areas in which the powers will be circumscribed, there can also be regulations that circumscribe the powers of a particular authorised person.

Mr R.F. JOHNSON: I am told that they can limit them.

Ms M.M. QUIRK: I am trying to ask why that would not just be done with the authorisation that they are issued. Why would there be a further need for regulations about where those people can operate?

Mr R.F. JOHNSON: Some areas might need a traffic controller or a crowd controller, for instance, as opposed to a police officer.

Ms M.M. QUIRK: They would be given an individual authorisation. Can they not be told that they will be able to act as a traffic controller as instructed by the police within the restricted area?

Mr R.F. JOHNSON: It gives the police a bit more flexibility to be able to restrict some of their powers. For instance, we might have an authorised person who is helping with a roadblock but we would not want them to have the power to search somebody.

Ms M.M. QUIRK: Can I have confirmation that auxiliary officers will not be deployed? If they will be deployed, will they be deployed as authorised officers?

Mr R.F. JOHNSON: We might well use auxiliary officers in a roadblock situation.

Ms M.M. QUIRK: I will just finish up on this clause. If anyone needs to know with any level of certainty whether a particular officer was authorised to do an act, they would need to go to the act, possibly the regulations and the individual authorisation.

Dr J.M. Woollard interjected.

Ms M.M. QUIRK: I did not ask the member for Alfred Cove. She has a tendency to confuse the issue. I want to get an answer from the minister.

Mr R.F. JOHNSON: As a general principle, a police officer has all these powers. We do not tell people exactly what powers they have.

Ms M.M. Quirk: I am not worried about police officers.
Mr R.F. JOHNSON: What is the member worried about?

Ms M.M. Quirk: I am worried about the authorised officers.

Mr R.F. JOHNSON: I would suggest that with a security operation of this magnitude, we cannot have enough police officers to assist with security, roadblocks and things like that. We need other people who will be given limited authorisation to do certain jobs. Whether we use auxiliary officers is neither here nor there. If we think that auxiliary officers would be —

Ms M.M. Quirk: I am not concerned; I just want clarification. I am concerned about the other issue though.

Mr R.F. JOHNSON: What issue?

Ms M.M. Quirk: The issue of the three possible places in which powers can be conferred on an individual.

Mr R.F. JOHNSON: They are the areas in which the authority can be conferred upon an individual. The member is quite right.

Ms M.M. QUIRK: Maybe I will finish that. We will have a situation in which we will be dragging senior police officers from all over the state. It will be highly charged in the sense that although people will be well trained, a lot of adrenaline will be flying. There has not been a lot of time to get on top of who is doing what. It just seems to me that the lines of authority are somewhat blurred. I cannot believe that there is not some clearer way of delineating who does what.

Mr R.F. Johnson: Have a look at clause 53, “Appointment of authorised persons”. It goes into quite a lot of detail about exactly how those authorisations are given.

Ms M.M. QUIRK: I am aware of that but my problem is that someone working down the street should be able to say, “That bloke at that roadblock is an authorised officer. He will have the power to do X, Y and Z because he has the power to issue them.” We will not know at first blush whether that bloke is allowed to stand on the corner of William Street and St Georges Terrace and issue those directions. What is worse, some of the people who will be giving him the directions—police officers—may not know what he is authorised to do.

Mr R.F. JOHNSON: If they are inside a venue, obviously, they would have similar powers to those security officers have inside venues such as the Burswood. Security officers inside the Burswood have specific powers that they are allowed to use. I am advised that there is no intention to use people such as that at roadblocks. They would use police officers.

Ms M.M. Quirk: That’s the whole purpose. You told us last time that they would effectively be people who were contracted.

Mr R.F. JOHNSON: I did not say that.

Ms M.M. Quirk: They are authorised, aren’t they?

Mr R.F. JOHNSON: They may be authorised but if the member is concerned that the public would not know who is authorised and who is not authorised, the intention is certainly to have a police officer in those sorts of situations such as roadblocks.

Ms M.M. Quirk: You could then ask the officer, “Is this person authorised to do what they are purporting to do?”

Mr R.F. JOHNSON: The police officers can give that direction. The member knows that.

Ms M.M. Quirk: I just think it is very unclear.

Mr R.F. JOHNSON: I am sorry. The member is not paying much respect to parliamentary counsel, which has drafted all this legislation. If she were in my shoes and the Labor Party were in government, she would be doing exactly what I am doing.

Ms M.M. Quirk: I’d send it back and say, “Nice try. Can we have another draft?”

Mr R.F. JOHNSON: The member would not say that if her side were in government.

Ms M.M. Quirk: I’ve done it, minister.

Mr R.F. JOHNSON: I do not think the member would, but I read the play of what is going on tonight.

Mr A.J. Waddell: Democracy.

Mr R.F. JOHNSON: The member is debating every single clause, and this is a bill the opposition says it supports! Can I suggest to members opposite that if there is anything they really do not like in this bill, they vote against it.

Ms M.M. Quirk: We will.
Mr R.F. Johnson: Please do. Let us have some commonsense in this place.

Dr J.M. WOOLLARD: Clause 17 states that the powers conferred by this part may be exercised only in accordance with the terms of any regulations or orders made under this act, and then it goes on to discuss those powers. This clause relates to who may exercise special powers in, or in relation to, a CHOGM security area. I believe this clause provides the flexibility for the police commissioner to possibly change the powers of appointment on who may exercise the powers and which powers they can exercise. Clause 8 relates to any additional security threat that may appear at the last minute. Therefore, it is not possible to stipulate all those powers under regulations. This clause then allows that flexibility that is needed under clause 8.

Mr R.F. Johnson: The member for Alfred Cove understands the legislation perfectly.

Clause put and passed.

Clause 18: Check points, cordons and roadblocks —

Ms M.M. QUIRK: I know that the minister would be disappointed if the opposition did not at least canvass in some detail the stop-and-search powers that will be conferred. The first of those powers relates to checkpoints, cordons and roadblocks and gives powers to establish one or more checkpoints, place cordons around an area or establish one or more roadblocks that lead in or out of that area and effectively confers the power to stop and search a person’s vehicle and prevent persons entering or leaving a CHOGM security area without the permission of a police officer or authorised person, and so on. Earlier I asked about the delineation between a restricted area and a security area, and what form a roadblock is likely to take, and whether in this subclause there is a differentiation between what an authorised person can do and what a police officer can do.

Mr R.F. JOHNSON: Can the member repeat the nub of the question?

Ms M.M. Quirk: Firstly, what is the physical form the roadblocks are likely to take; and, secondly, is there any distinction between what an authorised person can do and what a police officer can do?

Mr R.F. JOHNSON: It could be a police vehicle parked across the road or one of those red and white barriers that the member referred to earlier. What was the second part of the question?

Ms M.M. Quirk: Is there any distinction between what a police officer and an authorised person can do?

Mr R.F. JOHNSON: Yes, there is.

Ms M.M. Quirk: Where is that in that clause?

Mr R.F. JOHNSON: It is not in this clause. It is limited in their appointment or in relation to that specific area. We might have an authorised person assist at a roadblock who is authorised to stop a vehicle, but it would be a police officer who would carry out the search, which is under a different clause. It would only be a police officer authorised to search somebody or a vehicle.

Ms M.M. QUIRK: Subclause (3) refers to a police officer or an authorised person exercising a power conferred by this clause. We have established previously that an authorised officer may be a traffic control person from, say, Macmahon Contractors or a security guard from Chubb Security, or whatever, and it could be an auxiliary officer. I also understand that defence personnel could be seconded to or working for CHOGM. Will they be able to exercise these powers?

Mr R.F. Johnson: Not under this legislation—not defence personnel.

Ms M.M. QUIRK: Subclause (3) states that a police officer or an authorised person may be assisted by any person the police officer or the authorised person considers necessary. Therefore, the person rendering assistance to the police officer or authorised person does not need to be authorised, other than orally by the authorised person. They can just drag someone along and ask someone to give them a hand to do X and Y. They can be deputised.

Mr R.F. Johnson: I am told this clause is only about setting up checkpoints, cordons and roadblocks.

Ms M.M. QUIRK: That is the heading, but it does not say that.

Mr R.F. Johnson: Subclause (1) is the power, and subclause (2) is the purpose.

Ms M.M. QUIRK: Subclause (2) states that the purposes referred to in subclause (1) are stopping and searching persons, vehicles or vessels under this part and preventing persons entering or leaving a CHOGM security area without permission of a police officer or authorised person.

Mr R.F. Johnson: That refers to the powers in clause 21.

Ms M.M. QUIRK: It refers to subclause (1); it does not say “this Part”.

