Legislative Council

Tuesday, 22 November 2011

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

BILLS

Assent

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

1. Electoral and Constitution Amendment Bill 2011.
2. Petroleum and Geothermal Energy Safety Levies Bill 2011.
3. Petroleum and Geothermal Energy Safety Levies Amendment Bill 2011.
4. Inspector of Custodial Services Amendment Bill 2011.
5. Industrial Legislation Amendment Bill 2011.
6. Agricultural Practices (Disputes) Repeal Bill 2011.
7. Cat Bill 2011.

KINGSWAY SHOPPING CENTRE — PEDESTRIAN ACCESS

Petition

HON ED DERMER (North Metropolitan) [3.02 pm]: I present a petition containing 76 signatures couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia in parliament assembled.
>
> We the undersigned residents of Western Australia are very concerned for the safety of pedestrians crossing Wanneroo Road south of that road's intersection with Kingsway and north of its intersection with Hepburn Avenue.
>
> We are especially concerned for the safety of pedestrians living on the western side of this section of Wanneroo Road, who are seeking access to the Kingsway Shopping Centre and medical centres located on the eastern side of Wanneroo Road. Many pedestrians seeking to cross this section of Wanneroo Road are seniors and very concerned for their safety when making the crossing.
>
> Your petitioners therefore respectfully request the Legislative Council to investigate their safety concern and encourage the Minister for Transport to take steps to alleviate their concern.
>
> And your petitioners as in duty bound, will ever pray.

[See paper 4090.]

OCCUPATIONAL SAFETY AND HEALTH LAWS — NATIONAL HARMONISATION

Petition

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [3.03 pm]: I have a petition containing 571 signatures couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament in Western Australia assembled.
>
> We the undersigned residents of Western Australia respectfully request the Legislative Council to acknowledge that citizens of Western Australia believe that workers in our state deserve the best health and safety laws in Australia. Every worker must have the right to a safe workplace, and an expectation that they will return home without injury or illness. In WA, 24 workers died from work-related injuries or illness in 2008–2009. That is not good enough. The refusal of the Barnett Government to sign onto the Model WH&S Bill will deny Western Australian workers from the same protections provided to workers in other states and territories. The workers of WA should not be treated as second class citizens, and they should not be subjected to second rate safety.
>
> Your petitioners now respectfully request that the Legislative Council will:

Enact the Model Workplace Health and Safety Bill as endorsed by the Workplace Relations Ministerial Council in 2009.

And your petitioners, as in duty bound, will ever pray.

[See paper 4091.]

TIER 3 GRAIN FREIGHT RAIL LINES — CLOSURE

Petition

HON PHILIP GARDINER (Agricultural) [3.05 pm]: I present a petition containing 1 637 signatures couched in the following terms —

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned residents of Western Australia are opposed to the closure of the Tier 3 Grain Freight Rail Lines across the Wheatbelt. We believe that the decision to close the Tier 3 lines will result in a significant increase in truck numbers both in the Wheatbelt and the Perth Metropolitan area as they deliver grain to the Kwinana Freight Terminal.

We believe that in determining to close these lines, the Barnett Government failed to consider all of the road safety impacts, economic impacts, environmental impacts and the social/amenity impacts of the line closures.

We believe the Government has failed to give proper consideration to the CBH Business Case which demonstrates that rail transportation of freight can be competitive with road.

We therefore urge the Legislative Council to investigate the Government decision making process for the closure of these lines with particular consideration to the CBH business case.

And your petitioners as in duty bound, will ever pray.

A similar petition was presented by **Hon Ken Travers** (2 578 signatures).

[See papers 4092 and 4093.]

INTERNATIONAL YEAR OF COOPERATIVES

Statement by Minister for Commerce

HON SIMON O'BRIEN (South Metropolitan — Minister for Commerce) [3.08 pm]: I would like to take this opportunity to inform the house that today is the Australian launch of the International Year of Cooperatives. The declaration by the United Nations of 2012 as the International Year of Cooperatives recognises the valuable contribution made by this form of enterprise to global economic and social development. A cooperative is a business organisation owned and operated by its members for their mutual benefit. Cooperatives operating in Western Australia are incorporated under legislation administered by the Department of Commerce. Similar member-based models exist in Western Australia as mutuals, credit unions and larger incorporated associations. The goals of the United Nations for the International Year of Cooperatives in 2012 are to increase public awareness about cooperatives and their contribution to social and economic development; promote the formation and growth of cooperatives; and encourage governments to establish policies, laws and regulations to support cooperative enterprises. The 100 largest member-based enterprises in Australia have a combined annual turnover in the order of $14.7 billion, membership of more than 13 million and over 26 000 employees. Interestingly, four of the top five, ranked by annual turnover, are Western Australian businesses—Co-operative Bulk Handling Ltd, HBF, Capricorn Society Ltd and the Royal Automobile Club of Western Australia.

As members will be aware, the recent enactment of the Co-operatives Act 2009 in Western Australia replaced dated legislation with a single, modern plain-language statute. The legislation was designed with the aid of extensive industry consultation and with the support of the industry's peak body, Co-operatives WA, to meet the needs of cooperatives in the current environment. Western Australia enters the International Year of Cooperatives with the most modern cooperatives legislation in Australia, and perhaps the world. A designated cooperatives unit has been established within the Department of Commerce to provide advice and support. These initiatives provide an opportunity for cooperatives in Western Australia to look forward to the future with confidence.

First and foremost, cooperatives are business enterprises that must operate efficiently and generate profit for distribution to their members or to be applied towards a communal purpose. Cooperatives are, however, set apart from other forms of enterprise by their commitment to democratic member control, community support and education, and the conduct of business in a way which is sustainable over the long term. Perhaps the principles are no better explained than by looking at one of Western Australia's larger cooperatives, the Geraldton Fishermen's Cooperative, which provides an excellent example of these values in practice.

The western rock lobster fishery is the single most valuable fishery in Australia, with an export value of over $300 million per annum, and the Geraldton Fishermen's Co-operative is the largest processor and exporter of rock lobster in the world. The cooperative is committed to community education to promote the industry. It is the only western rock lobster processor in WA funding its own research and development department aimed at maintaining a better environment in the fishing industry. It works closely with the Department of Fisheries, providing data and enforcing strict catch limits to ensure preservation of the fishery into the future. Stricter limits have been required in recent years as a result of adverse environmental conditions. Although it has been hard, compliance with these restrictions has resulted in a marked recovery in the fishery and an improved outlook for the future.

In the International Year of Cooperatives, I encourage members to draw on the resources offered by the Department of Commerce, and to engage with their local communities to explore the ways in which communities around our vast state can benefit into the future from this unique form of business enterprise.

Consideration of the statement made an order of the day for the next sitting, on motion by **Hon Ed Dermer**.

PAPERS TABLED

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

STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES REVIEW

Sixty-eighth Report — "Information Report in Relation to the Scrutiny of Treaties" — Tabling

Hon Adele Farina presented the sixty-eighth report of the Standing Committee on Uniform Legislation and Statutes on the "Information Report in Relation to the Scrutiny of Treaties", and on her motion it was resolved —

That the report do lie upon the table and be printed.

[See paper 4094.]

URANIUM MINING

Notice of Motion

The PRESIDENT: Members, before I go on, this is an important section of the day's proceedings with important documents tabled and referred to, but there is a tendency for some members to wander around like Brown's cows and start up conversations. Can members pay particular attention to the opening session of today's proceedings, where quite a bit happens?

HON JON FORD (Mining and Pastoral) [3.14 pm]: I give notice that at the next sitting of the house I will move —

That this house condemns the Barnett government's lifting of Western Australia's longstanding ban on uranium mining, and asks the government how it can ensure —

(a) that Western Australians will not be encumbered with long-term financial commitments to manage radioactive and heavy metal contaminated sites for over 1 000 years of future generations;

Hon Simon O'Brien: Bring it on this week!

Hon JON FORD: I would like to bring it on this week because the current minister will not be here—probably, by the time we bring this on. The notice of motion continues —

(b) that Western Australians' interests can be protected with public sector advice that current approvals can be granted by accepting industry assertions that the environment will not be contaminated by mining waste over the next 1 000 years or more; and

(c) that occupational safety and health regulators and laws are now and will in the future be competent and adequate to ensure workers and their families are not endangered by this uranium industry.

SOCIAL WORK PROFESSION — NATIONAL REGISTRATION AND ACCREDITATION SCHEME

Notice of Motion

Hon Alison Xamon gave notice that at the next sitting of the house she would move —

That this house calls on the Minister for Health to immediately take action to protect the health and wellbeing of the Australian public by working with other Australian government, state and territory health ministers to include the social work profession in the National Registration and Accreditation Scheme.

COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS AMENDMENT BILL 2011

Third Reading

Bill read a third time, on motion by **Hon Simon O'Brien (Minister for Commerce)**, and returned to the Assembly with an amendment.

RESIDENTIAL TENANCIES AMENDMENT BILL 2011

Second Reading

Resumed from 7 September.

HON SALLY TALBOT (South West) [3.17 pm]: This bill has been around for some time—most of this year indeed. It was, as I recall, introduced into the other place back in May this year and it arrived in the Legislative Council on 7 September. I will very briefly outline the provisions of the bill to refresh the memories of members with an interest in these things.

The Residential Tenancies Act dates back to 1987. One of the provisions of that act is to undertake a statutory review. That statutory review commenced in 2001, and here we are 10 years later looking at, in part, the outcomes of that review. Clearly, important reforms are needed to an act which is now more than 15 years old and which relates essentially to the regulation of the relationship between the owners of property and the people who live in the property as tenants. Much has changed in the world during that time, and it was obviously appropriate to look particularly at things such as the laws relating to the keeping of tenants' databases. I will have a bit more to say about that later in my speech. Obviously the private rental market has changed enormously during that time. The social housing area has changed, I suspect over a slightly longer period. Nevertheless, over the last few decades, both sectors have undergone considerable change. In the case of the private rental market, it has always been a matter of some interest to me, every three or four years when we stand on polling booths and watch the electorate on the way to expressing its view, how our community has changed over the past few decades. Now, many, many people who would once have been relying on state pensions or superannuation from the private companies they work for, in many cases for most of their lives, are relying on investment properties.

The PRESIDENT: Order, members. Sorry to interrupt, but it appears that the volume is not very high, and I know some members seem to be having trouble hearing the member; we will try to sort that out. But if other members could cooperate by holding their discussions in a different part of the chamber rather than in their seats, it would help.

Hon SALLY TALBOT: Thank you, Mr President. I do not think there is anything I can do from where I am standing, other than to try to direct my voice towards the microphone. I suggest that perhaps we call in the people who did the auditorium at the new Albany Entertainment Centre, because I understand that facility has state-of-the-art audio!

I was just making some comments about how the rental market has changed in the past few decades, and drawing the distinction between the private rental market and the area that we now call social housing. I had just gotten to the point of reaching a very tentative conclusion, based on my own observations, that many ordinary working class people who would once have been the tenants of what we now call social housing—public housing—are now the landlords of houses in the private rental market. There have been many, many changes over the past few decades, and the review is clearly timely.

The government's stated purpose of the Residential Tenancies Amendment Bill 2011 refers to five areas. One is the rather nebulous statement, which I guess is open to individual interpretation, about better balancing the interests of property owners and tenants. I take that to be generally about balancing interests. I notice also that the language is changing, so that rather than referring consistently to "tenants" and "landlords", the dialogue around this bill slips into talk about things like "consumers". I assume that the consumers are what we once called tenants; it is a bit like passengers on public transport now being called "customers" in many parts of world. I have kept the whole question of the balancing of interests very much at the forefront of my thinking about this bill when I have considered whether the government's stated purpose will be achieved. I have kept it at the forefront because the government has listed it as the first item in its explanation of what it is trying to do with this bill; it is balancing the interests of property owners and tenants.

The second area identified by the government is the reduction of disputes. Clearly, that is an area where tenants and owners have mutual interests, because tenancy disputes can often be extremely costly, very lengthy, and often quite distressing. If the place where somebody is living is thrown into some doubt, or there is some kind of insecurity threatening that tenure, it can be one of the most distressing things a person will ever experience. To the extent that the bill will reduce disputes, it will only be a good thing. I have a couple of areas I want to question the government very closely on to see whether that stated intent will indeed be the outcome.

The third area the government has identified—I mentioned it earlier—is the regulation of the use of databases. This was mentioned to me in the briefing, and, indeed, since becoming a member of Parliament I have had some limited experience in helping to try to resolve the difficulties people find themselves in when their name has been entered onto a database and it seems impossible to remove it, even if the entry of their details was entirely without foundation. If some error, some mistaken identity or some administrative error has resulted in their name being included on a database, it can be something that a person, effectively, has to live with all their life. Again, I will come back to that later.

The fourth area is about preserving investment in the private rental market. Members on this side of the house do not have an easy resolution to the whole question of how public housing should be provided, but nonetheless in 2011 it is a fact of life that much of social housing—much of what we used to call public housing—is now in fact, and in effect, provided by the private market. That is because governments—in particular the commonwealth government—find it easier. I use "easier" as a shorthand; I do not necessarily mean to say that it is a less effective solution, but it certainly seems to be more economical from the point of view of national government to subsidise the accommodation in the private market of people who would once have been in public housing. Indeed, I say again that to the extent that this bill will have the effect of preserving private investment, that is a good thing, because unless we can guarantee that to property owners, they will not make their properties available for certain types of rentals, therefore, making fewer available. That would be a bad thing. We need to look at all these provisions very carefully to make sure that the stated objectives of the bill are indeed the outcomes we would expect to flow from the bill once it becomes law.

The fifth area of the bill—the extent to which the bill makes an effort to address antisocial behaviour—is, in many ways, the most problematic for people on this side of the house. It is here, I think, that we have to ask some serious questions and ask the government to apply itself in responding to the second reading debate and helping us through the committee stage. Serious questions have to be asked about whether there is a true balancing of interests in the measures to address antisocial behaviour. I do not think that any member of the house, or indeed any member of the community, would disagree that to find oneself living next to tenants who do not respect not so much their own tenancy, but the life and peace of the people who happen to be living around them, can be one of the greatest miseries in life. Again, this issue is frequently raised in electorate offices. I am sure members of this chamber from all over the state would have dealt with people who arrive in some degree or other of desperation, wanting to know what they can do to restore equilibrium to their lives. I am well and truly prepared to debate this bill because it has been coming to the top of the *Daily Notice Paper* now for quite a few sitting days, and only 10 days ago I was at a meeting when a woman talked to me about the situation she was experiencing. Essentially, the problem was that a group of unruly children—up to 20 at times—were basically holding the entire street hostage. They were engaging in behaviour that perhaps in a playground or at a park or on a beach—anywhere where there was a very large open space—would have been regarded as normal boisterous behaviour for 20 or so children who all had boundless energy to make noise and throw things. However, when 20 or so children throw missiles that land on garage doors and through people's windows in a residential street in which there are only a dozen or so houses, that is clearly antisocial behaviour rather than boisterousness. I could see the look of abject misery on this woman's face when she told me that she does not go home until late at night when there is a reasonable chance that the children will not be on the street. She works full time but never stays in the house on the weekends because she cannot face being there anymore. She has put the house on the market but is very pessimistic about her chances of selling it because the street now has a reputation. A sensible question that anyone who buys in a residential subdivision is, "How do you get along with the neighbours?" She told me that she cannot lie because she does not want to bequeath this misery to someone else. I hope that we, collectively, can do something for her. That is not an unusual story for a member of Parliament to hear.

The Residential Tenancies Amendment Bill 2011 attempts to address the problems that people such as the woman in the story I have just related are experiencing. The difficulty I have with the bill is that it would not help her. I understand that the people who are causing the disruption are all under 10 years of age. The people to whom the children belong are living in private accommodation and the measures in this bill do not extend to private homeowners. That seems to me to be a big problem all around. Clearly, the biggest problem is for the person who is experiencing the wrong end of the antisocial behaviour. Having a firm set of provisions to enable behaviour like that to be identified and for the people who are propagating that behaviour to have the problems addressed early, quickly and efficiently will be good for the parents, the carers and therefore the children. In this case, we would all agree that the provisions are probably targeted at the parents and carers of the children rather than the children, who are under 10 years old. I understand that the measures in this bill relate only to people in public housing—that is, people who live in homes that are owned by the state. That seems to me to be grossly unfair because it does not address the problem when the person or persons causing the antisocial behaviour reside in a private property. Also, it does not give private property owners the same rights as the state to address antisocial behaviour that is occurring in accommodation owned by them. Some of the amendments that stand in my name on the notice paper attempt to address some of those problems.