Mr R.F. JOHNSON: The advice I am given is that subclause (2) sets out the power under subclause (1) to be able to set up a roadblock or cordon around an area.
Ms M.M. Quirk: If there are four people from Macmahon Contractors putting up the roadblock, this contemplates that only one of them would be standing with a police officer, who is authorised to stop people going in and out and establishing checkpoints.

Mr R.F. Johnson: Correct.

Mr W.J. Johnston: I want clarification on subclause (1)(c). Let us assume that the powers here are exercised over the Burswood Entertainment Complex—we know that it is intended that the business forum will be held at Burswood convention facility. Subclause (1)(c) refers to “any road that leads into or out of... an area”, and Burswood is the example I have given the minister. Would the minister be referring to Bolton Avenue, Glenn Place or Resort Drive, or would he also be referring to Great Eastern Highway and those other roads that lead to the casino?

Mr R.F. Johnson: I am advised it is very unlikely to apply to Great Eastern Highway. You’ll know when we gazette the areas.

Mr W.J. Johnston: No, no, no; that is not right, minister. I am just asking for clarification: I am trying to get at what a road is that “leads into or out of”. Does it mean one that actually specifically crosses the boundary of the gazetted area? Is that what the minister is referring to?

Mr R.F. Johnson: It states leads into or out of.

Mr W.J. Johnston: So is the minister satisfied that this covers only roads that actually cross the boundary of the gazetted area?

Mr R.F. Johnson: Leading into or out of.

Clause put and passed.

Clause 19: Power to require disclosure of identity —

Ms M.M. Quirk: This is just for the clarification of something that arose out of the briefing provided to members of the public last night, which I attended. This clause deals with the power to require disclosure of identity, and the requirement for a person to disclose their personal details. Personal details is defined in clause 3 as —

(a) the person’s full name; and
(b) the person’s date of birth; and
(c) the address where the person is residing; and
(d) the address where the person usually resides, if that is different from the address referred to in paragraph (c);

That is relatively straightforward. At the briefing last night there was discussion about photo identification, and the issue of what would happen if people provided what is set out in clause 3 but did not have photo identification with them.

Mr R.F. Johnson: I think the deputy commissioner might have set this question up to some extent because I think the member is referring to comments he made at the public meeting yesterday.

Ms M.M. Quirk: Yes—and very sage they were, too, minister!

Mr R.F. Johnson: I am sure they were; I would expect nothing less from our deputy commissioner. Ideally, we are seeking a driver’s licence in this type of situation, because photo identification would be much better than just simply a written form of identification. That is what we are seeking. I am advised that clause 19(2) states that the person may be required to provide proof, whereas section 16(3) of the Criminal Investigation (Identifying People) Act 2002 requires a person to produce evidence of the correctness of the detail. So we are looking for a slightly higher standard of identification.

Ms M.M. Quirk: Section 16(3) of what, minister?

Mr R.F. Johnson: Of the Criminal Investigation (Identifying People) Act 2002. They are the normal police powers, obviously.

Ms M.M. Quirk: I seek an assurance, minister, that if people are going about their daily business, the authorised officers who will be operating the checkpoints will not escalate the situation just because someone does not have a driver’s licence with them, because under clause 19(2) additional details will be required only if a police officer has some concern. I am concerned that there may be a situation of argy-bargy when people provide those details, and then the authorised officer, or the police officer, may get annoyed because people do not have a driver’s licence on them.

Mr R.F. Johnson: It is not intended that authorised persons will act unilaterally as a group; the police officer will be the person who will be exercising the powers under this bill. Does that satisfy the member?
Ms M.M. Quirk: I would have thought that if the police officer was busy, the authorised officer may well not be under 100 per cent supervision by a police officer.

Mr R.F. JOHNSON: The member is giving the example of a lot of argy-bargy going on, and presenting a scenario to the house.

Ms M.M. Quirk: I am presenting someone who may be a bouncer in real life and who is not known for his people skills being an authorised officer, and even a simple thing like not providing a driver’s licence could lead to some form of dispute.

Mr R.F. JOHNSON: I am advised that if any sort of situation were to escalate, then obviously an order would be issued for a police officer to step in and deal with it.

Ms M.M. Quirk: Good; thank you.

Dr J.M. WOOLLARD: Minister, clause 19(2) states —

A police officer or an authorised person may also require a person who is required under this section to disclose the person’s personal details to provide proof of those personal details.

“Personal details” is defined in clause 3 as —

(a) the person’s full name; and
(b) the person’s date of birth; and
(c) the address where the person is residing; and
(d) the address where the person usually resides, if that is different from the address referred to in paragraph (c);

So under this clause it does not need to be a driver’s licence, and there does not need to be photographic evidence; other information could be provided.

Mr R.F. Johnson: Once again, you are absolutely right, member for Alfred Cove. You have dealt with this legislation very well.

Dr A.D. BUTI: I am a little bit nervous that authorised persons other than police officers will be able to collect personal details. Will any clause of this bill protect that information? If an authorised person, not a police officer, obtains the personal details of a person, including the address and phone number of a person, what legislative protection will there be that that information will remain confidential? Of course, the police, under their general policies and the general Police Act, have to abide by confidentiality clauses, but I am a bit concerned with regard to authorised persons.

Mr R.F. JOHNSON: I am advised that we will certainly have procedures in place that will cover those eventualities.

Dr A.D. Buti: Will any penalties be imposed on an authorised person who releases that information or uses it inappropriately or unlawfully?

Mr R.F. JOHNSON: Is the member anticipating that an authorised person, not a police officer, would gain the personal details of somebody and then keep them and use them inappropriately?

Dr A.D. Buti: Yes; very much so.

Mr R.F. JOHNSON: No specific penalties have been incorporated in the bill, but I would suggest that if they were a licensed security officer, they would lose their licence and their livelihood because that could be deemed an inappropriate action.

Dr A.D. Buti: I understand the minister’s clarification, although I would be much happier if this legislation included a penalty provision, because it could actually lead to dire consequences. Let us not mince words; it is possible that an authorised person such as a security officer et cetera might come across a person they find extremely attractive and obtain their details—it might be the minister himself—and pay them a visit.

Mr R.F. JOHNSON: As long as it is a female security officer, I do not mind.

Dr A.D. Buti: It could have some serious consequence, and I think there should be some form of protection.

Mr R.F. JOHNSON: There will be guidelines and policies issued to those authorised persons, and I am pretty sure that will be part of that. If they contravene those, I would suggest that that would be a cause for losing their licence, which they would then have to apply to the police to retain. I would deem that circumstance as being totally inappropriate. There will also be procedures in place as to how they record those names. I think it will be made quite clear in the guidelines.

Ms M.M. Quirk interjected.
Mr R.F. JOHNSON: We do not ask for phone numbers. People have to give that sort of detail if they enter licensed premises now.

Mr W.J. Johnston: No, they don’t.

Mr R.F. JOHNSON: A lot of them do. It is not compulsory, but some of the nightclubs, I understand, insist on seeing a driver’s licence.

Mr W.J. Johnston: Their behaviour is unlawful.

Mr R.F. JOHNSON: It can be a condition of entry.

Mr W.J. Johnston: Those pubs in Northbridge are breaking the commonwealth privacy laws in the way they treat —

Mr R.F. JOHNSON: That is a separate argument, and the member has that view, but we know for a fact that there are some licensed premises in Northbridge that insist, as a condition of entry, on people showing their driver’s licence as proof of age.

Mr W.J. Johnston: They can do that, but the problem is they pass that information on to other parties, and that is unlawful.

Mr R.F. JOHNSON: That is unlawful; of course it is.

Mr W.J. Johnston: It’s the police who get them to do it. It’s outrageous what happens in Northbridge. As you say, it’s unlawful, and the police are doing it.

Mr A.J. WADDELL: Clause 19 deals with police officers or authorised persons requiring someone to provide personal details and potentially requiring them to provide better and further personal details if they are not satisfied. Under clause 18 there is a provision for creating checkpoints, cordon and roadblocks. It is suggested that they are there for the purpose of stopping someone from entering or leaving a CHOGM area. However subclause (4) quite clearly states that an officer or authorised person must not refuse permission to a person to leave a CHOGM security area unless they think that there is a risk to the public safety or their own safety. My question comes down to the matter of having to provide identification. If a person finds himself in a CHOGM security area, there must be some point in time at which an area switches from being a non-CHOGM area to a CHOGM area. It will not happen by osmosis; there will be a defined time. If a person happens to find himself on the wrong side of the line at that time, can the person be compelled to provide his identification even if it is his intention to leave the CHOGM area?