I thank the Minister for Housing in the other place for arranging the briefing, which was excellent. I think we experienced the same situation as occurred when our colleagues in the other place were briefed; that is, there were more briefers than "briefees", but it was done very effectively. The bill is not without its complexities. I found that the people from the two or three departments involved were able to cover all the issues we wanted to raise questions about. I understand both from the second reading speech and from the advisers that a wide consultation process was undertaken in the course of putting this bill together. However, that has not satisfied everybody, and I am sure that many members have received the same emails I have received from Mr Vaughan Wilde, who lives in my electorate and used me as his first port of call. Mr Wilde is a representative of the Property Owners' Association of WA. I am interested in the points Mr Wilde is making because it seems to me that the easiest constituency for the Barnett government to satisfy would be the Property Owners' Association of WA. I would have assumed that there were a lot of common interests between people who own property and the Liberal government, but that does not seem to be the case. The POA's reservations about this bill are as great—if not greater in some respects—as the concerns that have been raised by other groups. There will be time for me to canvass more of the points that have been made by third party stakeholders in the committee stage. Certainly the Tenants Advice Service has been very vocal about and thorough in its analysis of the bill and its research into the likely effects that it may have on the lives of the people on whose behalf it advocates. I pay tribute to the work done by the Tenants Advice Service. Anglicare also has had substantial input into the bill and has done fine work representing those people who find the transition into social housing one of the most challenging moves they will ever make. Anglicare does a very fine job of that and has obvious concerns about its constituency. The Equal Opportunity Commission has also made its views known. Again, I will defer some my comments on the substance of their concerns until later in the debate.

I indicated that I would frame most of my remarks in addressing the question of whether the bill balances the interests of tenants and property owners. I will start with the issue of antisocial behaviour. I think there is probably no greater minefield of competing interests than in the issue of antisocial behaviour. Perhaps it is also reasonable to say that nowhere must we be more scrupulous to be fair and to act equitably than when we have people who are either propagating antisocial behaviour or the victims of antisocial behaviour. We must not forget that there are three parties involved. I described them when I talked about the conversation I had 10 days ago with the person who was experiencing antisocial behaviour in her street. Often there is no doubt about the person who is behaving in an antisocial manner. One would need to have a very fine argument to claim that children—even small children—who throw objects at a house and yell obscenities are not behaving in an antisocial way. As I said, if that behaviour takes place in a park or on a beach, it might be totally different, and the context must always be taken into account. Clearly at the other end of the behavioural spectrum is the person who is cowering inside their house in considerable fear and who has to clean up their home and garden regularly and deal with broken windows and broken garage doors. However, there is another player in this, and that is the people who are sharing the accommodation with the people who are carrying out the antisocial behaviour. In the case of children under 10 years, my belief is that the parents and carers are probably lacking the support that would enable them to act in a more responsible way so that they look after their kids and make sure they know where their kids are and what they are doing. Of course, in some cases that cannot be said. A case that particularly worries members of the opposition is when someone is behaving violently towards their partner. This is an extreme case, but if the government cannot provide the answer to that matter, we will have to keep taking a step back until what the government does works and then perhaps we can put something different in place to deal with people who are experiencing domestic violence.

The problem the opposition has with these measures that are aimed at controlling antisocial behaviour is that the tenant—the leaseholder to whom the accommodation has been allocated—may be the victim of the very violence that will trigger an eviction notice under this bill. There are a couple of very, very serious problems that arise out of that. I concede that this may not be an everyday event, but I want to draw this example to the government's attention and ask for a specific response to it. A woman with a couple of children is living in public housing and has a violence restraining order in place against her former partner because he has been behaving violently. The partner then turns up at the house at midnight or 2.00 am and is loud, foul-mouthed and violent. That is clearly an example of an incident that would be very distressing to everybody around. Violence itself is distressing, whether one is actually being hit or shouted at or witnessing someone else being hit or shouted at; it is a very distressing thing. That would be a situation that affects perhaps dozens of people. One can imagine the effect on a medium or high-density residential area of a very, very drunk and violent person giving vent to that drunkenness and violence at 2.00 am. That is going to upset a very large number of people and is clearly something that we would like to be able to control and prevent from happening.

The problem is that, the way the legislation is framed at the moment, the person who will actually be responsible for giving an account of the antisocial behaviour will be the tenant of the residence, not the person who is actually causing the antisocial behaviour. In the case of parents and children, I know that some people in our community would argue—I would have a different way of arguing this—that there is a direct causal link between very young children and parents whose behaviour I have just described. But we cannot even draw that

link between a woman and a violent partner when there is a restraining order in place. The restraining order has been put in place precisely as a signal of the fact that those two people do not have a relationship in which one can turn to the other and say, "Would you mind not doing that?" If they had that relationship, there would be no need for the restraining order.

I would like to hear a detailed response from the government on why it thinks that the measures in the Residential Tenancies Amendment Bill 2011 would address that situation, not by removing the person who is behaving antisocially, but by removing the person who holds the tenancy of the property. I would like to know why the government thinks that is a fair thing to do. How could that in any way balance the interests of the tenants and the owners of the property?

There are a few other aspects of this bill that are worth raising under the heading of fairness. I am quite uneasy about the abolition of the requirement for the Department of Housing to issue tenants with a notice of breach of tenancy agreement before the tenancy is terminated as a result of antisocial behaviour. I just cannot see that it is fair to abolish the need to serve a notice. Many people living in social housing, whether because of illness or some kind of pre-existing condition, are not the sort of people who keep meticulous filing systems or who sit down as a matter of routine every night to deal with the correspondence of that day. For one reason or another, they are more likely than perhaps other cohorts in society to be living what we might regard to be fairly chaotic lives. There is, indeed, a category of homelessness known as "chaotic homelessness", where people just do not have the mechanisms to keep their lives in order in the way that most of us do and have always done. While the notion of chaotic homelessness relates to people who obviously are not living in accommodation, people will often try out social housing as a transitionary move, to see if they can make it work. For the Department of Housing to serve a notice of eviction on somebody without having first served a notice of breach of tenancy would seem to me to defeat the department's own objectives. It cannot lead to better outcomes, as far as I can see. If the government thinks otherwise, I am sure the minister will make some comment in his response to the second reading debate. There are a number of other aspects of this matter that I will come back to a bit later, or perhaps during the Committee of the Whole House.

What should underlie all our thinking on this bill is something I discovered a few years ago when I spent a very short time in the United Kingdom, looking at social housing. I was particularly looking at housing affordability; this was around 2006. As part of that study trip, I spoke to a number of local authorities in London and around London about how they were helping people make the transition from social housing to private ownership. I discovered something very interesting that had never occurred to me before, and I think it is something that we should give a lot more time to discussing in all our talk about how to provide social housing to people and, indeed, the broader topic of housing affordability. It was pointed out to me that some very, very detailed research had been done in the UK to show that what people wanted was not so much to own the place they live in, but to have a genuine sense that their tenure is secure. I do not know whether there has ever been equivalent research done in Australia, but I have never seen anything in the 30-plus years I have lived in Australia to suggest that there would be a marked difference. People say, "What I want most of all in the world is to own my own home", which is the great Australian dream; but if one starts to unpack that, perhaps what they actually mean is, "My dream is to have a place to live that I know will be mine for as long as I want it to be". They want security of tenure. It is interesting, because one often hears people say, "The fact that I can bequeath my home to my children is very, very far down my list of priorities; that is not why I want to own my own home. Of course, I would like to be able to give my kids something, but I didn't buy a house in order to be able to give it to the kids. I bought it because I want to know that I can't be thrown out. I want to know that there'll always be a place for me to come home to." That is very important; I know it is beyond the scope of this bill, so I will move off this topic very quickly, but I do not think it would be beyond our wit to take in all those notions that are now common currency in Europe, like intergenerational mortgages, for example, in which one's age and income at the time one applies for something are not necessarily the determining factors. We also need to look at schemes that actively help people to plan their lives around the sort of security that they so desperately seek.

Of course, some people do not even get to that stage. If one is unlucky enough to find that one's name is on a residential tenancy database as somebody who should not be considered for a lease agreement, then one will not get anywhere in the private market; absolutely nowhere at all. I note that one of the issues that the Standing Committee on Uniform Legislation and Statutes Review has taken up is the issue of young people who find their names on those databases. For the benefit of honourable members who have been lucky enough to have avoided rental accommodation during their lives—certainly I have spent some time living in rental accommodation, including a period quite recently—to find oneself listed means effectively that one is blacklisted; that is how it functions. It is a blacklist of the most insidious kind as it operates at the moment, because one cannot find out why one's name has been put on it, and one cannot have one's name removed, even if has been put there without any justification.

Of course the big problem for us as legislators, and as people who try to run a public housing system in Western Australia, is that the more people who find that they are on the black list for private rentals, the more people who

are forced into social or public housing, because that is the only place in which they can ever live. I note also that this was the trigger for the referral of this bill to the Standing Committee on Uniform Legislation and Statutes Review, because this is indeed uniform legislation. That part of the bill that refers to the cleaning up of these databases, and the central management of them, is uniform legislation; and that part of the bill can only be a good thing, so we support that wholeheartedly.

I was a bit surprised to find that there is a section of this bill that deals with the holding of bonds. I remember that some years ago—I cannot quite put my finger on when, but I imagine it was around the time this act was first gazetted, so around the late 1980s—we put measures in place as a state government to try to avoid the very common problem that when tenants left the property and went to reclaim their bond, they found that their bond did not exist any more. Tenants had very little recourse to reclaim that money, and I think it is probably fair to say they had no recourse that was cheap. I was a bit surprised to find that we have not actually fixed that problem. But I understand—I am sure the minister will tell me if there is more to this than I grasped during the briefing—that the arrangement under this bill is that the Department of Commerce will hold the bonds.

Hon Simon O'Brien: Yes.

Hon SALLY TALBOT: The current arrangement, which must have cleaned up the situation vastly compared with what it was in the 1960s and 1970s, is that individual letting agents hold the bonds, or they are put into some kind of public trust. I am not clear why the current arrangement is not working. I will be interested if the minister can explain why having the Department of Commerce hold the bonds will make the system more independent and transparent than is the case at the moment. I will also be interested to know how common it is these days to have bond default—if that is the correct term—on the part of the owner of the property, and what improvement we can expect to that system once this bill becomes law.

The amount of bond that must be paid can be quite substantial. I note that many rental agencies actually calculate the amount of bond, because it is such a substantial sum of money. I cannot imagine how many young people who are renting their first property are ever able to scrape the bond together, because rents have obviously increased exponentially over recent decades, and to have to pay four weeks' rent all at once as a bond, on top of four weeks rent in advance, is an astronomical sum of money in many cases.

I notice that one part of the bill deals with properties that are repossessed. That is of considerable interest to me, because obviously I looked quite closely at this area of repossession in relation to my mortgage fire sale bill, which has just failed to get the government's support in this place, disappointingly—not to me, but to all those people whose houses are now still subject to a fire sale. I had not thought about this before, but this is obviously an issue that came up in the review of the act. If tenants are unfortunate to find themselves in a private rental property that is repossessed, they are stuck between a rock and a hard place—in fact, it is probably even worse than that, because they literally have to do one thing or the other, and both those things are illegal! The tenants find that the property that they are renting is now owned by somebody else, who is likely to come around and change the locks any day. I understand from the briefing, and from talking to some of the stakeholders, that it is not an uncommon occurrence that the first tenants know about the fact that the property has been reclaimed by the finance company or the bank is when somebody comes around to change the locks and tells them they cannot have the new keys. Of course, banks and lending agencies are not the remotest bit interested in acting as landlords; so if a property is repossessed, in no way will the new owner want to continue with the tenancy. Imagine what it must be like for a tenant to get the knock on the door and be told, "Here we are with the bad news, and the even worse news. The bad news is we are going to change the locks. The even worse news is we are not going to give you the new keys, so you had better move out now". I understand that the bill makes provision for 30 days' notice to be given to tenants if they find themselves in that unfortunate situation. That provision can only be a good thing.

The bill deals also with prescribed residential tenancy agreements. That also seems to us in the opposition to be eminently sensible. I understand that this provision will include a mandated form of property inspection at both the start of the tenancy and the end of the tenancy. This was something that I wish had been in place some four or five years ago when I found myself slightly unexpectedly in the rental market. I will just relay this personal anecdote, which again like my previous anecdote is probably slightly extreme, but nonetheless if I can find myself in this situation and find it somewhat distressing, I am sure that other people can relate to this story. I found myself looking for a rental property at exactly the same time as my parents died, within 28 days of each other, in the United Kingdom, so it was not the easiest time of my life. I spent a few days looking for a place to live, and I found somewhere, and then of course all my moving arrangements were done under far from ideal circumstances.

When I eventually rocked up at my new home, with all my worldly possessions on trailers behind me, I found that the place was absolutely filthy, because the previous tenants had not done the cleaning. Of course, I was not in the mood to make the vacuum cleaner the first thing I found, so I went to the rental agent and said, "Can you help me with this, because this is not how I expected to find the property?". I am not going to name the agent,

because if I had had my wits about me a bit more, I would have dealt with it in a completely different way, but I just want to give members a feeling for what can happen to people who are supposed to have lots of resources at their fingertips, like me. The advice that was given to me by the agent was, "Don't worry. If you have a couple of hours to clean it up, just take some photos of it, and we will make sure that the bond is adjusted and we will make recompense to you at the end of the tenancy." So I found the vacuum cleaner and the broom and the scrubbing brush and all those sorts of things, and I spent half a day cleaning before I could put any of my stuff in there, but I did not find the camera, so I forgot to take the photos. So a year later, when I terminated the tenancy, I went back to the agent and said, "I am not getting the carpets cleaned, because they are a hell of a lot better now than they were when I moved in", and of course all the staff at the agency had changed and they said "Talk to the hand, because we are just looking at your tenancy agreement." So I bit the bullet and just sacrificed most of my bond. But if these things could be standardised so that everybody would know exactly what to expect, I think I would have been in a better position at that time, and I certainly think that an 18-year-old, or somebody who is less experienced in the property market, would find it much less of a challenge to work out what they have committed themselves to when they sign on the dotted line.

The measure to make it possible for tenants and owners to be represented in court by a third party is also a move in the right direction for a number of reasons that I think are perfectly self-evident. Many people find any sort of adversarial situation challenging. I know that the sorts of forums in which these kinds of disputes would be heard are a lot more user-friendly now than they would have been a few years ago. Nevertheless, many tenants, and indeed many owners, would find it a pretty daunting experience to go and argue their case in the legal sense. So I think that to enable the Tenants Advice Service, and other groups, to send a representative to these court appearances would be a good thing.

I made reference to the uniform legislation committee report. I would imagine that my colleague Hon Adele Farina, who chairs that committee, will make some comments in the second reading debate about the uniform legislation committee report. As I said, the referral to that committee was triggered by proposed part VIA, which is about the national regulation of databases. I note that the committee has also taken up the vagueness of some of the terms in the bill such as "as soon as practicable". I believe that the minister may have noted that amendment because an additional supplementary notice paper was published just before this debate started. I have a feeling that the government may have made that change that was requested by the committee.

Hon Simon O'Brien: We're always responsive.

Hon SALLY TALBOT: As Hon Simon O'Brien says, the government does listen occasionally. I am not sure that is exactly what he said but that is how I interpreted it.

The other issue that the committee has taken up is the issue of minors. I referred just now to the fact that the prescribed tenancy agreements will go some way to making things easier for young people who are inexperienced in the property market. I am sure that my colleagues on that committee will have more to say about the treatment of young people under this bill as the debate moves along.

I have some questions that remain after the excellent briefing that we had. I am happy to raise those now. I will also raise them during the committee stage so we can look at them as they relate to particular clauses. Some issues are still not clear to me from reading the bill, and I guess we have to wait for regulations or some such to be drafted to be clear about them. Given the proposed changes to the regulation of the databases, I was wondering how a person will check their database entry. I would like to know whether I can log onto a website to see whether I am on the database and what the details of that entry might be. I would like to know exactly what the provisions might be for complaining if somebody feels that their name has been placed on the register unjustly. I would also like to know who we can make inquiries on behalf of. For instance, could I look up my son's entry on a database or the entry of the person next door? As the owner of a property, can I do my own checks or will I need some special password or something to access that data? If anybody can access the data, is there a problem with privacy? If someone is applying for a job, can the potential employer check to see whether that applicant is on a tenancy exclusion list, even if the job has absolutely nothing to do with the care of property? We can discuss that further. If the minister wants to defer that part of the debate until we get to the committee stage, I am perfectly happy with that, but I just thought I would flag some of those questions at this early stage of the debate.

I am also very interested to know how the provisions in the bill relate to people living in remote communities. We had a lot of debate in this place in the first half of last year, I think, about the housing bill that made funding available for the Commonwealth–State Housing Agreement to function in remote areas. I remember it particularly because the Tenants Advice Service was very, very concerned that applying standard tenancy provisions to Aboriginal people in remote communities was going to be very dangerous unless people could be assured a degree of education and support in dealing with their rights and obligations as tenants of public housing. When I say "public housing", that might be housing owned by a corporation rather than by the state. I would like to tease out whether any consideration has been given to a provision that may work well when it is

applied to a property in Gosnells but perhaps will turn out to be totally dysfunctional when it is applied to a property in Jigalong or some other remote community.

I would also be interested to know whether the government is using any research, has commissioned any research or has drawn on any research about who lives in social housing and whether social housing is delivering for people what it is intended to deliver. As I said earlier in my remarks, not so very many decades ago all the residents in social housing would have been blue-collar workers. I understand that most people living in social housing now are not in the workforce. Most people are living on fixed incomes. The minister is furrowing his brow at that but I think he will find that that is the case. That leads me to ask the following question. When we look at a set of provisions that perhaps are perfectly reasonable and logical and can be imagined to be effective, if they are being applied to people in the workforce who have a regular income and the capacity to make adjustments to the way they pay their rent and the way they live their lives, can those same set of provisions be lifted and plonked down on people who are perhaps suffering from mental illness or are living on fixed incomes for one reason or another? I know that pensioners are classified as living on fixed incomes. Pensioners have always been one component in public housing tenancies. I would be interested to know whether the government has given any real consideration to the possibility that we need to do some much more profound thinking about how we regulate social housing because of that change in the cohort of people who are the tenants of that housing.

Another section of the bill particularly interests me. I will not say that it troubles me. It will not trouble me unless the minister is not able to satisfy some of my concerns. I am referring to section 41, that very, very long section that inserts a whole number of new clauses. I will not read it out now. I will give the minister notice that I am particularly interested in that section.

Hon Simon O'Brien: Clause 41.

Hon SALLY TALBOT: Is that the long one that inserts a whole lot of new provisions? One of the sections is about how quickly owners or managing agents have to respond to reporting particular faults.

Hon Simon O'Brien: Yes, clause 41.

Hon SALLY TALBOT: I am interested to know whether that is any more than a gesture to encourage or give a little bit of a cattle prod to owners, whether they are in the public market or public housing, to act swiftly rather than force tenants to endure a situation in which they do not have a stove to cook on, they do not have heating, they do not have locks that work or some sort of major problem in the house that affects their comfort on a day-to-day basis. Clause 41 looks very good but I would like to know how those two lists will be determined. I cannot remember the word that is used in the bill; is it "urgent"?

Hon Simon O'Brien: "Urgent repairs" is one of the expressions used.

Hon SALLY TALBOT: What is urgent to me might not be urgent to the minister.

Hon Simon O'Brien: That's why a definition is given.

Hon SALLY TALBOT: I think it might be being done by regulation. We can go into that in more detail a bit later. If, for example, the ceiling fan in the bathroom does not work—I am not looking at Hon Robyn McSweeney; it was a rhetorical gesture—or the extractor fan over the stove does not work, that might be —

Hon Simon O'Brien: If I may help you, urgent repairs means repairs that are necessary to restore an essential service or repairs necessary to avoid exposing a person to injury, the property to damage or the tenant to undue inconvenience.

Hon SALLY TALBOT: Yes. The minister can respond to this in his second reading summary or when we get to that point in the debate. Does an essential service mean what the rest of us mean by an essential service—power, gas and that sort of thing?

Hon Simon O'Brien: I would think so.

Hon SALLY TALBOT: Perhaps the minister can look at that. There is also the time limit on the response to that. What does that mean? Is it enforceable? Will the Department of Housing hold itself to those same standards? We need to assure ourselves that there is some meaning to that clause and that there will be some practical outcome that will improve the lot of the tenants rather than just a fairly loosely applied big stick that is not terribly effective when it is put to the test.

I will finish my remarks by talking about the amendments that Labor has on the supplementary notice paper. The intent of all the amendments is that everybody should be treated equally. We are talking about fairness. We have identified four or five areas in which we do not think tenants, particularly people in public housing, are being treated fairly and we have put amendments on the supplementary notice paper to try to redress those concerns. The first amendment relates to an aspect of the situation I described in which somebody is the victim of domestic violence and a restraining order is in place. The first amendment on the supplementary notice paper relates to the

situation in which a person who has been granted a restraining order is not the tenant; they might be a cotenant or they might not be on the tenancy, but they have in fact been living there because the person they have been living with, and on whom the restraining order has been served, is the tenant. They have been effectively the tenant, but the paperwork will show that they have no tenancy rights over that property. The first amendment standing in my name is an attempt to address that situation by giving the department direction to give that person either the security of becoming the tenant or a priority listing to move them somewhere else. It would seem, and I am sure that members on both sides of the house would agree, to be the height of inequity for someone to become effectively homeless because of paperwork that does not reflect the concrete reality of the way they have been living for some time.

The second amendment relates to taking into account the interests of children and people with mental illnesses. We have tried to provide for the department to have an advocate for children and people with mental illnesses. As I described earlier when I talked about the lack of order in the lives of some people, these can be very challenging circumstances for them to find themselves in, particularly for a child with parents who are not coping with a tenancy or for a person with a mental illness. It seems to us to be entirely reasonable to suggest that the Mental Health Commissioner be called on to assist in advocating for people with a mental illness and that the Department for Child Protection be asked to do the same when children are involved.

The third amendment relates to the situation that I described earlier in which the person causing the antisocial behaviour might be the perpetrator of domestic violence. I am seeking with this amendment to remove the term "objectionable" from the clause heading. I will talk to it in more detail when we deal with it. I referred earlier to the fact that the Standing Committee on Uniform Legislation and Statutes Review picked up some vagueness in language and indicated that it was of concern to the committee. I think the same must be said about the term "objectionable". What is objectionable behaviour to one person will not be objectionable to the next. The behaviour of the drunk, violent perpetrator of not only domestic violence, but also antisocial behaviour is illegal if a restraining order is in place. We would be happy for that clause to be in place if the term "objectionable behaviour" could be replaced with "illegal behaviour", so that the focus is on people who are breaking the law by doing what they are doing rather than on people who are giving rise to objections with objectionable behaviour. We think that would be a much fairer outcome and would have important practical ramifications for people who find themselves in that situation.

The final amendment is about ensuring that balance that the government referred to at the very beginning of the second reading speech. It is simply about making sure that people who may eventually find themselves with an order to terminate their tenancy of public housing have been given fair and reasonable opportunity to address the problems that give rise to that termination. It seems to me that while those provisions are not in place, we always run the risk that somebody will slip through the cracks. It is not good enough in these circumstances to say that in practice they would have had visits from umpteen counsellors from the department and that what happens in practice is this and that. We all know that what happens in practice is often better described as what should happen in practice or what we hope would happen in practice. We keep our fingers very firmly crossed that all these procedures will be followed in every single case, but every member of this house knows that every now and then people fall through the cracks, because the cases walk into our electorate offices month after month and year after year. I do not think that anyone should ever find themselves with a notice of termination without having been given every chance to address those problems and change the behaviour, or at least indicate to the people in the department and other agencies that they are making attempts to rectify the situation.

I have given the house just a brief overview of the amendments that Labor will move during the committee stage. I indicate in conclusion that, although I have raised a number of areas in which I hope the government will accommodate my concerns—perhaps it will consider the changes that we have suggested in relation to those areas in which I think the bill needs amending—we nevertheless broadly support the bill.

HON LYNN MacLAREN (South Metropolitan) [4.18 pm]: I rise on behalf of the Greens (WA) to speak on the Residential Tenancies Amendment Bill 2011. The Greens are broadly supportive of this long overdue revision of our Residential Tenancies Act and state law that protects tenants.

Hon Simon O'Brien: And I am very broadly appreciative.

Hon LYNN MacLAREN: And I welcome Hon Simon O'Brien's broad appreciation.

Hon Simon O'Brien: It's a bit overdue; you should do it more often!

Hon LYNN MacLAREN: I have mentioned before that I have been appreciative of this government's ability to get to the house bills that we have been waiting a long time for, so I give credit where it is due. I have been aware of this particular bill for a long time because I was an adviser to the Greens in the Parliament before I became a member of Parliament. I recall making submissions to it way back in 2001, which was when this review was being considered. Later on I became a housing policy officer for the Western Australian Council of Social Service and participated in some of the lobbying efforts on that organisation's behalf. I talked to the then

Minister for Housing in the days of the "No Room in the Boom" campaign and called for more affordable rental options, better consumer protection and a redirection of revenue created by the economic boom towards increasing public and social housing stock. However, one of the things that we lobbied for way back then was abolishing letting and option fees and linking rent increases to the consumer price index. Many people have worked on these reforms for many years. If members look on the internet they will see that the officers who are now engaged in this issue also have a long history and much experience in the non-government sector working as housing advocates. I think that is part of the reason that the amendments to the legislation are really important, sensible, tested amendments and that we should pass them as soon as possible and get the act underway so that tenants can have many of the protections that are being offered.

In looking at the protections this bill offered, we of course consulted with a wide range of stakeholders. I want to mention some of the stakeholders that we met with, including the current policy team at WACOSS; the Tenants Advice Service; Shelter WA; the Community Housing Coalition of WA and other tenant advocacy organisations; several community housing providers, including Access Housing Australia located in Fremantle near me; and the student guilds at Murdoch and Curtin Universities. All the people in these organisations, of course, have a strong interest in tenants' rights, but we also talked to some landlords. We were not able to talk to the Property Owners' Association of WA, but we did get a copy of the submission it made and we gave it some consideration. The review of the legislation has come up with some very important reforms, and we are looking forward to them being implemented, but it is also important to note that the scope of tenants' rights reform is a little bigger than this bill currently gives. I will quote from the National Shelter policy platform called "Housing Australia Affordably". It refers to improvements in the private rental sector and states —

> The Australian Government should work with State and Territory Governments to develop national standards for tenants' rights that adopt current best practice, including:
>
> - limiting evictions to cases where there is a "just cause" such as a serious breach of tenancy conditions, a need for the owner or their immediate family to use the dwelling as their principal place of residence, or the need for major repairs or renovations that require vacant possession;
> - limits to the frequency and level of rent increases; —

We have not quite managed to include that at this stage of tenancy reform, but I am hoping to do that at some stage, perhaps in the term of this Parliament —

> - regulation of residential tenancy databases; —

We have achieved that, and I think that is something to note —

> - the introduction of tenancy rights for boarders and lodgers and for caravan park tenants; —

That is on the "to do" list —

> and
>
> - mechanisms to prevent or minimise discrimination.

How this amendment to the Residential Tenancies Act will impact on groups that are particularly vulnerable is a particularly powerful point that I think deserves more careful examination. This document states that the National Shelter policy platform called for state and territory governments to work together with the Australian government to investigate the current state of the boarding house industry, and recommend measures for transforming this sector into a viable alternative to low-income tenants. That is worthy of note because, although it is important to acknowledge the work that is being achieved here, it is also important to acknowledge what is yet to be done.

The bill before us amends the act in a number of ways that will improve the rights of tenants, and the Greens (WA) support these amendments. These include the requirement for all residential tenancy agreements to be in a prescribed form; the requirement that a property condition report be completed at the beginning and the conclusion of a tenancy agreement; the establishment of a centralised bond administrator at the Department of Commerce to manage the lodgement and disposal of all residential tenancy bonds; and the regulation of tenancy databases.

I have just entered a new lease agreement myself. In doing that, even though it is in the private rental market, I was most pleased that my landlord went through this process. I think it is becoming a culture in our rental market to use those standardised tenancy agreements and to do a property condition report when a new tenant comes in. I do not think she was aware that I was about to debate the bill before us, but I think that it is common practice and it gives one great peace of mind to know that the Department of Commerce will manage the lodgement of bonds. We have, I think it is fair to note, a stable rental market here in Western Australia. But it is also really important to note that it is a particularly tight rental market at the moment. That is why these amendments are particularly important to a growing number of Western Australians. The stakeholders that we consulted with had

a number of concerns about the bill as it currently stands. Members will note that 10 amendments stand in my name on the supplementary notice paper, which we propose will improve the legislation. These 10 amendments are not just out of the blue sky; they are reforms that have been tested and tried and that we expected to be in the bill. I therefore hope that the government will give due consideration to whether it will support them.

The bill, as I said, affects a large proportion of Western Australians who are tenants or lessors. According to the 2006 Australian Census, the rental property market makes up about 26 per cent of the housing market in Western Australia. At that time 200 000 dwellings in Western Australia were being used as rental properties. I know that that number is much greater now that prices of real estate have skyrocketed to the point where key workers can no longer afford to buy, and so are competing in that rental market. We know, therefore, that many more than 200 000 dwellings are rental properties. I think that the changes before us for the tenants and lessors of those properties deserve careful consideration. It is important that we get this bill right. That is the spirit of the amendments that the Greens have put forward, and I know that that is reflected also in the amendments that I see on the supplementary notice paper from Hon Sally Talbot.

I want to particularly note that there was significant concern amongst our stakeholders regarding the addition of provisions related to social housing and the effective transfer of the government's disruptive behaviour management policy into the Residential Tenancies Amendment Bill. That was done, as far as we know, without much consultation with the sector. Every member of this place would have received a letter from a coalition of groups, which outlines their concerns with this bill and calls upon us to oppose proposed section 75A. One of the amendments standing in my name on the supplementary notice paper is an amendment to do just that. I will quote from the letter that members received from this coalition of groups. The second page begins —

> We acknowledge that a clear, consistent and effective policy response is needed to tackle the issue of disruptive and 'anti-social' behaviour by tenants in public and social housing, and the sector is keen to work with the Government to develop a consistent and equitable response. We do not believe that the policy approach contained in these sections of the RTA Bill will achieve these objectives, and we remain concerned that they will produce unintended consequences that will create more problems for government and increase the demand on already overloaded community services.

The letter is signed by Lyn Levy, the acting chief executive officer of WACOSS; John Perrett, the executive officer from the Tenants Advice Service WA; Colin McClughan, the executive officer of the Community Housing Coalition of WA; Bronwyn Kitching, the executive officer of Shelter WA; Stephen Hall, the executive director of the Western Australian Association for Mental Health; Myles Kunzli, the executive officer of the Community Legal Centres Association (WA); and Ann-Margaret Walsh, the principal solicitor of the Street Law Centre WA. That letter outlines my reasons for putting an amendment on the supplementary notice paper in opposition to those clauses. I hope that the Parliament will consider that carefully over the coming days and when we are in the Committee of the Whole, because this part of the Residential Tenancies Amendment Bill 2011 was added at the very last minute, and somebody needs to look at it very carefully. We have the opportunity in this place to remove it from the legislation and deal with the very serious issue of antisocial behaviour in a more comprehensive and what I would hope to be more effective way than proposed by this legislation.