Mr R.F. JOHNSON: Under clause 18(4), a police officer or authorised person must not refuse permission for a person to leave a CHOGM security area unless it is reasonably necessary to do so to avoid a risk to public safety or to the person’s own safety. The answer to the question is, in effect, clause 18(4).

Mr A.J. Waddell: I understand that, minister, but my question is about if someone is leaving the CHOGM security area and gets to the roadblock, the police are not to stop them, but they do have the power to ask for their identification whilst they are inside the CHOGM area. If they deem a person to be suspicious or whatever, I assume they have the powers to say, “Give us your ID; and, if you don’t pass your ID, even though you’re trying to leave the area, you’re potentially guilty of an offence that carries 12 months’ imprisonment”.

Mr R.F. JOHNSON: Correct, if they are unauthorised to be in that area.

Mr A.J. Waddell: So merely being on the wrong side of the line at the time that the CHOGM area becomes a CHOGM area basically guarantees that they will have to declare their identification to the state or face the consequences. There is no opportunity for those people to vacate the area quickly without suffering those consequences.

Mr R.F. JOHNSON: The member is actually getting into clause 64, which provides for failure to disclose personal details or provide proof of personal details. A person must not, without reasonable excuse, fail to comply with a requirement made of the person under clause 40(2)(c) for the person to disclose his or her personal details or provide proof of his or her personal details. That is covered under clause 64(1).

Mr A.J. Waddell: My point is that when that clock ticks over into CHOGM time —

Mr R.F. JOHNSON: The scenario that the member has presented would come under that clause—reasonable excuse.

Mr A.J. Waddell: Would that be the case if I was already there when it became a CHOGM area?

Mr R.F. JOHNSON: It could be, yes. We do not know the circumstances, do we? I do not have a crystal ball.

Clause put and passed.

Clause 20 put and passed.
Clause 21: Power to search persons —

Ms M.M. QUIRK: Under the power to search persons, a police officer or authorised person stopping a person entering a CHOGM security area can require, as a condition of entry, that the person submit to a search, or they may stop and search a person who is in a CHOGM security area. The clause makes the distinction between the powers of an authorised officer and the powers of a police officer. It particularly makes reference to a police officer being able to perform a basic search of a person, and an authorised person performing a basic search minus the frisking. A basic search is defined under clause 22(1), which we will get to shortly. My question relates to this clause, but I am also looking at section 10 of the APEC Meeting (Police Powers) Act 2007. In that legislation, the power to search a person is limited to police officers. I am wondering why it was felt necessary to extend that power further.

Mr R.F. JOHNSON: They do not have authorised officers in the APEC act, and they had 15 000 police officers compared with our just under 6 000. This is a much bigger event than APEC, and, as the member is aware, we could not do it without having some authorised officers assist with this particular job.

Ms M.M. QUIRK: It is really a question of numbers. Is it contemplated that the authorised persons will be the ones doing the wanding and putting people through security arches and metal detectors, while the police will be, if the minister will excuse the pun, more hands-on?

Mr R.F. JOHNSON: It could well be, yes, because it is just like the airports.

Dr A.D. BUTI: My reading of clause 21 is that it will allow a person to be stopped and searched if they seek to enter a CHOGM area, and no other reason need be given. In other words, the only justification needed for a police officer or authorised person is that the person seeks to enter a CHOGM event; is that correct?

Mr R.F. Johnson: Correct.

Dr A.D. BUTI: I presume the reason for this stop-and-search legislation is that we are trying to protect world leaders because it is a special event.

Mr R.F. Johnson: Correct.

Dr A.D. BUTI: The minister would probably then agree with the premise that stop-and-search legislation should be enacted only for very special events, and not as a general law.

Mr R.F. Johnson: Good try. I have a different view from you. I believe in protecting innocent people, whether they are heads of government or Western Australians going into Northbridge.

Clause put and passed.

Clause 22: Basic searches and frisk searches —

Ms M.M. QUIRK: It is proposed that there will be frisk searches and also electronic screening. Is it contemplated operationally that frisk searches will be done only if the screening picks up something, or will frisk searches be done routinely?

Mr R.F. JOHNSON: A frisk search may not necessarily be conducted only in the event that a person has gone through a metal detector. The member would have read in the paper today that some weapons cannot be detected by metal detectors, because of the new technology for those particular weapons. It would be an operational decision by the police officers as to whether a frisk search was necessary, and that would be based on a risk assessment, and on reasonable suspicion.

Ms M.M. Quirk: Reasonable suspicion! That is a novel concept, is it not, minister?

Mr R.F. JOHNSON: It is, yes. It did not appear in my legislation, and it did not appear in the member’s, either!

Ms M.M. QUIRK: The minister would be aware of the precepts of the Sikh religion—clearly not; the minister is being told what it is—the adherents to which carry a ceremonial dagger of some form. For example, the Prime Minister of India is a Sikh. What arrangements will be made to ensure that people from that religion, of which I think there will be some at CHOGM, are searched in a respectful way?

Mr R.F. JOHNSON: I am advised that the police have issued, and will be issuing more, cultural awareness guidelines on how people of that particular ethnic origin should be treated. I think the member for Girrawheen has attended some of the sessions at the Police Academy.

Ms M.M. Quirk: Three days’ worth, minister! It might have been four days! I am not sure.

Mr R.F. JOHNSON: Therefore, the member would be aware that a basic policy is now in place to ensure that police officers in their actions —

Ms M.M. Quirk: The problem is that if they have been officers for some time, they would not necessarily have had the benefit of that training.
Mr R.F. JOHNSON: I am told that they do go back and do that training.
Ms M.M. Quirk: No; very rarely.
Mr R.F. JOHNSON: There is also a specific police manual policy in relation to that.
Ms M.M. Quirk: Can you tell us what that policy is?
Mr R.F. JOHNSON: I do not have that in front of me. I am sure the member would not expect me to have that in front of me. The member will be aware that the police do have a special policy manual on that aspect.
Ms M.M. QUIRK: If the minister could advise us of that by the time of the third reading, I would be very grateful to know. We cannot have a situation in which the Prime Minister of India was asked to take off his turban; that would be completely unacceptable.
Mr R.F. Johnson: I agree with you.
Mr W.J. JOHNSTON: If an authorised person was acting under the powers provided under subclause (1)(b) and there was some conflict, how would that be resolved?
Mr R.F. Johnson: Can the member elaborate?
Mr W.J. JOHNSTON: It is pretty clear, minister. Subclause (1) says —

A person who is authorised by section 21 to do a basic search of another person may do any or all of the following —

(b) remove the other person’s headwear, gloves, footwear or outer clothing (such as a coat of jacket), but not his or her inner clothing or underwear;

What would happen if there was a conflict and the person said, “You’re not touching my shoes”?!
Mr R.F. JOHNSON: The person would be refused entry. However, if it was inside a security area, the police would have the power to search the person anyway.
Mr W.J. Johnston: I am talking about on the way in.
Mr R.F. JOHNSON: On the way in where?
Mr W.J. Johnston: To a security area.
Mr R.F. JOHNSON: Is that a restricted area?
Mr W.J. Johnston: I refer to where the police are empowered to do these things. It is pretty simple, minister. What would happen if the person said no?
Mr R.F. JOHNSON: It is a condition of entry. If they refuse the search or part of the search, they will be turned away.
Mr W.J. Johnston: Okay, so why does it say that they are given the power to remove the other person’s clothing? Why would it not say “require the removal of blah, blah, blah”?
Mr R.F. JOHNSON: That is for people who may be found inside the area.
Mr W.J. Johnston: Okay, but you are authorising a bouncer to remove someone’s gloves, footwear or outer clothing—I am leaving aside headwear; I do not want to get into that, as that is cultural; I am not even talking about that—so, why would you do that?
Mr R.F. JOHNSON: It is only an authorised person.
Mr W.J. Johnston: Yes. An authorised person doesn’t have to be a police officer.
Dr J.M. Woollard: Clause 22(4)(c) says that the searcher must tell the person why it is necessary —
Mr W.J. Johnston: That’s about a frisk. I am not talking about a frisk.
Mr R.F. JOHNSON: Only a police officer can do a frisk.
Mr W.J. Johnston: Yes, but I am not talking about a frisk. I am talking about the power in clause 21(1)(b).
Mr R.F. JOHNSON: We are talking about a basic search, not a frisk. That is for an authorised officer.
Mr W.J. Johnston: No, I am not talking about a search. I am talking about the power that is given in paragraph (b). It is not the power to search; it is the power to remove these things. If you go to the airport wearing a jacket, you have to take it off. Everybody knows that.
Mr R.F. JOHNSON: Yes.
Mr W.J. Johnston: But the security guard doesn’t remove it from you; you take it off.
Mr R.F. JOHNSON: Yes.

Mr W.J. Johnston: Given that you are trying to have airport-style security, why are you authorising a security guard to remove somebody’s jacket?

Mr R.F. JOHNSON: It is a condition of entry. If they do not want that, they have to turn around and go out.

Mr W.J. Johnston: Yes, but it doesn’t say that. It says that the security guard is entitled to do that.

Mr R.F. JOHNSON: It does; in clause 21(1)(a).

Mr W.J. Johnston: I am not talking about clause 21(1)(a). I am talking about clause 21(1)(b). It is a different subclause.

Mr R.F. JOHNSON: It only happens if they are authorised.

Mr W.J. Johnston: Yes.

Mr R.F. JOHNSON: Clause 22(1)(b) is only when they are authorised under clause 21(1)(a).

Mr W.J. Johnston: That is right.

Mr R.F. JOHNSON: Which means it has to be by consent, I am told.

Mr W.J. Johnston: No, it doesn’t. Where in paragraph (b) does the word “consent” appear?

Mr R.F. JOHNSON: Clause 21(1)(a) states —

… as a condition of entry, that the person submit to a search of the person;

Ms M.M. Quirk: And you are saying that by “entry” it is implicit that they are consenting.

Mr W.J. Johnston: That makes it worse!

Mr R.F. JOHNSON: I am sorry. Paragraph (b) applies if they are actually in the area. Paragraph (a) applies if they want to seek entry.

Mr W.J. Johnston: Where does it say that?

Mr R.F. JOHNSON: That is in clause 21(1)(a).

Dr J.M. WOOLLARD: I think the member was asking the why they might be removed.

Mr W.J. Johnston: I can ask my questions.

Mr R.F. Johnson: The member for Alfred Cove understands the legislation very well indeed, I have to say.

Mr W.J. Johnston: Obviously she doesn’t, because she doesn’t know what I’m asking.

The ACTING SPEAKER (Mr J.M. Francis): Member for Cannington!

Dr J.M. WOOLLARD: The member asked why they might want to remove the headwear, gloves, footwear or outer clothing. Clause 22(4)(c), in relation to a basic search, states —

the searcher, if he or she proposes to remove any article that the person is wearing, must tell the person why it is considered necessary to do so.

From that, I assume that if there were problems with people entering and the police were concerned that someone may have a weapon in their shoe or headwear, they might want people to remove their shoes or headwear so that they could look at them. This clause also allows the police to search people on an ad hoc basis if the security of the area requires those measures to be taken.

Mr W.J. JOHNSTON: I want to make clear what I was saying to the minister. If the minister can explain how else it works, I will be perfectly relaxed. Clause 21 does indeed provide for the matters that it provides for and clause 22 provides for the matters that it provides for. I am drawing to the minister’s attention that clause 22(1) states —

A person who is authorised by section 21 to do a basic search of another person may do any or all of the following —

Who is a person authorised by proposed section 21? We will go back and have a look. Clause 21 provides the powers that a police officer or an authorised person may use without a warrant. Clause 21(a) and (b) sets out those powers, and subclauses (2), (3) and (4) set out further powers. Let us go back to clause 22(1), which is the clause that we are discussing. A person is authorised to do a basic search under clause 21. We have seen that that is what the authorisation is. There is no limiting factor in clause 22(1)(a), (c) or (d). Clause 22(1)(b) gives the person the power to —

remove the other person’s headwear, gloves, footwear or outer clothing (such as a coat or jacket), but not his or her inner clothing or underwear;
When a person goes through a scanner at an airport, the security staff do not remove the person’s clothing. Everyone knows that they have to take off their jacket to go through an airport security device. Everyone knows that. Everyone also knows they have to take off their shoes. Even in the United States, which has a much higher standard of searches at airports, people still remove their own shoes. Why is it that we are authorising a security guard to remove a person’s clothing? If the minister is saying that it is only in respect of powers when a person is already inside the cordon, why would it not say that in clause 21(1)(b), given that it does not say that at all?

I note that the member for Alfred Cove raised a red herring in respect of clause 22(4)(c). That clause says what must be done before they do it. It does not limit their right. It just says that when it is done, these other things are done too. I do not understand why we are authorising a security guard to remove a person’s shoes. Why would we not have a provision that says “direct them to remove their clothing”, and have another provision that relates only to where the search is being done when the person is already in the security area? I can understand that, if an anarchist is flown in especially from America and breaches the security cordon, security would want to search that person. I do not have a problem with that. What I do not understand is why the bill gives the power for a security person at an airport-style security area to remove a person’s clothing. If the minister wants to say that a person does not have to come in, he should not give people the power to do it. We are dealing only with the words in the bill, not with words that should be in the bill. If the minister can explain to me why he is authorising people to remove a person’s shoes rather than directing that the shoes be removed, I will be happy.

Mr R.F. Johnson: The member is going on as though this is something brand new that has never happened in Western Australia before. Is that right? Does the member think that we are giving powers that have never been used here?

Mr W.J. Johnston: That is not what I am saying. As the Premier says, the lowest form of debate is to put words in other people’s mouths. That is not the question I asked. I asked a very simple question.

Mr R.F. Johnson: I will give the member a very simple answer. I direct the member to part 8 of the Criminal Investigation Act 2006 —

Mr W.J. Johnston: That is where you have a reasonable suspicion of something improper occurring.

Mr R.F. Johnson: We are giving a general power in relation to entering a security area. If people do not want to be searched, they can turn around and leave the premises. If they want to remain there or go into the area and if they do not agree to the details outlined in this provision —

Mr W.J. Johnston: That’s not what this provision says.

Mr R.F. Johnson: Clause 22(4)(b) provides that it must not be any more intrusive than is reasonably necessary in the circumstances. If the member does not like this clause, please vote against it.

Mr W.J. Johnston: It is not a matter of whether I like the clause; it is a matter of its purpose. Why would this authority be given to somebody when it is unnecessary? As I say, I do not have a problem if the police have a reasonable suspicion of something being wrong or some illegal act happening, as indicated in the section of the act that the minister read out. If there is a reasonable suspicion, the police will act. But that is not what this
provision will do. The minister is saying that people can refuse to have their headwear, gloves, footwear or outer clothing removed. The minister’s answer to me was that people do not have to subject themselves to the search. Why is this provision written in the way that it is written? Whether or not the person consents, these are the powers of the security guard. It does not make any sense. If the provision said “on consent”, the answer the minister gave me would have been apposite. Sadly, it does not say “on consent”. This power is being given to security guards, and they will be able to exercise it unless some provision prevents them from doing that. At the moment, there is no provision that will prevent them from exercising it.

Mr A.J. WADDELL: I again raise the concern about people who find themselves in a defined area when it becomes a defined area. I fully understand what the minister is saying about the opportunity for people to turn away from an event if they do not want to be searched and do not want to go into the area. But what will happen to people who find themselves in the area when it becomes a security area? This is of particular concern given that it is quite feasible that some of the CHOGM areas will cover areas where people have their residential address. There are apartments on St George’s Terrace and people live near Kings Park, so it is not beyond the realm of possibility that some of the security areas will cover areas where people live. What opportunity will those people have to leave the area without being subjected to a search if that is their desire? Can we get it on the record that the minister would view that as a reasonable excuse under section 63 for a person to be somewhere and therefore a reasonable excuse for not complying with a search order or for not providing personal details?

Mr R.F. JOHNSON: The advice I am given is that if people live in the area, they will have special justification for being in the area. But if police found someone in an area who did not have authorisation to be in the area—that is, the person did not live there, run a business there or work there; the person may have been committing an offence for all the police knew—the police will quite possibly want to search that person to see whether they have committed an offence. Does that answer the member’s question?

Mr A.J. Waddell: It does. So people who are residents of the area will largely be exempted from these requirements in the sense that you will view that as a sufficient excuse for them not to agree to being searched or to provide details?

Mr R.F. JOHNSON: In a CHOGM security area that may be okay, but not a restricted area, obviously, because they would not have any cause to be in a restricted area.

Clause put and passed.

Clause 23: Ancillary powers for searches —

Mr A.J. WADDELL: Clause 23(1) states —

A person who is authorised by section 21 to search another person may do any or all of the following …

I am concerned with paragraph (b), which states —

search any thing being carried by or under the immediate control of the other person;

Would that authorise an authorised person or a police officer to carry out a search of an electronic device, such as a mobile phone or a computer, and to examine the contents of that device?