Debate interrupted, pursuant to temporary orders.

[Continued on page 9427.]

QUESTIONS WITHOUT NOTICE

REDRESS WA — PAYMENTS

1028. Hon SUE ELLERY to the Minister for Community Services:

I refer to the announcement, which Labor welcomes, of an independent inquiry into the reporting and responses to child abuse at the hostel in Katanning, and note that one of the issues the victims have raised publicly was the low amount available to them under the Redress WA scheme. Will the government now revisit its bad decision to cut the maximum payments for Redress WA applicants?

Hon ROBYN McSWEENEY replied:

I thank the member for some notice of this question.

I am really pleased that we came into government and took over that scheme, because the Labor Party has allowed vulnerable people to think they could get up to $80 000.

Hon Sue Ellery: Which they could have and would have.

Hon ROBYN McSWEENEY: That was never, ever going to be the case —

Hon Sue Ellery: Yes it was!

Hon ROBYN McSWEENEY: — with the $114 million that the previous government gave —

Hon Sue Ellery: You have absolutely no evidence of that whatsoever!

Hon ROBYN McSWEENEY: Yes, I do have evidence —

Hon Sue Ellery: No you don't!

Hon ROBYN McSWEENEY: — and I presented it to this Parliament. The previous government let vulnerable people think they could get up to $80 000 with a one-off payment of $114 million.

Hon Sue Ellery: We made a commitment, which we would have met. Answer the question; are you going to revisit your bad decision?

The PRESIDENT: Order! Let us have the question asked and an answer provided.

Hon ROBYN McSWEENEY: I took over that scheme, and I am very proud of the workers who worked at Redress and I am very proud of the scheme that I presented. Under Labor's system, people were going to have to sign to say that they would not come back to the state government for more money. Under our system we not only paid them equitably across the scheme, but also allowed them to go to the courts if they needed to and wanted to. So, under Labor they would have been crucified; we gave very fair and equitable payment system.

As for Katanning, I congratulate the Premier for putting forward such an inquiry and so quickly, because if there have been cover-ups, we need to find out. There is nothing worse, in my view, than a paedophile who is in a school system or anywhere children are. I loathe and detest them, and what they do to small children is absolutely disgusting and damages them for their lifetime. So, I am very proud of my government and what we have done.

DRUG AND ALCOHOL SERVICES — OBJECTIONS TO LIQUOR LICENCES

1029. Hon SUE ELLERY to the Minister for Mental Health:

The question was to be directed to the minister representing the Minister for Health, but there is a note written on the question that states that the minister's office has redirected the question.

For each of the full-time and part-time staff categories —

(1) How many full-time officers are currently working on lodging objections to liquor licence applications?

(2) How many part-time officers are currently working on lodging objections to liquor licence applications?

Hon HELEN MORTON replied:

I thank the member for some notice of this question.

The work that is undertaken around this comes under drug and alcohol services, which comes under the Mental Health portfolio. That is why it was redirected to me.

(1)–(2) There are three full-time officers working on liquor licensing–related matters, including responding to community requests for assistance in some national projects. Amongst their duties, these officers investigate liquor licence applications to assess their potential level of harm within communities, and provide advice to the executive director of public health in his statutory role as described within the Liquor Control Act 1988.

ELECTRICITY NET FEED-IN TARIFF — GOVERNMENT EXPENDITURE

1030. Hon KATE DOUST to the minister representing the Treasurer:

(1) What was total expenditure by the government in 2010-11 on the residential net feed-in tariff scheme?

(2) What has been expended to 31 October 2011 for this scheme, and what is the full year budget?

(3) Has Treasury done any modelling on the impact the scheme will have on the state's finances over its 10-year life; and, if so, what will the impact be?

(4) Will the net feed-in tariff scheme have any impact now or into the future on the level of government debt?

Hon SIMON O'BRIEN replied:

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

(1)–(4) Updated government financial figures will be provided at the time of the midyear review. The information requested relating to the residential net feed-in tariff scheme is currently considered cabinet-in-confidence.

POLICE — HANDLING OF MISCONDUCT

1031. Hon GIZ WATSON to the minister representing the Minister for Police:

I refer to a report on page 5 of *The West Australian* on 18 November 2011, which stated that the Commissioner of Police deals with low-level misconduct by police officers by training or remedial action, and with high-level misconduct by issuing a loss-of-confidence notice, but that the disciplinary process for medium-level misconduct is so cumbersome that Western Australia Police does not use it.

(1) When and by whom was the minister first made aware of this issue?

(2) What steps has the minister taken to address it?

(3) What interim alternatives to the discipline process are currently in place for addressing medium-level misconduct by police officers, apart from civil proceedings for compensation against the relevant officer brought by the complainant him or herself?

Hon PETER COLLIER replied:

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

(1) The Commissioner of Police has held concern over the section 23 Police Act internal discipline provisions for some time, given the length of time to finalise matters and its tendency to become too legalistic.

(2) The Commissioner of Police caused a discipline review project to be implemented to examine options.

(3) Historically, WA Police has utilised internal discipline provisions pursuant to the Police Act 1892 and the Police Force Regulations 1979. In 2007, WA Police introduced a managerial intervention model.

LATE-TERM ABORTIONS — PENALTIES

1032. Hon NICK GOIRAN to the minister representing the Minister for Health:

Following an inquiry from a constituent last week, I ask —

(1) Is it currently the law in Western Australia that an abortion after 20 weeks' gestation is only permitted if approved by two medical practitioners on a panel appointed by the minister?

(2) What protocols are expected of any health provider in Western Australia who discovers that a child has had a post-20-week abortion procedure without the authorisation of two panel medical practitioners?

(3) What penalties exist for any abortion provider who performs the post-20-week procedure without the authorisation of two medical practitioners from the minister's appointed panel?

(4) If, in answer to part (3), penalties exist, are any of the penalties expressly increased in circumstances when the patient is a child?

Hon HELEN MORTON replied:

I thank the member for some notice of the question.

(1) Yes, section 334(7)(a) of the Health Act 1911.

(2) Section 335(5)(a) of the Health Act 1911 provides that when a medical practitioner attends on the happening of any premature birth, stillbirth or abortion, other than an abortion to which paragraph (d) applies, he shall send to the Executive Director of Public Health, within 48 hours of the happening, a report in the prescribed form.

(3)–(4) Under section 199(1) of the Criminal Code Act Compilation Act 1913, it is unlawful to perform an abortion unless —

(a) the abortion is performed by a medical practitioner in good faith and with reasonable care and skill; and

(b) the performance of the abortion is justified under section 334 of the Health Act 1911.

Under section 199(2) of the Criminal Code Act Compilation Act 1913, a person who unlawfully performs an abortion is guilty of an offence, the penalty for which is $50 000. Subject to section 259 of the Criminal Code Act Compilation Act 1913, if a person who is not a medical practitioner performs an abortion, that person is guilty of a crime and is liable to imprisonment for five years. Whilst there is no specific reference to children in this section of the Criminal Code, depending on the circumstances, it may be possible to apply other sections of the Criminal Code Act Compilation Act 1913 and lay further charges.

MINING ROYALTY RATES

1033. Hon JON FORD to the Minister for Mines and Petroleum:

I refer to the comments the Premier made today on 6PR radio when he stated that the Western Australian mining royalty regime was based on 10 per cent of the value of the mineral in the ground.

(1) Is this correct?

(2) Is not the standard royalty rate 7.5 per cent?

(3) Is there a government plan to increase royalty rates to 10 per cent?

Hon NORMAN MOORE replied:

(1)–(3) I am surprised that the member would ask that question because he has been in government and I thought he would know that the royalty rate system that applies in Western Australia has been around for a very long time. The fundamental principle of our royalty system is that it is not profit-based. It is in fact a charge. It is not a tax; it is a charge by the state of Western Australia on behalf of its citizens for the minerals, oil and gas that companies use. The fundamental principle of the royalty rates system is that it is 10 per cent of the wellhead or mine head value of the mineral. However, if value is added to the mineral, the royalty rate reduces because the intention is always to obtain about 10 per cent of the mine head value. I will talk about mining, as opposed to oil and gas, which is slightly different. For example, when iron ore is in the ground at the mine head, we are looking at 10 per cent of its value as the fundamental basis for the royalty rate system. When it is dug out of the ground, crushed, screened and put onto a boat, it attracts a royalty rate of 7.5 per cent. If it is then made into a concentrate, as with magnetite iron ore, it has a royalty rate of five per cent. If it is eventually turned into a metal, the royalty rate is 2.5 per cent. The royalty rate system is based on the value of the mineral in the ground at the mine head being 10 per cent, and the rate reduces as the value of the mineral increases so that the return remains roughly constant. However, because of varying price movements for particular minerals and the cost of production and so on, it will not always return 10 per cent for every mineral, but that is the fundamental principle of the royalty system.

The member asked whether we have any intention of raising royalty rates, and the answer is no. Until now, we have removed some concessions in the royalty rate system for iron ore fines. We did that in two tranches by amendments to the state agreement acts that affect BHP Billiton and Rio Tinto. Legislation in the other house, which I cannot talk about, removes a further concession and puts in place a royalty rate of 7.5 per cent for iron ore fines, which is equivalent to the royalty rate for the hematite crushed lump ore that is exported, having gone through that process. There is no change in the royalty rates, and the Premier is quite right. That is the basis on which the royalty rates system works in Western Australia.

In the context of today's national debate, the minerals belong to the people of Western Australia; they do not belong to the people of Australia. The minerals in the ground in Western Australia belong to the people of Western Australia and are managed by the government, and the government charges mining companies a royalty to access those minerals. The Henry review says that this is an inefficient tax because it is not based on profit; but it is not a tax, it is a charge. That is a good thing because we actually get paid for the minerals that we own when the companies use them. If it was a profit-based royalty system, like that which operates in the Northern Territory, we would not get any money until the company made a profit, and some companies never make a profit, albeit they operate for many, many years.

In my view, our system is as good a system as we can get. I do not understand how the federal Treasurer and someone as knowledgeable and with as good an understanding as Ken Henry could misunderstand what royalties are in Western Australia, which they clearly have. They have their avaricious eyes on Western Australia's royalties because they would like to replace that system with a minerals resource rent tax that would go to the commonwealth government and exclude us from the process. To suggest that we should be penalised if we raised our royalty rates—in other words, charged mining companies more so that we would have more money to spend on goods and services—is absolutely outrageous. I hope that the Western Australian Labor Party will give the federal government the sort of serve it justly deserves.

MICHELLE MARKS

1034. Hon LJILJANNA RAVLICH to the Minister for Mental Health:

I refer to the case of Michelle Marks, who suffers serious mental health issues and presented at emergency at Rockingham General Hospital on Friday, 11 November 2011 and subsequently went to Bunbury Mental Health Service.

(1) Why was Michelle Marks kept in the emergency department of Rockingham General Hospital for 48 hours, and is this not in direct contravention of the government's four-hour rule?

(2) Why were there no available mental health beds in the metropolitan area?

(3) Why was Ms Marks' de facto, Mr Evans, not consulted or informed by Rockingham General Hospital concerning the transfer of Michelle Marks to Bunbury Mental Health Service?

(4) Can the minister explain why Michelle Marks was released from Bunbury Mental Health Service four hours after admission and, had Mr Evans not contacted the minister's office to intervene and ordered a taxi, would have been put on a bus by herself to go home?

(5) Has the minister commenced an investigation into the admission, treatment and discharge of Michelle Marks; and, if not, why not?

Hon HELEN MORTON replied:

(1)–(5) This is another occasion when much of what the member has said in her question is factually incorrect. It is the sort of occasion on which, had she made a phone call, I might have been able to give her some relevant information that might have assisted her so that she could have asked some questions that were more correct. I have been fully briefed about the many issues related to Ms Marks' diagnosis, admission and discharge and her wishes in relation to her relationship with Mr Evans and her view on the current status of that relationship. Should the member seek some personal information—much of this question is about personal information—she needs to demonstrate that Ms Marks is happy and willing to have those personal details revealed. In the absence of a phone call from the member to me to clarify any aspects of this matter, and in the absence of anything to demonstrate that Ms Marks would like the member to have any of this information, my official response is that any decisions made about the clinical assessment and treatment of a patient are an operational matter. In this regard, the Department of Health must comply with any policy, regulation and legislative requirements. With regard to contact made by my office, any information received is directed to the appropriate mental health service.

POLICE — YOUTH STREET STRATEGY

1035. Hon ALISON XAMON to the minister representing the Minister for Police:

I refer to the Commissioner of Police's intention to sweep the streets of delinquent children, as reported on page 1 of *The West Australian* on Monday, 17 October.

(1) Where in the metropolitan area is it anticipated that this strategy will be focused?

(2) Which agencies, groups or individuals have been consulted in the development of this strategy?

(3) What is the police commissioner's rationale for the strategy?

(4) Will the minister please table any evidence supporting the intended outcomes of the strategy?

The PRESIDENT: The Minister for Police.

Hon PETER COLLIER: Really?

The PRESIDENT: Well, nearly! Minister representing the Minister for Police, sorry!

Hon PETER COLLIER replied:

Thanks Mr President, and I thank the honourable member for some notice of the question.

(1) The strategy will have a metropolitan-wide focus.

(2) Since the announcement of the strategy, police have consulted with the Department for Child Protection and the Department of Corrective Services, and a range of non-government agencies, including Mission Australia, Crisis Care via the Department for Child Protection, the Nyoongar Patrol, the Aboriginal Health Council of Western Australia and the Clontarf Foundation.

(3) The taking of children deemed to be at risk to a safe place will adopt the same intended outcomes as the "On Track" program currently in operation in Northbridge, as part of a wider summer crime reduction strategy being implemented by the agency.

(4) Police records show a seasonal increase in criminal activity during the summer months; hence the implementation of the summer crime reduction strategy. This aspect of the strategy is innovative and will be assessed during the course of its operation.

INDIGENOUS AFFAIRS — STOLEN WAGES

1036. Hon SALLY TALBOT to the Minister for Indigenous Affairs:

In February the minister told the Parliament that he was "looking at" the issue of stolen wages; in May he told the Parliament that he would "consider" the issue of stolen wages. In relation to this year's budget, he said that there was no funding for stolen wages because the issue had not been considered. I ask: when will the minister stop stalling on this issue and take action?

Hon PETER COLLIER replied:

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

I can assure the member that I am not stalling, and if I could have achieved an outcome on this matter earlier, I would have. As the honourable member would well know, it is an extremely complex situation. We are dealing with the situation of a group of people from 1905 to 1972. Access to information over that time period is very, very difficult to gain. Through the Department of Indigenous Affairs and a raft of initiatives, we are trying to ascertain the best way forward. I know that, from the honourable member's perspective, that is stalling and looking around the issue to find a way out, but it is not. It is trying to find the most effective way forward. It pretty much consumes a significant portion of my time on a weekly basis. I would have liked to have had a solution before now; I really genuinely would have liked to have thought that I could have had a solution. Unfortunately that is not the case, but I can assure the honourable member that I am working on it, and as soon as I get a solution that provides the best outcome for that group of people, I will do so.

ELECTORATE OFFICES — RELOCATIONS

1037. Hon MATT BENSON-LIDHOLM to the Leader of the House representing the Premier:

I refer to the electorate offices of members of both houses.

(1) How many electorate offices have relocated in each of the years 2009, 2010 and 2011 to date?

(2) For each of the relocations in (1) —

  (a) what was the previous location;

  (b) what is the new location;

  (c) what is the name of the member whose office it is;

  (d) what was the date of the relocation; and

  (e) what was the cost of the relocation?

(3) What electorate office relocations have been approved but have not yet occurred, and when will they occur?

Hon NORMAN MOORE replied:

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

(1) Nineteen across the three years.

(2) Mr President, the answer to (2)(a)–(c) is in tabular form, and I seek leave to have it incorporated into *Hansard*. As the information for (2)(d)–(e) is not readily accessible, the honourable member is requested to put this part of the question on notice.

Leave granted.