Mr R.F. JOHNSON: In general terms, possibly yes, but I suggest that “any thing” that somebody may be carrying could be a bag, a holdall or a suspicious parcel—it could be any of those sorts of things. Does that answer the member’s question?

Mr A.J. Waddell: Yes.

Clause put and passed.

Clauses 24 to 26 put and passed.

Clause 27: Disposal of prohibited items surrendered, seized or detained —

Ms M.M. QUIRK: Clause 27(1) states —

A police officer or an authorised person —

Which is what I am concerned about —

to whom a thing is surrendered, or who seizes a thing … need not return it to the person who surrendered it or from whom it was seized.

I understand that at the time there may not be the police personnel on the ground, so it may well be a necessary contingency that the authorised person seizes the item, but I am concerned that the police should make the decision about whether the thing is returned. I want the minister’s explanation of why this clause takes this form.

Mr R.F. JOHNSON: Clause 27(3) covers the member’s concern. It states —
If an authorised person does not return a thing to the person who surrendered it or from whom it was seized, the authorised person must deliver the thing to a police officer.

Therefore, it will be a police officer’s decision, at the end of the day, whether to return the thing and he can review that decision.

Ms M.M. QUIRK: Does the police officer need to make a formal record or something of the nature of his decision not to return that thing to the person?

Mr R.F. Johnson: We would normally record property items, which is the normal practice for police.

Ms M.M. QUIRK: So it would be recorded as a normal property item.

Mr R.F. Johnson: Most certainly, yes.

Ms M.M. QUIRK: What would be the reasons for not returning the item?

Mr R.F. Johnson: That comes under clause 29. It is the processes by which they can dispose of that property.

Ms M.M. QUIRK: Yes, but I am just asking the minister about it under clause 27.

Mr R.F. JOHNSON: I am told that if it were something noxious, obviously, that would not be returned. It would be disposed of by the police.

Ms M.M. Quirk: Or if it were an unlicensed firearm or whatever.

Mr R.F. JOHNSON: Yes, we certainly would not give that back!

Clause put and passed.

Clause 28: Power to seize things relevant to offence —

Ms M.M. QUIRK: Subclause (2) states —

If a police officer doing a search … finds a thing that is not a prohibited item but that is a thing relevant to an offence, the police officer may seize it …

The question is pretty technical. Does this add anything to the powers that a police officer already has under the Criminal Investigation Act?

Mr R.F. Johnson: This provision is taken straight from that act.

Ms M.M. QUIRK: What is the reason for it being here?

Mr R.F. JOHNSON: I am advised that it refers specifically to the search power under the act.

Clause put and passed.

Clause 29 put and passed.

Clause 30: Power to give directions —

Dr A.D. BUTI: Subclause (4) states —

If a direction under this section is given to a group of persons, it is not necessary for the police officer or authorised person to repeat the direction to each person in the group.

I understand that. What is a group of persons? I am not trying to be funny; I am just wondering what a group of persons is.

Mr R.F. Johnson: More than one, I would suggest.

Dr A.D. BUTI: Is it different groups?

Mr R.F. Johnson: It is more than one group if there is a group of people.

Dr A.D. BUTI: Subclause (5) states —

However, just because the police officer or authorised person is not required to repeat a direction does not in itself give rise to any presumption that each person in the group has received the direction.

So what? What is the purpose of this clause? If a person does not obey the direction, what happens? Is there any penalty?

Mr R.F. Johnson: They could be arrested and/or removed from the premises.

Dr A.D. BUTI: Subclause (5) states, in part —

... does not in itself give rise to any presumption that each person in the group has received the direction.
Therefore, if there is not a presumption that a person has heard the direction, how can that person be arrested for not obeying the direction? Surely that would be a farce.

Mr R.F. Johnson: We are trying to overcome, for instance, 20 people sitting in a restricted area. There is a presumption that the police officer has told everybody individually. A police officer would say, “Everybody here, I want you outside” or whatever. A police officer would have to give them a direction. It would be deemed that that direction was given to all 20 people individually.

Dr A.D. Buti: Subclause (5) does not say that; it says that a direction does not give rise to a presumption that each person in the group has received the direction. That is contrary to what you just said.

Mr R.F. Johnson: The police officer can give a direction to the crowd to move away. However, the police officer would have the power to move a person away who claims they did not hear the direction. The police officer would not arrest or charge that person but they are able to physically remove the person. It would be up to the police to try to prove later that that person did hear the instruction.

Ms M.M. Quirk: I refer to subclause (3). As we have heard at length, CHOGM will be attended by delegates from something like 52 countries. Although England is our mother country, it might not be beyond the realms of possibility that people who may not have a good command of the English language will be protesting against certain countries or leaders or delegates attending. We could have people from the Tamil Nadu region protesting. I note in subclause (3) that, although there is the requirement that the direction needs to be given in a manner that is likely to be audible, it does not necessarily have to be likely to be understood. I think the deputy commissioner would agree—he is not guilty of this particular sin, but it has been known to occur—that there is something known as “police speak”. A police officer could say, “I direct that you deploy yourselves in an easterly direction.” It might be audible in normal circumstances, but frankly that might not be readily understood. I am also concerned that if there is also shouting, that would not be audible. The minister’s answer might be time, place and circumstance, but it seems that that requirement sets the bar a little low.

Mr R.F. Johnson: The deputy commissioner advises me that the police often have to give instructions to, say, a group of 30 individuals. Officers are well trained in how to deal with that, and they usually get results in moving those people from one place to another. That is what would happen in the normal course of events.

Ms M.M. Quirk: I was really asking about people protesting who have English as a second language. “Audible” does not mean it is going to be understood.

Mr R.F. Johnson: Our police officers are not going to give the same instruction in 53 different languages, obviously.

Ms M.M. Quirk: No, I am not expecting they will, but I need that concession.

Mr R.F. Johnson: Most people who are carrying out a protest or something similar to that would know full well that if a police officer gives an instruction in an audible voice—I suggest it would be accompanied by hand signals to move in a certain direction—that is exactly what the police officer is trying to instruct them to do. I would certainly not be willing to give an excuse to those people who do not obey the lawful instructions of a police officer in WA.

Mr W.J. Johnston: What are the lawful directions that may be given under this clause? Let us assume that a person has a lawful reason to be in the CHOGM security area, what are the directions that can be given in accordance with this clause?

Mr R.F. Johnson: The lawful directions are covered under subclause (2) which states —

A direction under this section must be reasonable in the circumstances for the purpose of substantially assisting in promoting the security or safety of a CHOGM event, people attending the event or the public or in preventing or controlling a public disorder.

Mr W.J. Johnston: So what sorts of things are you talking about?

Mr R.F. Johnson: It could be simply to move from one area to another.
Mr W.J. Johnston: What would the limit of the direction be?
Mr R.F. JOHNSON: As long as it complied with clause 30(2).
Clause put and passed.
Clause 31: Power to close roads —
Ms M.M. QUIRK: Clause 31, “Power to close roads”, states —

(4) It is not necessary to give public notice of the closure of a road under this section.

It is the general intention that there be lots of publicity about and lots of notice given when roads will be closed to minimise inconvenience. However, there may be circumstances in which it is necessary, at short notice, to close a road. Is this what this subclause is about or is there something else behind it?

Mr R.F. JOHNSON: As I have said, we have every intention of trying to minimise any disruption to not only Western Australians, but also anybody visiting from another country. If we had, for example, a head of state or a delegation that needed to go to the airport at a time different from everybody else, the police may have to close some intersections on the journey to the airport for security purposes. Does that answer the member’s question?

Ms M.M. Quirk: Yes.
Mr R.F. JOHNSON: Does the member want to respond by way of interjection or does she want to keep getting up?
Ms M.M. Quirk: Yes, that answered my question; but I have another one.
Mr R.F. JOHNSON: I am sorry; I was going to give the member the opportunity to ask another one while I was still standing.
Ms M.M. QUIRK: Thank you, minister. Clause 31(2) states —

A police officer or an authorised person may, at the direction of the Commissioner, close any relevant road for any of the following purposes —

...  

(c) facilitating the movement of vehicles that are being, or are to be, used for conveying people attending CHOGM … to or from their accommodation, an airport or a venue or facility for a CHOGM event;

Is that provision limited to CHOGM events? For example, the Queen will attend CHOGM and she may well attend other events. Although officials may well want to facilitate the movement of the Queen, the power in clause 31(2)(c) is available only in relation to her attendance at CHOGM events.

Mr R.F. Johnson: To or from.
Ms M.M. QUIRK: Yes.
Clause put and passed.

Clause 32: Effect of road closure
Ms M.M. QUIRK: Can I have a quick clarification from the minister? Clause 32 refers to the effect of road closures and prohibits people from driving on a road while it is closed. Subclause 5 states that a road does not cease to be and that the Road Traffic Act continues to apply. In other words, it continues to be a public road and people can therefore still be found guilty of driving under the influence, or speeding or what have you.

Mr R.F. Johnson: Correct.
Clause put and passed.

Debate adjourned, on motion by Dr J.M. Woollard.

House adjourned at 11.09 pm
QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

DEPARTMENT OF HOUSING — MAINTENANCE CONTACT NUMBER

4677. Ms J.M. Freeman to the Minister for Housing

With reference to the Department of Housing’s contact number for reporting maintenance issues:

(a) when did the Department change the phone number for reporting maintenance issues from the previous 1800 number to the current 1300 number;

(b) what was the Department’s reason for changing this number;

(c) prior to changing, on average, how much did the Department spend each month in terms of line rental and call costs to operate the 1800 number;

(d) currently, on average, how much does the Department spend each month in terms of line rental and call costs to operate the 1300 number; and

(e) what savings to the Department do the changes (including any associated changes in internal structure) from a 1800 number to a 1300 number represent?

Mr T.R. BUSWELL replied:

The Department of Housing advises:

(a) In July 2009 the Department implemented a customer contact centre providing a single 1300 number for reporting all maintenance. The 1800 number was continued for a short period of time while tenants were educated about the Department's transition to the new 1300 number.

(b) To simplify the reporting of maintenance and to ensure consistency across all regions.

(c) The Department did not operate a 1800 number for maintenance. The 1800 number was provided as part of a maintenance contract.

(d) $2,320.60.

(e) Not applicable.

CHAIN OF RESPONSIBILITY LAWS

4708. Ms M.M. Quirk to the Minister for Transport

(1) When does the Minister propose to introduce so-called Chain of Responsibility laws into Parliament?

(2) Have these laws been drafted; and

(a) if not, what is the reason for the delay?

Mr T.R. BUSWELL replied:

(1)-(2) Legislation is introduced by the Minister when all required work and approvals have been completed. The Member may refer to Parliamentary notices to determine when legislation of interest is scheduled.

SOUTH HEDLAND — NEW LIVING PROGRAM

4711. Mr T.G. Stephens to the Minister for Housing

With regards to the New Living Program in South Hedland:

(a) what steps are being taken to augment the sale of large numbers of public housing stock in South Hedland with a well funded program for the purchase and construction of additional public housing in Hedland to cater for the rapidly growing local population;

(b) will the Minister provide full details of the proceeds from house and land sales in South Hedland and what has been spent on improving the local amenity and increasing the local housing stock;

(c) what strategies and support programs are to be put in place in Hedland to assist people with in-house assistance so as to build the homemaking skills required to ensure that they can adequately care for the housing asset and, in turn, protect their tenancies;

(d) what will the Minister’s Department do to ensure that there is good communication at a local level in Hedland between the housing agency, the local Aboriginal community, and the Homeswest tenants;
(e) what plans will the Minister’s Department put in place to create dedicated staff positions to ensure that local Aboriginal people are recruited into the housing agency so that there is an opportunity for dialogue and transparency with this agency in its dealings with its tenants and the local community;

(f) what policy measures will the Minister’s Department put in place to prevent people from transferring to an area of high housing need, like Hedland, creating long local housing queues and denying permanent long-term local people shorter waiting periods; and

(g) what policy measures will the Minister’s Department put in place to assist people in Hedland, and further afield in the Pilbara, to be able to acquire access to home ownership and the private housing market rather than be trapped in public housing without the opportunity to take up employment for fear of losing access to the only available and affordable housing (i.e. Homeswest accommodation for those on low incomes)?

Mr T.R. BUSWELL replied:

The Department of Housing advises:

(a) The State Governments’ New Living Project is operating in the area and more dwellings have been built.

(b) Property to the value of $72.9m has been sold, from this the Department must fund the cost of the project including its land development, property refurbishment (both sale and retain properties), infrastructure upgrade and community development programs.

(c) The Department is currently developing a program in Roebourne.

South Hedland tenants continue to be supported by the Pilbara Community Legal Service, the Supported Housing Assistance Program (SHAP) and DCP’s Strong Families Program.

(d) Community forums are scheduled throughout the Pilbara.

(e) The Department's Pilbara Region has 5 permanent staff who identify as Aboriginal people with two of these officers at management level.

The Department's Pilbara regional office is currently developing links with the high schools and TAFE campuses within the region with a view of offering a work experience program to Aboriginal students.

(f) Applicants are required to nominate where they wish to live. In high demand locations such as Port Hedland or Karratha, priority housing assistance is limited to current residents only.

(g) Substantial efforts are being made to enhance the supply of affordable housing options in the market and this will be further enhanced by the forthcoming State Affordable Housing Strategy.

GRANNY FLAT DEVELOPMENTS

4747. Mr T.G. Stephens to the Minister for Housing

(1) What is the mechanism that prohibits the use of ‘granny flat’ developments for unrelated parties?

(2) Can the Minister outline the justification for this impediment?

(3) Will the Minister undertake to secure the removal of this impediment to ‘granny flat’ developments for unrelated parties so that they can be used as part of the urban infill strategy to tackle affordability needs of increasing numbers of Western Australians; and

(a) if not, why not?

(4) Is the Minister aware that there is already wide scale use of granny flats by unrelated parties in breach of the current requirements of the R-codes?

Mr T.R. BUSWELL replied:

The member is advised that this question should be directed to the Minister for Planning.

FIONA STANLEY HOSPITAL — PER CENT FOR ART BUDGET

4748. Mr J.N. Hyde to the Minister for Health

In relation to the Fiona Stanley Hospital:

(a) what is the current budget allocated under Per Cent for Art obligations which the Minister indicated in 2010 was $1 million; and

(b) what tenders have been let for what specific projects; and

(i) to whom have these tenders been let?
Dr K.D. HAMES replied:

(a) The total art budget for Fiona Stanley Hospital under the Per Cent for Art scheme is now $2 million, this includes an additional $1 million allocated as part of the $255.7 million Australian Government funded State rehabilitation service.

(b) Tenders have been let for artworks in the following areas of the hospital:

- Main hospital concourse
- Main hospital central courtyard — north
- Main hospital central courtyard
- Main hospital, main entrance
- Education facility
- State rehabilitation courtyard
- State rehabilitation internal
- Linear Park
- Lake Park

(i) The following artists have been engaged to provide the art works for Fiona Stanley Hospital under the Per Cent for Art scheme:

- Stuart Green
- Anne Neil
- Olga Circonis
- Kidogo
- Mark Datodi
- Anne Neil
- Jo Darbyshire
- Judith Forrest
- Tony Jones

SOUTH WEST AGRI FOOD PRECINCT — DUE DILIGENCE PROCESS

4751. Mr M.P. Murray to the Minister for Agriculture and Food

I refer to the due diligence process for the South West Agri Food Precinct, and the recent announcement that a consultant has been employed to undertake the task, and I ask:

(a) who is the consultant;
(b) what are the terms of reference;
(c) how long will the process take; and
(d) what is the cost of undertaking the due diligence process?

Mr D.T. REDMAN replied:

(a) Cardno (WA) Pty Ltd; ABN 77 009 119 000
   2 Bagot Road, Subiaco WA 6008 Australia

(b) SPECIFICATION

Scope

The Technical Due Diligence will review, analyse and summarise information about the physical characteristics of the proposed SWAPP property in order to provide an informed assessment of the risks (ie fatal flaws) associated with the development. Input from specialist consultants will be required, and this will be compiled into a report which will provide recommendations re the key issues and suitability of the site.

The Technical Due Diligence study will analyse the preferred site in terms of four broad areas:

- Physical constraint;
- Regulatory — zoning;
- Environmental and Social;
- Government Policy.

1. Physical

   (a) Tenure and Land Survey
      a. Title ownership
      b. Land tenure
      c. Any potential heritage issues
d. Verify land parcels, precinct boundary, easements, rights of way, covenants, current zoning and other legal issues.