The following material was incorporated —

Member **(2c)**	**Previous Location** **(2a)**	**New Location** **(2b)**
Liza Harvey MLA	169 Scarborough Beach Rd, Scarborough	197 Scarborough Beach Rd, Doubleview
Hon Adele Farina MLC	Unit 3, 69 Duchess Street, Busselton	Unit 4, 31 Victoria Street, Bunbury
Hon Ljiljanna Ravlich MLC	Suites 17 & 18, Sevenoak Village, 53 Cecil Avenue, Cannington	Shop 3, Walter Road, Morley
Hon James Chown MLC	Suite 1 (Strata Lot 6) 55 Colin Street, West Perth	5 Harvest Terrace, West Perth

Member (2c)	Previous Location (2a)	New Location (2b)
Vince Catania MLA	Shop 8a & 9, Carnarvon Boulevard S/Centre, Carnarvon	Shop 14a Carnarvon Boulevard S/Centre, Carnarvon
Hon Dr Sally Talbot MLC	199 Mandurah Terrace, Mandurah	Shop 21, 25 Meadow Springs Drive, Meadow Springs
Hon Alyssa Hayden MLC	Ground Flr, 24 Keane St, Midland	Unit 34, 6 Keane Street, Midland
Roger Cook MLA	Shop 43, Kwinana Hub Shopping Centre, Gilmore Avenue, Kwinana	3 Chisham Avenue, Kwinana
Hon Terry Redman MLA	2 Langton Road, Mount Barker	61 Lowood Road, Mount Barker
Hon Michael Mischin MLC	Unit 6, 91 - 95 Wanneroo Rd, Greenwood	Unit 2, 5 Davidson Terrace, Joondalup
Vince Catania MLA	Shop 27, Centro Karratha Shopping Centre, Karratha	Shop 32, Karratha Village Shopping Centre, Karratha
Hon Phil Edman MLC	Suite 11, 2 Lancaster St, Spearwood	Unit 3, 18 Civic Boulevard, Rockingham
Paul Miles MLA	Unit 3, 915 Wanneroo Road, Wanneroo	Shop Tn1 Wanneroo Central, Rocco Way, Wanneroo
Hon Wendy Duncan MLC	Shop 5, Dutton Arcade, 91 Dempster Street, Esperance	Shop 15, Dutton Arcade, 91 Dempster Street, Esperance
Hon Alison Xamon MLC	Unit 9, 2a Progress Street, Morley	62 Eighth Avenue, Maylands
Hon Liz Behjat MLC	Unit 4, 21 Wanneroo Rd, Joondanna	Unit 4, 43 Cedric Street, Stirling
Hon Michelle Roberts MLA	Shop 5, 50 Helena Street, Midland	Unit 1, 36 The Crescent, Midland
Hon Lynn MacLaren MLC	29 Adelaide Street, Fremantle	Unit 7, 142 South Terrace, Fremantle
Hon Nick Goiran MLC	51 Wheatley Road, Gosnells	Suite 2, 714 Ranford Road, Southern River

(3) Not applicable.

OOMAGOOMA URANIUM DEPOSIT — NEGOTIATIONS

1038. Hon ROBIN CHAPPLE to the Minister for Mines and Petroleum:

I refer to question on notice 4549 and the negotiations between the state of Western Australia and the commonwealth government over access to Oobagooma commonwealth defence land by Paladin Energy Pty Ltd for the exploration of uranium.

(1) Will the minister table the memorandum of understanding that has been prepared?

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

(3) What is the current status of negotiations between the state and commonwealth governments and what, if any, outcomes have been agreed?

(4) In the instance that uranium mining is being considered on commonwealth lands within Western Australia, what state and federal approvals will be required for Paladin to proceed with exploration and then mining?

(5) Please clarify the jurisdictional arrangements in the circumstance described in (4): what decision making responsibility does the state minister have, and what decision making responsibility will the federal minister have?

Hon NORMAN MOORE replied:

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

(1) Yes, once the memorandum of understanding has been signed by the commonwealth Special Minister of State and me.

(2) Not applicable.

(3) The Department of Mines and Petroleum has finalised discussions with the Department of Finance and Deregulation. The MOU has been drafted and is currently awaiting signature from the commonwealth Special Minister of State. The MOU outlines the roles and responsibilities of both the commonwealth and Western Australian governments regarding the regulation of mineral exploration activities by Paladin Energy Pty Ltd within the Yampi Sound training area.

(4)–(5) The MOU relates to mineral exploration activities only.

LIQUOR CONTROL ACT — BARRING NOTICES

1039. Hon ED DERMER to the Leader of the House representing the Minister for Racing and Gaming:

I refer to changes to the Liquor Control Act 1988 that came into effect on 17 January 2011 and that allow for the publication, on a secure website, of details of people subject to barring notices.

(1) How many barring notices have been issued since the changes came into effect?

(2) When was the secure website commissioned and who has access to the website?

(3) How many visits have been made to the secure website?

(4) Has any person been issued with a barring notice that precludes them from a particular class of licensed premises; and, if so, what classification has been used?

Hon NORMAN MOORE replied:

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

(1) As at 10 November 2011 there were 169 current barring notices published on the website. This figure does not include barring notices that have been issued by police but not yet published on the website, or barring notices previously issued that are no longer in effect and have been removed from the website. The Minister for Police should be consulted for information on total numbers of barring notices issued.

(2) June 2011. Approved managers, licensees, the WA Police liquor enforcement division and the Department of Racing, Gaming and Liquor.

(3) Four hundred and seventy-seven.

(4) This question should be directed to the Minister for Police.

BEST BEGINNINGS HOME VISITING SERVICE

1040. Hon LINDA SAVAGE to the Minister for Child Protection:

I refer to the Best Beginnings home visiting service for families of new infants conducted by the Department for Child Protection.

(1) How many families are currently enrolled in or engaged with the program —

(a) in the Perth metropolitan area; and

(b) in WA country areas?

(2) How many full-time equivalent employees are involved with or conduct the program?

(3) What are the respective qualifications of those FTE positions?

(4) Does the program involve structured home visiting during a client's pregnancy?

(5) How and by whom is a client referred to the Best Beginnings home visiting service?

Hon ROBYN McSWEENEY replied:

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

(1) (a) Two hundred and seventy-five.

(b) Fifty-eight.

(2) From the Department for Child Protection, 16.5 FTE.

(3) Qualifications are not essential for the employees of the department who conduct the program. Further inquiries would be required to obtain the details of the specific qualifications held by these staff.

(4) Yes.

(5) Referrals are made antenatally or up to three months following the child's birth. Referral is usually made by fax or phone to the district office of the Department for Child Protection where the family resides. Referral can be accepted from any source. The department reports the main referral sources as King Edward Memorial Hospital; other maternity hospitals; child health nurses; community health;

general practitioners; community sector agencies; youth services; other teams of the Department for Child Protection; and self-referral.

TRANSGENDER COMMUNITY

1041. Hon LYNN MacLAREN to the Minister for Mental Health:

(1) Is the minister aware that on Sunday the transgender community of Perth gathered in Queen's Gardens to recognise a day of remembrance for those who have died as a result of anti-transgender hatred or prejudice?

(2) Is the minister aware that in a recent survey, one-fifth of transgender people surveyed said they had been physically attacked, and one-third said that they had been the victim of violence?

(3) Is the minister aware of the scope and seriousness of the physical and mental health problems faced by transgender people?

(4) Are there any programs available to assist people in the transgender community to cope with violence, grief and threats of violence?

Hon HELEN MORTON replied:

I thank the member for the question.

(1)–(4) I was aware of those facts and figures that the member has mentioned. But I also thought that the article in the weekend paper, which related to a person in a similar way, was really quite revealing, and of course I get pretty interested in the issues around people like that who have those kinds of difficulties, the identity difficulties and the stigmatising that goes with that. I understand also that these people have a higher level of suicide as well. We have a suicide prevention strategy that is available to these people in different ways. In terms of the services that are quite specific to that particular group of people under the Mental Health Commission, I cannot recall any specific work. There may be some in that area, but I cannot recall it at this moment. But I am very familiar with or aware of the range of issues that these people identify about the difficulties that they express in their lifestyles.

GOVERNMENT MID-YEAR FINANCIAL PROJECTIONS STATEMENT — RELEASE

1042. Hon HELEN BULLOCK to the minister representing the Treasurer:

(1) What date is the close-off for the *Government Mid-year Financial Projections Statement*?

(2) When will the *Government Mid-year Financial Projections Statement* be publicly released?

Hon SIMON O'BRIEN replied:

This is a question to me in my capacity representing the Treasurer, I think, not the Minister for Transport.

The PRESIDENT: The member said, "To the minister representing the Minister for Treasurer", but she meant Treasurer.

Hon SIMON O'BRIEN: I am sorry. I misheard the member. I do apologise. I am answering this as Minister for Finance representing the Treasurer.

(1) The cut-off date for the 2011–12 *Government Mid-year Financial Projections Statement* is currently planned to be 1 December 2011, which is broadly consistent with the cut-off date applying in previous years.

(2) The Government Financial Responsibility Act 2000 requires that the 2011–12 *Government Mid-year Financial Projections Statement* be released by 31 December 2011.

REGIONAL BUS SERVICES — SECURITY

1043. Hon ADELE FARINA to the minister representing the Minister for Transport:

I refer to the assault of a TransBunbury bus driver on Friday, 11 November 2011 while on duty driving a bus owned by the Public Transport Authority.

(1) What level of security is provided for —

(a) TransBunbury buses; and

(b) country buses?

(2) How much funding has been allocated in the current budget for security, and will the minister provide details of the security measures that are funded, on —

(a) TransBunbury buses; and

(b) country buses?

(3) Will the minister act to provide country bus drivers with the same level of security as provided to metropolitan bus drivers?

Hon SIMON O'BRIEN replied:

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

(1) (a) When security incidents occur that require a response, the local police are called. Bunbury bus station is fitted with CCTV cameras, which are monitored on a continual basis. When security concerns have been raised by the TransBunbury bus operator about antisocial behaviour at the Bunbury bus station, a Transperth security vehicle is made available to monitor the situation and to provide a security presence if necessary. Very low levels of antisocial behaviour, if any, have been encountered.

(b) The newer TransGoldfields buses operating in Kalgoorlie have on-board CCTV cameras in operation. However, the low level of security incidents experienced means footage is seldom required to be used. A six-month trial of CCTV cameras on board buses in Geraldton will commence in the near future.

(2) (a) Nil.

(b) The Geraldton trial as described above is to be funded from the regional town bus services operating budget. It is anticipated that the trial will cost approximately $20 000.

(3) Due to the very low levels of security incidents in regional towns, the deployment of additional security resources is not considered necessary. Security arrangements will be considered by the minister as warranted.

OFFICE OF ENERGY — HARDSHIP EFFICIENCY PROGRAM

1044. Hon KATE DOUST to the Minister for Energy:

I refer to the Office of Energy's hardship efficiency program.

(1) How many household energy efficiency assessments have been conducted since 1 July 2011, and how many energy efficient products, by type, have been supplied to customers during this time?

(2) How many fridges have been replaced as part of the fridge replacement scheme since 1 July 2011, and at what cost?

(3) How many homes have had energy efficiency measures installed as part of the public and community housing subprogram since both 1 July 2011 and the commencement of the scheme, and at what cost?

(4) How much has been spent on this program since its announcement to date?

Hon PETER COLLIER replied:

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

(1) Between 1 July 2011 and 31 October 2011, 1 033 household efficiency program assessments have been conducted. Data on the number of individual energy efficient products provided as part of these services is not readily available but is being sought by the Office of Energy. The information will be made available by 15 December 2011. I will make sure the honourable member gets that information.

(2) The fridge replacement scheme has provided 464 replacement fridges between 1 July 2011 and 31 October 2011. As of 3 November 2011, the Office of Energy had received invoices for 317 fridges, with a total cost of $301 326.38, an average of $950.56 per fridge.

(3) Under the subprogram, the Department of Housing is responsible for the delivery of services to state-owned dwellings. Planning for the implementation of energy efficiency services in state-owned dwellings is near completion, with installation of energy efficiency measures expected to commence in the first quarter of 2012. The Community Housing Coalition of Western Australia is responsible for the completion of a scoping study to deliver energy efficiency services to community-operated housing. The coalition is expected to complete the study by the end of 2011–12.

(4) Since its commencement in late 2008, the hardship efficiency program has spent $9 887 500.

QUESTIONS ON NOTICE 4641 AND 4849

Papers Tabled

Papers relating to questions on notice were tabled by **Hon Helen Morton (Minister for Disability Services)** and **Hon Donna Faragher (Parliamentary Secretary)**.

RESIDENTIAL TENANCIES AMENDMENT BILL 2011

Second Reading

Resumed from an earlier stage of the sitting.

HON LYNN MacLAREN (South Metropolitan) [5.07 pm]: Before the debate was interrupted for question time, I was noting the reasons why the Greens will oppose the antisocial behaviour clauses in the Residential Tenancies Amendment Bill. I read from the WA community sector letter, which called on all of us to review the choice that has been made to include this provision in this amendment bill, and to oppose it. The WA community sector is concerned that these amendments have the potential to produce unintended consequences that are at odds with most areas of state and federal policy. The relevant peak representative and service bodies—which I have read out to members—that signed the letter have been consulted on many of the amendments in the bill, but not on this amendment. They are concerned about the potential impacts of this amendment on their services and their clients.

They are concerned also that this particular part of the bill may run counter to the spirit of the guiding principles of the Commonwealth–State Housing Agreement 2003. It is timely to remind members of four of the guiding principles in the Commonwealth–State Housing Agreement. This is an agreement that enables the state to tap into commonwealth funding to build public housing. Those guiding principles are: to maintain a core social housing sector to assist people unable to access alternative suitable housing options; to develop and deliver affordable, appropriate, flexible and diverse housing assistance responses that provide people with choice and are tailored to their needs, local conditions and opportunities; to provide assistance in a manner that is non-discriminatory and has regard to consumer rights and responsibilities, including consumer participation; and to commit to improving housing outcomes for Indigenous people in urban, rural and remote areas, through specific initiatives that strengthen the Indigenous housing sector and the responsiveness and appropriateness of the full range of mainstream housing options.

Hon Simon O'Brien: We are doing all of that.

Hon LYNN MacLAREN: Even more, minister. The guiding principles are many, and these are just the few that I am concerned about in this case. I am concerned that the anti-disruptive behaviour policy part of this bill may be contrary to that. I am concerned about the impacts that it will have on the Aboriginal community and people who are in most desperate need of public housing. The changes mean that the Department of Housing will be able to apply to the Magistrates Court if a tenant has engaged in serious or sustained disruptive behaviour or used their home for illegal purposes without first having to issue the tenant with a notice of a breach of a tenancy agreement. That is a huge change. It was introduced to legitimise the three-strikes rule. We know that. It has been all over the papers and all over the radio. It will affect the most vulnerable in our society. There will be additional strain on the community sector, which is already flat out.

Hon Simon O'Brien: Who are the vulnerable—those who are terrorising their neighbours or the neighbours who are being terrorised? Who are the vulnerable ones?

Hon LYNN MacLAREN: That is true. They are both victims in this case. I am not saying that we should not deal with disruptive tenants. It is fair to say that the ALP said the same thing in its contribution to the debate. We should deal with disruptive tenants. Policies are in place to deal with disruptive tenants that I would suggest are not being implemented properly. I suggest that the Department of Housing is not adequately resourced to deal with problem tenants. Unfortunately, we are shifting that burden to the court system, which I do not believe is an appropriate system to deal with problem tenants in this case. The courts are there already. When something gets out of control and we have tried every other thing, the courts are there as a backstop. In this case we are going to go straight to the courts in a system in which people are already vulnerable. They may not be successful in other areas of their lives; they are potentially struggling already. To ask them to front up to the courts to defend their home, their sense of security and their sense of belonging is undermining them. I do not think it is fair to subject them to the policy that we are going to subject them to in the courts. I believe that disruptive tenants should be dealt with firmly. I believe that policies are already in place to deal with that.