(b) Physical Characteristics
a. Topography, soil and slope stability, drainage and flood hazards.
b. Landscape and natural assets
c. Adjoining land uses
d. Site contamination

(c) Infrastructure and Utilities
a. Water, sewer, electricity, gas, telephone, internet service
b. Proximity to and availability of wastewater treatment facilities
c. Transport — existing availability and capacity

2. Regulatory

(a) Existing Approvals
a. Town planning — site plan approvals, building permits, local government
b. Environmental — storm water, stream and wetlands, water licences,
c. Mine closure plan

(b) Town Planning
a. Identify, timeframes and recommendations regarding rezoning process
b. Outline key requirements of the rezoning proposal
c. Provide a table of the necessary actions, listing studies required, anticipated costs and timeframes for required for project completion
d. Outline key approvals application(s)

3. Environmental

(a) Land Use and availability
a. Identify environmental impacts at the Doral site based on the list of industries provided and the codes of practice that apply to those industries.
b. Recommend an appropriate location and area (ha) within the Doral site for the industry core

(b) Residential Amenity
a. Identify industry separation distances from sensitive land uses
b. Identify prevailing wind patterns and trends
c. Identify anticipated odour, dust and noise impacts and modelling requirements and potential social impacts
d. Outline anticipated transport and traffic impacts and movement.

(c) Risk Management
a. Determine societal risk, i.e. emergency
b. Identify biosecurity issues

(d) Water and Nutrient management
Summarise:
a. Geomorphology and soils
b. Surface and groundwater hydrology
c. Existing water quality
d. Wastewater (including stormwater) treatment and disposal options

4. Government Policy

(a) Review the proposed 'South Burekup' Special Industrial Estate in the draft 'South West Industrial Region Land Strategy' (to be provided by the SWDC) and its associated site assessment criteria in relation to the Doral site, compare and identify key issues and differences.

(b) Identify key state, regional and local policy's relating to strategic industrial land development.
5. Consultation with Key Agency Stakeholders
   (a) Meet with relevant personnel from each key agency in the South West region including Department of Planning, Department of Environment and Conservation, Department of Water, Department of Transport, Main Roads WA and Shire of Dardanup, and any others as requested, to gain input and direction on the due diligence and any “fatal flaws”.

6. Conclusion
   (a) Include a summary table of key issues
   (b) Recommendation as to the suitability of the site for proposed agrifood industries
   (c) Identify further investigations required
   (d) 6 weeks
   (e) $29,761

PUBLIC HOUSING — NUMBER PER SUBURB

4762. Mr M. McGowan to the Minister for Housing
I refer to previous Question on Notice No. 1179 in relation to the amount of State-owned housing per suburb in the metropolitan area. Could the Minister outline:
   (a) whether the Government has a target in terms of the number of State-owned houses per suburb; and
   (i) if so, what is the target, in percentage terms, of State-owned housing per suburb;
   (b) as a percentage, the number of State-owned houses in each suburb of the metropolitan area as at 1 August 2008;
   (c) as a percentage, the number of State-owned houses in each suburb of the metropolitan area as at 1 August 2009; and
   (d) as a percentage, the number of State-owned houses in each suburb of the metropolitan area as at 1 August 2010?

Mr T.R. BUSWELL replied:
The Department of Housing advises:
   (a) Yes
   (b) The Department has a guiding target of maintaining public housing stock levels at around 1 in 9 or 12% in any one location. The percentage of public housing in some locations may be slightly higher than this target and reductions in these locations will occur as part of a longer term portfolio management strategies.
   (c)-(d) The Department relies on Census data to establish the figures requested. The most recent data available is at 30 June 2006. The scope of the information sought is very broad and represents a significant amount of data not easily reported in this format.

PUBLIC HOUSING — NUMBER PER SUBURB

4763. Mr M. McGowan to the Minister for Housing
Could the Minister advise the number of State-owned houses in each suburb of the metropolitan area as at 28 February 2011?

Mr T.R. BUSWELL replied:
The Department of Housing advises:
This information is publicly available via Landgate.

STATE MUSEUM — DEMOLITION TENDER

4794. Mr J.N. Hyde to the Minister for Culture and the Arts
In relation to the tender awarded to Delta Group for the demolition of the Western Australian State Museum, I ask:
   (a) what is the total cost of the tender;
   (b) how many other tenders were received and what were their submitted costs; and
   (c) what is the agreed completion date for the demolition and final payment of tender payments?
Mr J.H.D. DAY replied:

(a) $2,911,700 GST inclusive for the Francis Street Building demolition at the WA Museum (Perth) site.

(b) Three. Submitted costs were $2,939,200, $4,890,600 and $7,480,000 all GST inclusive.

(c) The contracted date for the completion of the demolition phase is 30 September 2011, however this date may vary for a range of contractual circumstances. Final payment will be made following the expiry of the defects liability period (twelve months after practical completion). There will also be additional costs relating to the preparatory and remediation works for the site.

MOSQUITO PLAGUE — MANDURAH AND PEEL REGION

4796. Mr D.A. Templeman to the Minister for Health

I refer to the current mosquito plague that is being experienced in Mandurah and the Peel Region, and ask:

(a) how many cases of Ross River Virus and Baha Forest Virus have been reported to the Health Department from people in the Peel Region in the last 12 months and the last six months respectively;

(b) what funding resources are currently allocated by local and state governments annually to mosquito control measures in the Peel Region;

(c) what is the breakdown in cost for the current mosquito control program for the Peel Region;

(d) does an implementation plan exist for any additional actions to combat this problem; and

(i) if so, can the Minister provide me with details of what other measures are being implemented and/or considered; and

(e) have any additional resources been allocated to address the current problem; and

(i) if so, what is this additional funding?

Dr K.D. HAMES replied:

(a) There have been 149 cases of Ross River Virus (RRV) disease reported from the Peel region in the last 12 months (April 2010 to 11 March 2011). Of these, 131 occurred in the last 6 months (1 Oct 2010 to 11 March 2011). There have been 25 cases of Barmah Forest virus in the last 12 months, of which 13 occurred in the last 6 months.

(b) The Department of Health provides funding for 50 per cent of the chemical larvicides that are sprayed onto the saltmarsh mosquito breeding grounds and 100 per cent of the cost of the helicopter hire. Since August 2010, there have been sixteen aerial applications and there is funding to continue treatment as needed. The annual expenditure varies substantially depending on environmental conditions that influence the breeding and survival of saltmarsh mosquitoes.

(c) Since 1991, the Department of Health has spent over $2 million in the Peel region on larvicides and the helicopter. Considerable funds are also spent on mosquito and virus surveillance undertaken by the University of Western Australia, as well as training mosquito control officers from across the State, including from the Peel region.

(d) Yes.

(i) There are a range of approaches adopted in managing mosquitoes, including the physical modification of breeding sites where environmental approvals permit, the application of larvicides to kill mosquito wrigglers in breeding sites, fogging to kill populations of adult mosquitoes and personal avoidance measures to limit mosquito bites. Larviciding is being undertaken using the helicopter and ground applications as frequently as is required. However, this season there have been significant problems with the larvicide being diluted and made ineffective. High wind conditions have meant that fogging is simply not possible. Unfortunately, this season while mosquito managers have achieved considerable kill rates, significant numbers of mosquitoes have managed to survive and cause problems to the community. The Department of Health and affected local governments are also pursuing planning and environmental management approaches with the relevant State Government Departments.

(e) Yes.

(i) The Department of Health has already funded 16 applications of aerial larvicide in the Peel region at a cost of over $218,000.00 on helicopter hire alone, compared to just seven treatments costing $58,000.00 in the previous season. Further expenditure on the helicopter and ground-based treatments is anticipated before the current season is over.
RACING AND WAGERING WA — MOBILE SCREEN PURCHASE

4798. Mr P.B. Watson to the Minister for Racing and Gaming

(1) Could the Minister please advise the cost of the mobile big screen purchased by Racing and Wagering Western Australia (RWWA)?

(2) What is the cost for a club in regional areas to have it provided?

(3) Could the Minister provide a rundown of the times it has been used and where it has been used since it was purchased; and

(a) could the Minister provide the fees charged at each of those venues?

Mr T.K. WALDRON replied:

(1) $1,142,783 (exc GST)

(2) $2,110 per day (exc GST) plus travel costs of $1,000 per day where travel exceeds 250km from Perth.

(3) Since August 2009 to the end of March 2011 the Big Screen operated at 122 thoroughbred, 22 harness, and 7 greyhound race meetings and events. Clubs that have booked the screen include:

- Broome Turf Club $20,140*
- Bunbury Trotting Club $4,220
- Bunbury Turf Club $14,770
- Carnarvon Race Club $9,870
- East Pilbara Race Club $2,610
- Geraldton Turf Club $5,720
- Kalgoorlie-Boulder Race Club $8,640
- Golden Mile Trotting Club $2,110
- Narrogin Racing $4,220
- Northam Race Club $14,770
- Pinjarra Harness Racing Club $4,220
- Pinjarra Race Club $31,650
- Port Hedland Turf Club $2,110*
- Toodyay Race Club $2,110
- York Racing $2,110
- Perth Racing (Ascot & Belmont) $145,168
- WATA and Fremantle HRC (Gloucester Park) $32,916
- Greyhounds WA (Cannington) $10,550

*Where travel has involved far North West Clubs the travel cost was divided between them accordingly.

DROUGHT REFORM MEASURES — FUNDING

4812. Mr M.P. Murray to the Minister for Agriculture and Food

In relation to the pilot of drought reform measures running from 1 July 2010 to 30 June 2011, a project undertaken with the Federal Government, I ask the Minister to provide:

(a) a breakdown of funding provided to date by both the State and Federal governments for each of the following pilot reform measures:

(i) Building Farm Businesses program;

(ii) Farm Family Support program;

(iii) Farm Social Support program;

(iv) Rural and Regional Support Service;

(v) Online Counselling for Rural Young Australians Initiative;

(vi) Farm Exit Support;

(vii) Beyond Farming; and

(viii) Stronger Rural Communities; and

(b) the amount of funding to date injected by the Department of Food and Agriculture into the program?

Mr D.T. REDMAN replied:

(a) (i) Response, to the 28 February 2011:

- WA Government $18,700
- Australian Government $151,300
(ii) Response, to the 28 February 2011:
   WA Government $ nil
   Australian Government $1,658,731

(iii) This program consists of: Rural Support Initiative (to date no expenditure) Rural and Regional Support Services and Online Counselling for Rural Young Australians Initiative, see below for actual expenditure.

(iv) Response, to the 28 February 2011:
   WA Government $ nil
   Australian Government $945,000

(v) Response, to the 28 February 2011:
   WA Government $ nil
   Australian Government $558,819

(vi) Response, to the 28 February 2011:
   WA Government $ nil
   Australian Government $ nil

(vii) Response, to the 28 February 2011:
   WA Government $ nil
   Australian Government $28,895

(viii) Response, to the 28 February 2011:
   WA Government $ nil
   Australian Government $541,946

(b) The Western Australian Government via the Rural Business Development Corporation has funded to the 28 February 2011, the following;
   Farm Planning program $2,148,789
   Building Farm Businesses $18,700 (net after Australian Government recoup)

The Western Australian Government via the Department of Agriculture and Food has funded to the 28 February 2011, the following;
   Administration of the Drought Pilot $298,409

VIDE O EVIDENCE — REVIEW BEFORE COURT CASE

4815. Ms M.M. Quirk to the Minister for Police
(1) What procedures, if any, are in place where video evidence exists, to review that evidence before a matter is dealt with in court?

(2) Please advise, in the case of Penelope Jane Challice charged with assaulting a public officer:
   (a) whether this tape was reviewed by police personnel prior to the matter going to court; and
      (i) if not why not; and
   (b) whether this tape was reviewed by Director of Public Prosecutions personnel prior to the matter going to court and;
      (i) if not, why not?

Mr R.F. JOHNSON replied:

1. All prosecution briefs completed for trial by Police Officers are vetted by their respective supervisors and Brief Quality Managers prior to being lodged at the appropriate Prosecuting Office.

   On 8 December 2010 a directive requiring Police Officers to review CCTV footage or other audio / video material prior to the compilation of their witness statements was issued. Similarly, the directive also placed an onus on supervisors and Brief Quality Managers to review such material to ensure the quality of the brief.

2. (a) The footage produced in evidence at the trial of Penelope Challice was not reviewed by the Brief Quality Manager or the Prosecutor prior to the commencement of the trial.
An internal investigation has commenced in relation to this matter. The investigation will examine the actions of all officers involved, including supervisors, the Brief Quality Manager and Prosecutor.

The footage was not reviewed by personnel from the Office of the Director of Public Prosecutions.

The Office of the Director for Public Prosecutions had no involvement in this matter. This was a summary trial matter heard in the Midland Magistrate's Court and as such WA Police were responsible for conducting the prosecution.

VIDEO EVIDENCE — REVIEW BEFORE COURT CASE

Ms M.M. Quirk to the Attorney General

(1) What protocols exist between the Director of Public Prosecutions (DPP) and Western Australia Police, where video evidence exists, to review that evidence before a matter is dealt with in court?

(2) Please advise, in the case of Penelope Jane Challice charged with assaulting a public officer:

(a) whether the tape in that case was reviewed by DPP personnel prior to the matter going to court; and

(i) if not, why not; and

(b) whether any submissions received from solicitors for Ms Challice to discontinue the matter were considered by DPP personnel?

Mr C.C. PORTER replied:

(1) When the Director of Public Prosecutions (DPP) has conduct of a prosecution the Director of Public Prosecutions (DPP) lawyer reviews all exhibits including video evidence prior to the trial. That review is undertaken as part of normal preparation and is not subject to any protocol.

(2) (a) The prosecution of Penelope Jane Challice was conducted by the Western Australian Police. The DPP had no involvement with the prosecution at any time.

(i) Not applicable

(b) Not applicable

DUNGEON YOUTH CENTRE — GOVERNMENT SUPPORT

Ms R. Saffioti to the Minister representing the Minister for Child Protection

The Dungeon Youth Centre will be moving into the new Ballajura youth facility once completed later this year. In relation to this, I ask:

(a) what support will the Government provide to this organisation as it moves into the new facility; and

(b) will the Minister consider increasing the level of core funding allocated to the Dungeon Youth Centre to enable the centre to improve its resources as demand for the valuable service it offers continues to increase?

Mr J.H.D. DAY replied:

(a) The Department for Child Protection has supported the Dungeon Youth Centre since January 2006, and currently provides funding of $36,382 per annum.

(b) The Department for Child Protection’s funding for State Funded Youth Services is fully allocated, and there is currently no capacity to increase the level of core funding to the Dungeon Youth Centre.

KIARA POLICE STATION — OFFICE ALLOCATION

Ms R. Saffioti to the Minister for Police

With reference to Kiara Police Station:

(a) as of September 2009 what was the police officer allocation for the station; and

(b) as of September 2009 how many police officers were employed at the station?

Mr R.F. JOHNSON replied:

(a)-(b) Western Australia Police advises that due to operational sensitivities, specific information relating to staffing levels of individual police stations is not released. Resources are principally allocated at a District level and District Superintendents deploy these resources within their District to provide the best possible policing service to meet operational requirements and the varying needs of the community.
KIARA POLICE STATION — OFFICE ALLOCATION

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PERTH ARENA — DESIGN CHANGES

In relation to the Perth Arena, I ask:
(a) what design or exterior cladding changes have been made to the project since the election of the Barnett Government; and
(b) why does the graphic exterior image of the Perth Arena featured on the Barnett Government-branded signage differ from the current exterior cladding being applied to the Perth Arena?

Mr C.C. PORTER replied:
(a) Other than minor changes to ensure the performance requirements of the facade system are met, there have been no changes to the Perth Arena exterior cladding design reflected in the concept design released in 2007.
(b) Exterior cladding is not being erected currently. The "dual skin" façade system for Perth Arena comprises an inner, waterproof cladding layer and an exterior, aesthetic layer. The work in progress currently is limited to installation of the inner cladding layer. Ultimately, this will be completely obscured by the exterior aluminium panel cladding.

HOMELESSNESS — PEOPLE SEEKING ASSISTANCE

Could the Minister advise of figures in each of the past four financial years relating to the number of homeless people seeking assistance in Western Australia, including young people and people with children?

Mr J.H.D. DAY replied:
The 2009-10 data from the Australian Institute of Health and Welfare is not yet available.
In 2008-09, 19,300 people sought assistance from government funded Specialist Homelessness Services in Western Australia. This includes 3,200 young people aged 15 to 24 years and 8,200 accompanying children.
In 2007-08, 19,200 people sought assistance from government funded Specialist Homelessness Services in Western Australia. This includes 3,100 young people aged 15 to 24 years and 8,300 accompanying children.
In 2006-07, 17,500 people sought assistance from government funded Specialist Homelessness Services in Western Australia. This includes 3,200 young people aged 15 to 24 years and 6,350 accompanying children.

ALBANY REGIONAL PRISON — SECURITY RATING

Will the Minister assure the Albany community that the Albany Regional Prison will remain as a maximum security facility and not have its security rating downgraded?

Mr D.T. REDMAN replied:
Currently, the Department of Corrective Services has no plans to downgrade the security classification of Albany Regional Prison. However, the Department is required to constantly review the security status of all correctional facilities in order to meet the demands of the prison population.