The Department of Housing works with community service organisations that are already out there. We are talking about support for maintaining a tenancy, dealing with issues such as drug abuse or violent behaviour that we have heard about already or dealing with families that are out of control and need some assistance to be healthy and sustainable families again. We have those programs in place, but they are pilot programs. They are not fully resourced to the extent that they can deal with the problems that we have before us. That is why they have hit the radio waves. The shock jocks are all over this because it is a problem in Western Australia. We are saying that the people who are on the ground dealing with families and communities are saying that this is not the way to go. This policy that the minister has lobbed into the Residential Tenancies Amendment Bill, which is otherwise quite robust and well tested and supported by this sector, does not fit. One of these things is not like

the others. This thing which is shoved unceremoniously into this bill does not fit there. I predict that it will not solve the problems that we have.

I do not lightly oppose clauses to bills that departments have worked hard to put forward. I feel that we are on solid ground in opposing this clause. That is why I am going to the length of referring to some of the research that has been done so that the government can understand the foundation for our criticism. I will quote from a couple of other reports, but first I note that the Australian Council of Social Service report of 2009–10 found that 48 people needing social services were turned away each day by non-government welfare associations in Western Australia. The Australian Community Sector Survey of 2011 found that Western Australians were denied services on about 17 819 occasions in the 2009–10 year. This represents a 43 per cent increase from the year before in the number of people who were turned away. Unmet need is the most acute in the area of housing and homelessness—we know this; we have talked about this a lot—with 94 per cent of organisations identifying this as an area of high or medium need. At the round table discussion that I held with stakeholders everyone was in agreement that these clauses should be deleted. The housing advocates believe that other parts of the legislation and the departmental policy already deal with difficult tenants. If the housing managers want troublesome tenants out, they already have the tools to do that, but perhaps they are not supported in implementing or using those tools.

The policy officer from the Community Housing Coalition of WA observed, "We didn't ask for these powers and don't want them". That relates to the fact that we are extending the rules for public housing tenants into the social housing sector—the community housing sector—which houses 20 per cent of those tenants who are most in need. We will be holding up all the tenants in all the organisations. I know that it is by consent. I know those organisations have to sign up to this. They will have to uphold these very stringent laws that we are going to put in place. There do not seem to be penalties for not evicting problem tenants, so I guess we can thank someone for small favours. CHCWA is worried that the legislation will create the expectation within the community that community housing operators will be able to evict tenants. We do not want to put more people on the streets.

I refer to the Equal Opportunity Commission's recent report entitled "Finding a Place: Final Report for the Section 80 Implementation and Monitoring Committee of the Inquiry into the Existence of Discriminatory Practices in Relation to the Provision of Public Housing to Aboriginal People in Western Australia". The small chapter on the disruptive behaviour management strategy states —

> Where it is proposed to provide a legally enforceable means to terminate a tenancy as a result of anti-social behaviour the EOC believes this needs to be balanced against:
>
> 1. The rights of children and the Department's obligations as a result of the ratification of the *Convention on the Rights of the Child* by the Federal Government in 1990.

I acknowledge that the ALP has an amendment on the notice paper to try to address this. I flag that we will likely support that. Also, our own Standing Committee on Uniform Legislation and Statutes Review has looked into this. We have a letter from the Commissioner for Children and Young People also pointing us in this direction. We should be wise in the decisions that we make about what to include about the rights of the child in these evictions that we are about to legislate for. The report continues —

> The EOC believes it is unconscionable for any government agency to render children homeless as a result of anti-social behaviour of their parents or visitors to their household. Clearly the needs of children need to be addressed before any eviction occurs.
>
> 2. The Department's special position as the houser of last resort.
>
> The expenditure of public housing for the least advantaged in the community is premised in part on the unacceptability of families living in the streets, in cars, in the bush in a developed western democracy such as Australia.
>
> The Department needs to be cognizant of this to ensure that some alternative is always sought before a family or individual is evicted. This may require clearer liaison with nongovernment bodies which provide housing and other assistance to those in need in part as a result of public funding.

The system that is in place is that some alternative is always sought before a family or individual is evicted, but in this case we are sending them straight to the courts without even giving them a notice of eviction. I think we need to look carefully at that. The third point states —

> The difficulty faced by women in situations of domestic violence.
>
> Where partners are verbally and often physically abusive it may result in complaints of anti-social behaviour. The involvement of the police and possible transfer to alternate housing should be considered here.

That is another case in point. The victims of domestic violence are often women. I hope to see most members on the march tomorrow morning to acknowledge the victims of domestic violence in this state. It is at 10.30 am in Stirling Gardens. I hope that all members will be there, because escalating violence against women is one of the most abhorrent situations. In a time of apparent peace, tranquillity and wealth in Western Australia, we should not be faced with escalating violence against women. This is a case in point. A safe place to call home is fundamental. Women need that, especially if they are going to look after children. Men need that as well if they are going to look after children. These eviction clauses may in fact be disproportionately adverse for these people. Finally, the fourth point from the Equal Opportunity Commission states —

> Special consideration where anti-social behaviour may be attributable to intellectual disability or mental illness.
>
> Families having one or more members with disabilities particularly mental disabilities which result in challenging behaviour are often subject to complaints of anti-social behaviour. The engagement with other specialist agencies is recommended here before any eviction occurs.

The Greens have a couple of amendments on the supplementary notice paper to try to address these matters. The amendments will force the Magistrates Court to take into consideration whether someone who is about to be evicted has a mental illness. I know that there is an amendment that provides that these people should be referred to organisations. I would definitely support that referral. But I also want the mental illness to be taken into consideration before the magistrate rules on an eviction. The briefing I had was very comprehensive in trying to allay our fears about this. It was indicated that the Magistrates Court may well look at matters such as these and that it is appropriate for courts, which are wise and considerate, to take these matters into consideration. But there would be no problem with being explicit in the bill that this should be taken into consideration. It would be a clear message from the Parliament of Western Australia, which is representative of its people. The courts would pay attention to that. We could allow the courts some discretion, but it is our mandate to set in stone certain things that the courts should take into consideration when they rule. There is nothing to be lost by being explicit in that regard.

The Equal Opportunity Commission's recommendations in "Finding a Place" are also borne out by the experience of the Tenants Advice Service of WA. I will quote briefly from the Tenants Advice Service of WA. The WA Tenancy Network, which is a very under-resourced but very effective network throughout Western Australia, produced a paper on destructive behaviour in social housing tenancies. It compiled case studies in August this year. Amongst those case studies is one from the Tenants Advice Service. In relation to the disruptive behaviour management strategy, it states —

> … it also has unintended consequences for vulnerable tenants. As illustrated by the following case studies, tenants who face domestic violence, suffer from mental health issues or who have children are the majority of tenants who are affected by the DBMS.

That is short for the disruptive behaviour management strategy —

> Tenants can be issued with a 'strike' under the DBMS for behaviour which may merely constitute a nuisance, a minor event, or events that are beyond their direct control. Some of the 'strikes' issued are also due to unsubstantiated complaints by neighbours. Indigenous tenancies are also unequally represented in the number of evictions by the Department Of Housing.
>
> Interestingly, most of the tenants who are evicted under the DBMS either end up homeless or are transferred to another social housing property. This supports the reality that social housing is a housing option of the last resort for these social housing tenants. Eviction is not a viable option for both social housing providers and social housing tenants. It is costly and time consuming for social housing providers, tenants and community support workers if there is an increase in terminations of the social housing tenancy agreements. The WA Tenancy Network is of the opinion that more intervention programs to assist tenants in sustaining their tenancies should be implemented. Removing a person or a family from a tenancy does not assist in any way with addressing the underlying causes of disruptive behavior and will instead often exacerbate such behavior.

Likewise, there is a much shorter quote from the National Shelter report by the National Association of Tenant Organisations called "A Better Lease on Life: Improving Australian Tenancy Law". The report came out in April 2010. It states —

> Legislation, policies or practices that place additional, unfair burdens on social housing tenants is opposed and it is recommended that residential tenancy law should not be used to enforce behaviour-management policies.
>
> Social housing providers should not give notices to leave without grounds, in particular, to deal with allegations of breach of tenancy agreement or disputes about behaviour. Social housing providers

should always provide the tenant with grounds for termination, the particulars of the case against them and give the tenant an opportunity to respond to the allegations.

I am concerned that decisions regarding whether to evict problem tenants will be left in the hands of the courts—I have said this before—which may not understand these complex needs in the way that housing providers and community service organisations do, and even in the way that a skilled workforce within the Department of Housing does. I am also concerned that forcing tenants to front up to the courts without the safety net to catch the vulnerable ones who are struggling to maintain the tenancy, and without sufficient supported accommodation services, will force more vulnerable people into homelessness. Therefore, in committee, I will oppose clause 95 of the bill.

In its submission to the review of the Residential Tenancies Act, Shelter WA identified some additional aspects of the Residential Tenancies Amendment Bill that are problematic. There is a lack of consumer protections for boarders and lodgers, and I have mentioned that before. The RTA is silent. I am sure that we are going to deal with boarders and lodgers in another place, but I am just flagging it again. There is a lack of consumer protections over excessive rent increases and the practice by real estate agents of levying option fees on rental applicants to validate their expression of interest for entering into a residential tenancy agreement over a rental property. That is a quote from Shelter WA's submission. As currently drafted, the Residential Tenancies Amendment Bill allows lessors to charge tenants an option fee to enter into a residential tenancy agreement. The fee is to be refunded or applied towards the rent under the agreement upon the option being exercised. If the option is not used, the amount is refunded to the tenant in cash, by electronic means or in any other prescribed way. We know how option fees work, but did members know that in the Australian Capital Territory and the Northern Territory they are not permitted? That is what I would like to happen in Western Australia, and that is what we tried to do way back when Hon Michelle Roberts was the minister. We tried to get her to abolish option fees.

Hon Simon O'Brien: What was her response?

Hon LYNN MacLAREN: She was sympathetic to our views but failed to act.

The amendments standing in my name on the supplementary notice paper are to remove the exemption. The clause actually states that people cannot ask for any other additional fee. It then states that they can do a little option-fee thing. My amendment is to delete the exemption in the clause that states that people cannot ask for any other fee. This makes sense to us because tenants have told us time and again that after they have applied to lease a rental property, it takes a long time to get back their option fee. They may not have buckets of money available to apply for a few tenancies. The market is tight and they have to get out there because a place could go within an hour. These are not times when they can sit back and wait. This market is a hot, tight market. We must give people an opportunity to compete in the market. If we do not give people the ability to get back their option fee quickly, we must abolish option fees because it takes too long for people to get back those option fees and they are unable to compete in the rental market. I have therefore put a couple of amendments on the supplementary notice paper. In the best-case scenario we would get rid of option fees. The fallback position is setting a limit of seven days for people to make a decision on whether they will give the option to rent to the applicant or to return the fee. The department has proposed something similar such as returning the fee within a reasonable time frame or something vague like that. I am trying to pin it down. I know that in practice it is returned quicker but, again, why do we not stipulate it and say that the fee must be returned and in their hot little hand within seven days? If it is returned in two or three days or within 24 hours, that is great. In fact, if the minister thinks that is a better option, I suggest he try to amend my amendment to make it a bit quicker so that people can be competitive in the tight rental market.

I remind the minister that, according to the department, the current market practice is to charge one week's rent as an option fee. It is intended to cover the cost of finding another tenant if the prospective tenant dips out or finds another rental. I can understand that. According to the Real Estate Institute of Western Australia, the current median rent in Perth is $395 a week. Option fees, therefore, clearly represent a much greater burden on prospective tenants than the administrative costs that a lessor is likely to incur as a result of a tenant turning down a property. The minister may wish to deal with that in detail and tell us how much the administrative cost is when an option is not exercised. However, really, we should deal with the fundamental issue, which is that the return of option fees is slowing down tenants' ability to find a place in which to live.

The Standing Committee on Uniform Legislation and Statutes Review argued in its report, based on evidence, that the requirement for an option amount will have an impact on lower socioeconomic prospective tenants and that it is not supported. The committee therefore itself did not support it. The committee did not put forward amendments, but I have put forward some amendments and I hope that I can get some support for those. I have therefore explained in detail that I have a total of 10 amendments on the supplementary notice paper, which deal with option fees, time limits for returning option fees and decisions on whether or not an option is exercised. I have mentioned the amendments that I have on the supplementary notice paper on the antisocial behaviour

policy. Finally, I have an amendment to deal with minors on the residential tenancy database because I believe that minors are at particular risk of homelessness. We have batted around the notion of whether when they turn 18 years of age their record will be expunged—such as, "Now you're an adult and you have to behave." What we could do, if there is a minor on that database, is make their record clean in a year rather than in three years. That would get away from the problem that was identified. If we use turning 18 years old the gate, we would have landlords potentially looking at 18-year-old tenants a bit differently from other tenants. But if instead we have a one-year clause so that a minor could be on the database for only one year—irrespective of how close they are to the age of 18—we would not have that problem of discriminating against people who are 18 or turning 18. That might help to reduce the incidence of homelessness amongst minors and perhaps keep them in a tenancy. If they have somehow been listed on the database, it would also give them a second chance, recognising that when we are young we sometimes make mistakes but as we get older we get a bit more circumspect about the consequences of our mistakes. I am suggesting that we have a one-year period instead of the three-year period that is already in the bill. I support the three-year period for adults, certainly.

As I said, most of the amendments before us are a very good way forward; they dramatically improve tenants' rights in Western Australia and we support them wholeheartedly. But in these few instances where I believe that we have been very careful to find different and more positive ways forward, I would ask members on both sides of the chamber to give me their support for changing the bill before us to make it an even better and more effective bill for maintaining tenancies in Western Australia. With those final comments, I will say that the Greens support this amendment.

HON LJILJANNA RAVLICH (East Metropolitan) [5.34 pm]: I too want to make some comments in support of this legislation and to also put on the public record some of the concerns that I have with it. I just want to say that owning one's own home is becoming increasingly difficult—there is no doubt about that. The Australian dream of young people being able to have a quarter-acre block of land and building a house to their requirements is something that is becoming increasingly difficult to attain. Consequently there is no doubt that this is reflected in the pressure it puts on rentals and the pressure it puts on young people to move into rental properties and perhaps stay in those rental properties for extended periods because it takes considerably longer to get the money together to move towards that dream. When we add them in together with people who for one reason or another have to rent—be it someone with a disability, a mental illness or long-term unemployed and so on and so forth—there is no doubt that increasingly many people rely on a rental market. There are also people who make the economic decision, having weighed up the pros and cons and not wanting the responsibility of owning a house, and choose to be renters without those responsibilities.

We know that there are almost 20 000 dwellings in WA that are rental properties. Sometimes the relationships between the respective landlords and tenants are not as they should be. There is no doubt that there are all sorts of issues when it comes to the matter of renting. I do not intend spending my time going in to the breadth of those issues. Suffice to say that it is very important that they be managed as effectively as they can because they can lead to considerable disharmony. In extreme cases they can end up in the court system and be a major financial burden on either of the parties and so on and so forth. When we see legislation brought into this place that aims to improve the relationship and the commercial arrangements between a landlord and a tenant, we have to say that it is legislation that we can support.

This morning I was listening to one of the radio stations as I was driving into work. A housing agent was giving an interview on landlords and how they sometimes do not meet their obligations on the standard of accommodation that they put out there on the rental market. One of the points she was making was that because of the current pressure on the rental market, some landlords are getting away with renting out substandard accommodation, and people are still being forced into those rental properties purely and simply because of the lack of choice and alternatives. She was citing the case of young people having to pay $350 for a two-bedroom unit that was not particularly well located and often in pretty bad disrepair, yet that was what some landlords could get away with charging given the current pressures. I think it is important that there be protections for landlords and tenants; in particular, I think tenants need the protections because just as I know that not every tenant is a good tenant, I know that not every landlord is a good landlord. We should aspire to ensure that we get the best out of both.

This legislation concerns me from a public housing point of view. I recognise its aim around the competitive commercial market, and I do not have a problem with that in essence. But I am interested in it from the point of view of public housing, what is happening in public housing, and the relationship between the housing authority in Western Australia and the people who rent its properties. We know that there is incredible pressure on public housing, and I will put some figures on the record to demonstrate just how great that pressure is. The 2010–11 housing authority annual report shows that in 2008–09 there were 21 728 people on the public housing rental waiting list; there are now 23 411 people on the rental waiting list. They are huge numbers. I do not know where these people live while they are waiting.

Hon Adele Farina: In caravans.

Hon LJILJANNA RAVLICH: Sorry?

Hon Adele Farina: Caravans, cars, family, on the street.

Hon LJILJANNA RAVLICH: Caravan parks, with family—wherever they can. Every so often in the newspaper we see stories of desperation about families who cannot find a caravan park rental, cannot afford a caravan park rental, do not have family or friends they can stay with and so on and so forth, and they end up living out of cars. I have to say that it is hard to believe that we have these stories in this country, particularly in a state as wealthy as Western Australia. Not long ago there was a young mother who parked, with her child, out the front of Parliament House, and she just had nowhere to go. She was so desperate that she did not know what she could do, and so she just waited and waited and waited at the front of Parliament House; I am not sure how that ended. I have to say that it is a sad reflection on this state that these situations occur, but clearly they do.

I want to quickly touch on the waiting times for accommodation, which are just simply incomprehensible. In 2010–11 the target waiting time for housing was 103 weeks, but the actual was 113 weeks. That is more than two years. Many, many people—24 000 of them—are living in possibly very unsuitable accommodation and waiting for more than two years to be housed by the housing authority in this state.

Although the Residential Tenancies Amendment Bill 2011 looks at the regulatory environment around landlords and tenants and tries to make it fair and efficient, for some consumers of the services of the housing authority it is not particularly efficient at all. I am talking about the amendments in this legislation that are aimed at addressing serious and sustained antisocial behaviour in social housing. I do not support antisocial behaviour, and if I lived in social housing, I would be very peeved off if I had to put up with antisocial behaviour, so I can understand people reacting to it. I would not accept it either. Having said that, there exists a group within our community for whom antisocial behaviour is not a choice; it is not something that they choose to do. I fear for this group of people because they are indeed victims. I really fear that the provisions in this legislation around serious and sustained antisocial behaviour in social housing are going to impact on this group of people more so than any other. I am referring to people who have serious mental illnesses and who, through no fault of their own but because they are seriously mentally ill in some cases, risk being evicted from their homes.

Members may remember that I brought to this house's attention the case of a young man who was discharged from hospital to his Homeswest house and who was presented with an eviction notice after two weeks. This was a gentleman who had a psychotic experience and, as part of that, exhibited antisocial behaviour, and he was subsequently evicted from his home. That has been replicated in many cases throughout the state. I asked questions in the estimates committee hearings about what the housing authority is doing to ensure that there is some consideration of the living arrangements of Homeswest tenants with mental illness. I was advised that an interdepartmental working group was looking at this issue, and that there were some complexities surrounding security of information about individual tenants and so on and so forth, but that progress was being made. One of the things I would like the minister—if he is listening to me, and I am sure he is —

Hon Simon O'Brien: That is why I am getting paid. I have to.

Hon LJILJANNA RAVLICH: One of the things I would like the minister to respond to is whether he can provide us with the details of the outcomes of the interdepartmental working group that is looking at the issue of Homeswest tenants who have a mental illness and how —

Hon Simon O'Brien: What does that have to do with this bill?

Hon LJILJANNA RAVLICH: They are tenants of the housing authority, are they not? The disruptive behaviour provisions apply to them. Many of these people exhibit disruptive behaviours because of their illness, not because they intend being unruly. I understand that the Department of Housing has provided input into the Residential Tenancies Amendment Bill 2011, in line with the government's policy, and that the authority has worked with the Department of Commerce and Parliamentary Counsel to introduce provisions that might provide some safeguards for people with a mental illness. I am particularly concerned that the provisions that could make it easier to terminate a residency because of disruptive behaviour may capture people with a mental illness, and I want to safeguard them from that. If the minister could provide in his response to me some feedback on the outcome of the work of that committee, that would be very helpful.

Homeswest matters are some of the most recurring issues in my electorate office. People inquire about leasing a house from the housing authority and about the work needed to be undertaken on their property, and they complain that the property is substandard and that it takes way too long for remedial work to be done on the property. Any member of Parliament who is asked which issues take up a lot of the member's time and effort as a local member will no doubt say that the provision of housing, trying to get on the Homeswest waiting list and trying to get remedial work done to a property tend to be right up there. I sometimes get the sense that people in the Department of Housing hold the view that because someone is a social tenant, the standard of service delivery should not be quite as good. I can see the minister shaking his head, but I have had constituents who have waited for weeks and weeks for maintenance to be done.

Hon Adele Farina: Months and months.

Hon LJILJANNA RAVLICH: Yes, months and months. There is no reduction at all in their rent in the meantime. They still pay the same amount of rent that they have always paid even though the stove is not working, the plumbing is shot or whatever. I do not think that is good enough. It would be interesting if the minister can provide us —

Hon Simon O'Brien: Have you just thought of something else off the top of your head? You were in the paper saying that the police commissioner does not do his homework before he comes to your committee. Why don't you do your homework before you come in here and take up the time of the house in debate?

Hon LJILJANNA RAVLICH: Can I just point out that the Commissioner of Police is totally irrelevant to the Residential Tenancies Amendment Bill 2011.

Hon Simon O'Brien: You were offered a briefing. Did you turn up to it?

The DEPUTY PRESIDENT: Order!

Hon LJILJANNA RAVLICH: I was offered a briefing on this.

Hon Simon O'Brien: Why didn't you ask these questions then?

The DEPUTY PRESIDENT: Order! Hon Ljiljanna Ravlich has the call.

Hon LJILJANNA RAVLICH: It is fair to ask about the maintenance backlog of Homeswest accommodation.

Hon Simon O'Brien: Your lead speaker has just talked about how long this bill has been sitting on the notice paper and about all the good briefings she has had. There has been a committee inquiry and now you have decided that you are going to dream up some other questions.

The DEPUTY PRESIDENT: Order, members! Hon Ljiljanna Ravlich will continue her second reading remarks.

Hon LJILJANNA RAVLICH: I just want to know that social housing tenants are getting value for money. It is a reasonable enough question. I am not going to be difficult about this. I am not saying that I will in any way slow down this bill, because I recognise that it has some very good aspects to it. However, I am saying that it would be really helpful if the minister could provide information about the backlog of maintenance works in the Department of Housing. I do not think that is a particularly big ask and I do not think that the minister should be afraid of the question.

Hon Simon O'Brien: I'm not afraid of your question; I am just offended by your stupid attitude.

Hon LJILJANNA RAVLICH: I am absolutely gobsmacked that the minister has responded in the way he has.

This bill provides some good provisions in the broad range of amendments that arose from the comprehensive statutory review of the Residential Tenancies Act. It also deals with the issue of addressing serious and sustained antisocial behaviour in social housing, which is of some considerable concern, particularly as it applies to people with a mental illness and the unintended consequences it will have for those individuals. In the case that I cited in this place some months ago, I was told that the matter had been attended to because the person was given support to get into private rental accommodation. The only problem with that is that if the person has an episode and is kicked out of the private rental accommodation, there will be no other place for that person to go. The chances are that that person will no longer have a safety net and will eventually end up being homeless. That is not what we want for people with a mental illness. I am sure that the Minister for Mental Health would not want that for people with a mental illness.

While I am making this point, I remind the house that the minister never came back with any information about what this interagency committee had been working on and what decisions had been made about public housing and people with a mental illness.

Hon Simon O'Brien: You only asked me a couple of minutes ago.

Hon LJILJANNA RAVLICH: I am referring to the Minister for Mental Health. I had asked the Minister for Mental Health about this and she promised me that she would look into it and do something about it.

Hon Helen Morton: I have looked at it.

Hon LJILJANNA RAVLICH: The minister never reported to the house on it.

Hon Helen Morton: I don't need to report to the house on it. What do I need to report to the house on it for if I am doing it?

Hon LJILJANNA RAVLICH: If the minister does not report to the house, she risks me making these points all over again.

Hon Helen Morton: Do you need me to report on every single thing I am doing, do you?

Hon LJILJANNA RAVLICH: I did not ask the minister to report on every single thing she is doing; I asked her to report on what she gave a commitment to report on.

Hon Helen Morton: I didn't give a commitment to report on it.

The DEPUTY PRESIDENT: Order members! One person has the call. It is lot easier for Hansard to hear that one person speak if other members do not.

Hon LJILJANNA RAVLICH: I was just making a straightforward point that it would have been nice of the minister to inform the house of the progress of what the interagency group was doing about the protection of people in public housing who have a mental health issue. Having said that, overall, I think that there are some positive features of this bill. Although the provision to regulate the use of residential tenancy databases sounds as though it could have some advantages, we want to make sure that there are no disadvantages with the establishment of such databases and that checks and balances are put place to make sure that those databases cannot be used for a purpose other than the purpose for which they were intended to be used.

Sitting suspended from 6.00 to 7.30 pm

HON MAX TRENORDEN (Agricultural) [7.30 pm]: I wish to make a few comments on the Residential Tenancies Amendment Bill 2011. A fair bit has been said in the press, and, like others, I received a piece of correspondence from a group of individuals who have had a lot to do over the years and who have an interest in the welfare of those people who struggle. I heavily respect those people, but I want to make the point that it is not all a one-way street.

When this bill was first announced, I went public in my community of Northam, saying how strongly I supported the provisions for the eviction of people who misbehave in public housing. In the town of Northam and its surrounds, the ratio of tenants in public housing tends to be almost 50–50 Aboriginal and white; in fact, it is just marginally more Aboriginal than white, but not much, and the range of behaviour is not that significantly different. However, when I made those comments, I had visits to my electorate office from at least six different Aboriginal groups who strongly support the policy, thanking me for my stance. Part of the reason they strongly support the policy is those people who go out of their way to obey the rules of their tenancy are penalised by those who do not—whether white or Aboriginal—in a country community. It is a sad fact, whether members want to consider it racism, intolerance or whatever term they want to put to it, that people are tarnished with a similar brush. In my community, there are over 200 Aboriginal families, the vast majority of which are decent, law-abiding people—those who are in public housing, because not all of them are—who run their tenancies well.

In looking at this bill, the matters I considered are not whether they are paying their rent on time or even whether they have an occasional party on a Friday or Saturday night, or those sorts of issues. The issues that I take strong offence to is going into the next door neighbour's house and, for example, strangling all the chooks, or, as in a recent case, going into the next door neighbour's house and throwing all the fish out of the pond onto the path and letting them die. There are issues such as stoning the next-door neighbour, which is not that uncommon. I have to say that it is not that uncommon! There have been issues such as defecating on the church altar. Those sorts of issues are totally unacceptable. It does not matter whether they are Aboriginal or white; it makes no difference. The point these people made to me is that unless there is a penalty, why should these people change their way?

Very, very recently a family moved into Northam—I am not saying this because of the events of Friday night in Northam—which has completely brought upheaval because it is an aggressive family that has been bouncing around Western Australia causing disruption wherever it goes. The reality is that the family applied for a state house in Northam and did not get one, but one of the private lessors of housing let them a house. Since that time there have been assaults, burglaries and the like—a lot of serious social disruption—which goes to the second or third point of the bill about the databases. I feel aggrieved for people. The whole problem of the internet is that people can say whatever they like and do not have to, in particular, back it up. Therefore, I support the issues in this bill and I say that some balance is needed whereby people are named in a database. On the other hand, there is no reason why a family that goes from community to community causing nothing but mayhem should not be on a database and the community know all about it. Some time in the next few days—next week or maybe in the new year—we will be discussing the issue about sex offenders and databases. There are numerous databases out there right now that people could be named on. People may be guilty, but the chances are that they are, in all likelihood, innocent.

The other issue that should not be scoffed at—an opposition member jumped down my throat on one of the last sitting days when I made this point—is that a small proportion of people are seeking a state house because they are smart. From looking at my own retirement, the situation in Europe and America and the state of the housing industry in Australia, the reality is that many indicators are showing that Australian property is about 50 per cent overvalued. If that is the case—even if it is only 10 per cent or 20 per cent overvalued—renting is a particularly good option. Given the standard of quite a few of the new houses in the government system, renting one of those

is not a bad idea. Those people who doubt it can have a look, but some people have worked that out. If a person really wants to make sure their salary or their fixed-income pension goes as far as it can, the safest place to be is in a quality state house. I think that is a good thing; it is the whole point of having state houses.

The social issues in the area I live in are serious—the matters of people who refuse to behave. There seems to have been some implication in speeches that I have heard that some people just cannot behave, but I just do not understand that. A penalty is needed for those people who make life miserable for others. One of those penalties should be that those who put their tenancy in a state-controlled house at risk do so at their own peril. That will, without question, improve the living standards for the other people in those houses who do live by the rules of the system.

Hon Ljiljanna Ravlich talked about mental illness. I do not believe that mental illness is an issue here at all, but I can talk about that only as a country member. Even in a town as large as Northam—which is not that large—we know who has problems. We know, and basically the whole community knows, who has difficulties, even if only with things such as drugs and alcohol. So there is a tolerance in the community to those events. There is no question that we have our fair share of people who have been unfortunate enough to be struck by mental illness in our community and in the wider Wheatbelt, and they are quite rightly tolerated. People quite rightly attempt to look after those people. I do not believe there is an issue with people with mental health problems or other disabilities, even if some of those disabilities are social, having difficulties living within the community. The section about social behaviour relates to those people who refuse to conform. It is very important for everyone out there who is trying to do the right thing. When I refer to people not doing the right thing, I do not mean just those who are not paying the rent or who are having too many parties—they are not the measures. The measure is that if someone is not prepared to be even marginally decent to the people surrounding them, they do not deserve a state house.

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [7.41 pm]: I want to make a few comments about the Residential Tenancies Amendment Bill 2011. Our lead speaker has indicated that we will be supporting the bill. All members in their electorate offices will have experienced from both sides the issue that is dealt with in part 3 of this bill—that is, mechanisms to deal with antisocial behaviour in social housing. Certainly in my electorate I have people who are terribly distressed about the circumstances in which they find themselves when their neighbours constantly disrupt the street and the neighbourhood and make their life a merry hell. I have also been contacted by people who are concerned that the three-strikes policy will have a consequence for those tenants who call the police to deal with a situation at their house and find themselves in a position in which they are unable to deal with the issue that Hon Max Trenorden said this bill is designed to address—that is, people who refuse to conform. I will talk about that in a minute.

The provisions that I want to talk about are in part 3; specifically, clause 95, which proposes to insert proposed new section 75A into the legislation. It provides the Department of Housing with alternative mechanisms for applying to the Magistrates Court to terminate a tenancy in which that tenant is engaged in serious and ongoing disruptive behaviour or where the tenant is using the premises for illegal purposes. I have absolutely no issue with the second part. No-one in the house is going to say that we need to support people who are using a house for illegal purposes; however, the application and measures that are put in place to assist people who find themselves in a situation where serious and ongoing disruptive behaviour is happening in their house, and whether they as the tenant are able to stop it, is another question.

When the bill was first introduced in the other place, I, perhaps like other members, was contacted by women who work in women's refuges. They were concerned that when this bill is read in conjunction with the three-strikes policy—that is, the disruptive behaviour management strategy—there is the potential, which has occurred subsequent to the disruptive behaviour management strategy being introduced, for a range of prospects. The example that these women gave was when domestic and family violence occurs and the victims call the police. If the Department of Housing considers that calling of the police constitutes a strike, that puts the person who is the victim of violence in an invidious position. If that person who is the victim of the violence has children, for example, they are having to make a choice between calling the police to physically protect themselves and their children from the violence and taking the risk that that might be counted as a strike against them, which could end up making them homeless. On the other hand, they could not call the police and try to survive through the violence that might be occurring at any time. I did not make that up. Women's refuges have raised that issue, and I know that one of my colleagues in the other place has two families —

Hon Simon O'Brien: It is a fair point, if you don't mind me interjecting. I will seek to address it in my remarks in response.

Hon SUE ELLERY: It is an important issue, because it could be that it is the neighbours who are calling the police, quite legitimately, as they are concerned about what they are hearing happening next door. If they hear sounds of violence, sounds of people being hurt, it is quite legitimate that they would want to call the police. However, if the call to police is to be counted as a strike, we are really putting people in an invidious position.

I have a couple of questions that I hope the minister will be able to provide answers to. How many tenants have been subject to one strike since May 2011? The minister might correct me if I am wrong, but I think that is when the renewed vigour in terms of the disruptive behaviour management strategy was put in place.

Hon Simon O'Brien: So how many have been subject to one strike.

Hon SUE ELLERY: Yes. For each of these questions, since May 2011—the minister may tell me if I have the month wrong, but I think it was May—how many tenants have been subject to one strike? How many of those with one strike have had a second strike since then? How many of those with two strikes have had a third? And how many of those tenants had children? I think it is important that measures are put in place to take action to address the circumstances in which it is not about people being victims but is about people being out of control. I think that is perfectly reasonable. I am not satisfied that enough supports are in place between the Department for Child Protection and the Department of Housing to ensure that interventions take place at the point of the first strike and subsequently. The reason I am not convinced is that during the estimates hearings in this place I asked both the Department of Housing and the Department for Child Protection about the mechanisms that were in place to provide support and to make sure the Department for Child Protection was engaged in supporting families. I asked that question because there is no point evicting families with children because they will end up in another government agency—that is, the Department for Child Protection. If we are just passing one difficult family from one government agency to another government agency, we are not doing anything to fix the problem.

I asked the Director General of the Department of Housing and the Director General of the Department for Child Protection what was in place. The Department for Child Protection advised that a new memorandum had been put in place between the two agencies and that they were putting in place a whole lot of new procedures and policies—I am paraphrasing him, but this is all on the *Hansard* of the estimates hearings—and the Department for Child Protection was confident that there would be supports put in place. I asked the same question of the respective officers of the Department of Housing. They said, "What new memorandum? We have had an old memorandum. It is nothing new. We have always worked with the Department for Child Protection. We don't know what you are talking about." I am paraphrasing both of them, but that was the gist of the information that was provided to the house. That is not very satisfactory. If it is business as usual, then nothing will be in place to intervene at the point that a family is about to be served with a strike notice, if I can call it that. Nothing will change, and we will end up doing exactly what I described before—kicking a family out of the Department of Housing and putting them on the streets, where we expect the Department for Child Protection to find them emergency housing that is obviously not within the Department of Housing stock. It has to be in a motel or a caravan park or a refuge, and it will only be for very short period of time. That is not a satisfactory policy outcome from the government's point of view. It is still going to be paying the price of accommodating that family, but the family will be at risk of all of the things that can go wrong in the period between having to move out of a house and scrambling around to try to find some emergency alternative accommodation.

I would be interested in what the Department of Housing has to say now, some three or four months after we did the estimates committee hearings. I would be interested to hear what arrangements have been put in place—practical, on-the-ground arrangements; not memorandums of agreement signed between directors general—between Child Protection and the Department of Housing at district level to deal with these issues, because they are really serious. It is often the case, particularly in Indigenous families, but not always, that if one family is evicted from a Department of Housing property, rather than pursue assistance through the Department for Child Protection, they will rely on the cultural connections and lob on the doorstep of another family member, who is most likely in a Department of Housing social housing house. So, in that case, all that does is create a problem for the new family, which has met its cultural obligations by taking in its kin, but all the issues that went with the drugs, alcohol, violence or whatever it was that affected that family in its previous house just get shifted into another house where, instead of there being a family of only five, there is now a family of 12, with all the things that flow from that. If we do not get those interventions right at the local level before the strike policy is issued, we are asking for serious trouble. We are failing those children because we are not providing them with the kind of support they need. We are not fixing the problem at all; we are just shifting it. I would appreciate the minister being able to give us some examples of how at a local level, district to district, Child Protection and the Department of Housing might be working together to fix that.

I am sorry; my asthma is playing up so I am not going to speak for long tonight. However, other members have referred to the committee report and, in particular, the issues raised about social housing relating to the matters raised by the Commissioner for Equal Opportunity. In particular, I refer to the points that were made about elderly Aboriginal women, particularly grandmothers, taking responsibility for raising children, with a generation being skipped as the parents are affected by drugs and alcohol or whatever the issue is. This places those grandmothers under an awful lot of pressure. They feel the obligation and indeed the state needs them to take in their grandchildren. However, if we are throwing more of their grandchildren out onto the street, we are placing more of a load onto the grandmothers. So I will be interested to hear about how that is going to apply.

The connection between the disruptive behaviour management strategy and this bill, of course, is that this bill now enables the department to apply for an eviction notice without having to give notice to the tenant that a breach has occurred. If we add the application of the three-strikes policy to the new provision, which says that the department does not need to tell the tenant when it is taking court action in respect of a breach, I think the government is asking for more trouble. I am entirely sympathetic to a policy that is directed at ensuring that all Western Australians can live in a community without disruption. I am completely supportive of that, and I have had enough constituents in my office—bearing in mind that my electorate covers the southern metropolitan suburbs of Western Australia, so I have some hot spots within that area—to be entirely sympathetic to a policy approach that says we need to do something to address that. I am sympathetic to it and I support it. This is what those constituents who come into my office and ask for my assistance when they are just about at their wit's end need. However, if we do not have in place the proper practices at a local level, all we are doing with this policy is shifting the immediate responsibility for finding safe accommodation for those families from one government agency to another, and I do not think that achieves anything for anyone. I might leave my comments at that point before I run out of the capacity to speak.

HON ALISON XAMON (East Metropolitan) [7.54 pm]: I rise to make a few comments on the Residential Tenancies Amendment Bill 2011. My colleague Hon Lynn MacLaren has outlined quite comprehensively the Greens' position on this bill. In essence, we support many of the provisions that are incorporated within this bill. It has been the subject of quite a lot of discussion for many years with a variety of stakeholders in order to make some important amendments. However, I share the concerns that have been raised by many of the people who have spoken about what appears to be a fairly last-minute inclusion of proposed section 75A, "Termination of social housing tenancy agreement due to objectionable behaviour". I would like to say a bit more about that.

As I said, I am aware that there are some important, and in fact welcome, provisions within the bill that ensure that tenants will have a bit more certainty in how tenancy agreements proceed. Particularly in the sort of housing market that we are witnessing at the moment, there is the potential for exploitation of some tenants to occur without appropriate protection because the housing market is very tight. As such, I support moves to enable more certainty for tenants, but also to enable landlords to have clearer guidelines on what is considered to be best practice. I want to make it clear also that in no way am I in the category of people who think that all landlords are bad. I understand that many people become landlords because it is for them a form of superannuation, or for a range of other reasons. Therefore, I think it is also important that we do not take simplistic views about the nature of landlords, and I am certainly not interested in characterising landlords as all being grubby or unscrupulous, because I think that is absolutely untrue. Nevertheless, it is important that we have very clear legislation governing the way in which tenancy agreements are entered into, because we are talking about homes and we are talking about a need for shelter, and it is a fundamental human right to have somewhere to live. Therefore, it is important that we recognise the significance of that and afford appropriate protections.

It is on that note that I raise my concerns about the inclusion of the termination of social housing tenancy agreement due to objectionable behaviour provisions. This is an issue that I have spoken about previously in this place regarding what I believe to be the excessively harsh implementation of this policy for some Homeswest tenants, particularly those tenants who are subject to quite severe mental illness and who, because of that mental illness, may suffer, in particular, a one-off psychotic episode and lose their home as a result of that. I refer in particular to proposed section 75A(1)(b) and (c). I do not have so much of a problem with proposed paragraph (a), which states —

> (a) used the social housing premises, or caused or permitted the social housing premises to be used, for an illegal purpose;

The reason is that that proposed paragraph, of course, implies that there is some intent, and there would have to be some suggestion that people would be aware of the behaviours. However, proposed paragraph (b) refers to the tenant causing or permitting a nuisance, and proposed paragraph (c) refers to the tenant interfering with the reasonable peace, comfort or privacy of any person who resides in the immediate vicinity of the premises. On the face of it, that looks like a fairly reasonable provision. No-one should have to live next door to people who deliberately engage in antisocial behaviour. I actually live next door to a Homeswest house. My next-door neighbours are excellent Homeswest tenants; we are very happy with them. The family has lived next door to us for five or six years and they have been a perfectly lovely family to live next door to. I have also had the experience of very negative tenants in the past—not in that home—and those negative tenants were private tenants. They can make life pretty miserable, especially if they decide to have extremely loud parties all the time and to damage and break into properties. I do not by any stretch of the imagination say that it is okay for people to engage in that sort of conduct; of course it is not. I do not hear anyone saying that is okay.

I am particularly concerned that the way in which this policy has been employed by Homeswest, and I have seen it, has meant that people who engage in behaviour that can be described as being antisocial, even though there is no intent to be antisocial, have been picked up by these provisions and have lost their homes as a result.

I have spoken previously in this place about a gentleman who I assisted who had a psychotic episode, lost his house, ended up in Graylands Hospital for two months, recovered from that psychotic episode and then was unable to get bail because he had nowhere to live. He was well, so he could not stay in Graylands. Therefore, he ended up being shipped off to Hakea Prison. He stayed there until my office, not Homeswest, ended up ringing a range of private hostels and finally found a place for him to live. We contacted his lawyer and his lawyer was then able to make application for bail. That gentleman now lives in the community in a private hostel, but he lost his Homeswest house. That was a devastating experience for him and for his family. That is a real example of how these provisions have been employed by Homeswest. When I bring those sorts of realities to this chamber, I am very concerned to see these policies in a very similar form, although I recognise they are not identical, being enshrined in legislation, particularly when this legislation, before this provision was included, had effectively been drafted to provide additional protections to tenants. It really leaves a very bitter taste in my mouth that legislation that otherwise would have been broadly received by consensus has now effectively been altered to such an extent that it includes provisions that could potentially have quite a serious detrimental impact on some of the most vulnerable citizens in our community. I want to make a few other comments on that specifically.

I notice there has been a lot of talk about the inclusion of these provisions and I appreciate some of the members' discussions. I share the concerns expressed by others about the unintended, but very serious, impact that this may have on some Aboriginal families. The Equal Opportunity Commissioner has been quite up-front about expressing her concerns that these provisions may turn out to be indirect discrimination, particularly against Aboriginal grandmothers. I draw members' attention to the Equal Opportunity Commission's newsletter *Discrimination Matters* for August 2011. An article on the front page is titled "New Bill may leave most vulnerable homeless" and quotes comments made by the Equal Opportunity Commissioner. People should be very concerned about those sorts of comments. I am sure that when members opposite talked about this bill and put it together, that was not what people hoped to achieve by this. The Equal Opportunity Commissioner, Yvonne Henderson, refers to her concern about the inclusion of proposed section 75A. It all comes back to this particular provision. I note that we could have had quite a long debate in this place about the new reforms coming through, which are widely agreed on, and why they were valuable and the like. Certainly my colleague Hon Lynn MacLaren has done a good job in identifying some of the other gaps that could have been covered. It is, therefore, quite concerning that most of the debate has had to focus on the potential problems that could arise as a result of the inclusion of new section 75A. To quote from *Discrimination Matters*, the Equal Opportunity Commissioner said —

> "People in social housing are there because they are in desperate need of shelter and this can include people from ethnic minorities, people with mental health issues and Aboriginal people."
>
> "It is unfair that a land lord should have the power to evict a woman over a domestic violence incident or a person with mental health issues for disturbing the peace once, when private tenants are more likely to be reported to the police or local council for noisy parties," she said.

I share the Equal Opportunity Commissioner's concerns about this. It is also important that when she talked about antisocial behaviour arising from someone with a mental illness, she made the point of saying that a person could be evicted for a one-off occurrence. I am not of the view that simply having a severe mental illness becomes an excuse for a person to engage in antisocial behaviour. Obviously, if somebody has a psychotic episode, they need to receive support and treatment to ensure that the behaviours arising from that mental illness do not reoccur. It is really important to acknowledge that people with a mental illness who may have a one-off psychotic episode are not always responsible for that occurring. We need to be very mindful of what will happen if we are led down a path that means that some of our most vulnerable citizens will become homeless or end up in jail, which is what happened to the gentleman who I assisted.

Again, I note that the Equal Opportunity Commissioner is not the only person who has expressed concerns; concerns have also been raised by a number of groups that have already been named in this place, including the Western Australian Council of Social Service, the Tenants Advice Service, the Community Housing Coalition of WA, Shelter WA, the Western Australian Association for Mental Health, Community Legal Centres Association and Street Law Centre WA. This is not an insignificant number of groups that are expressing concern about how this legislation might come into effect. It would be wise for all of us to be mindful that we should not support legislation that could potentially allow some of our most vulnerable citizens to effectively lose their homes.

I have also been very saddened by the comments made about the unforeseen impacts that this legislation could have, particularly on women who are subject to situations of domestic violence. It is really important to recognise that if people are to lose their tenancies, whether it is because of incidents arising from mental illness or because they look after family members who engage in antisocial behaviour, it could have the effect of penalising exactly the wrong people. I understand that the intention behind this proposed section is to evict those people within our community who are utterly indifferent to the wellbeing and safety of people around them and who make others' lives absolutely miserable. However, I would argue that there are already provisions to capture

those people. I refer again to the Standing Committee on Uniform Legislation and Statutes Review report, which refers to the introduction of proposed section 75A. I note that paragraph 8.53 states —

> The genesis for clause 95 —

That is proposed section 75A —

> … polarised stakeholder submissions to this Inquiry,

I am not surprised it polarised people because it is highly controversial. The government took a perfectly sound bill and included a provision that will have a whole range of detrimental effects as it is being implemented now by Homeswest on some of the most vulnerable people within our community. The government is taking away the fundamental right of shelter from people who may not have any intention of engaging in antisocial behaviour. I am talking again about people with a mental illness who may have a one-off psychotic episode, who then get the assistance they need, but lose their house anyway; men who engage in antisocial behaviour and subject their wives or partners to domestic violence, but the women end up losing their homes; or elderly Aboriginal family members who take responsibility for housing their families, as a cultural obligation, but become homeless along with the rest of the family. I do not think that is okay at all. In the course of the inquiry, submission 12 from the Department of Housing on 5 October states —

> *Under the existing legislative framework, we are constrained from effectively terminating public housing tenancies that engage in serious and persistent disruptive behaviour by virtue of the operation of section 62(3) of the Act.*

That is the issue I really want to pick up on. Even though the Department of Housing says that it is including this provision because it is trying to address persistent behaviour issues, the legislation is drafted in such a way that a one-off incident can be captured. That means that the very people I am talking about, who should not be captured by this legislation, can potentially be captured by it. I am arguing that this provision does not reflect the ongoing problem described by the Department of Housing.

Hon Max Trenorden interjected.

Hon ALISON XAMON: In answer to the interjection by Hon Max Trenorden, I will reiterate my point. My issue is that the sorts of provisions that should capture antisocial behaviour are those that deal with people who deliberately engage in ongoing systemic bad behaviour. They are not the people I have described here tonight and they are not the people I am saying I am concerned will get captured by these provisions. That is where my concern lies. As I have said before, and I will say again, none of us wants to live next door to a bad tenant. For that matter, none of us wants to live next door to a bad neighbour even if they own their own home. We have a right to feel safe in our own home and to feel that our home is our haven whether we own it or rent it or whatever. I recognise that. But we also live in a community; we live in a community of diversity; we live in a community in which people sometimes have complex lives; and we live in a community in which people have very different needs. I am fine with that. Personally, I embrace that. I recognise it means that we need to be able to somehow address antisocial behaviour whether it is deliberate or not when it occurs. But I do not believe this provision will deal with that. I think it will do exactly what happens with Homeswest now and it will simply mean that some of the most vulnerable people within our community, who do not intend to engage in antisocial behaviour, will end up being made homeless. I am very concerned about that. I have spoken very strongly about that, but having said that, I am aware that, as I mentioned, other provisions in this legislation, which are long overdue, have been welcomed by a range of tenancy advocates. I think it is really unfortunate, if not a little bit cynical, that a provision like this is included within a bill that would otherwise have been, effectively, a consensus bill that people would see as a positive way forward. I will see how it is enacted and I will keep a very close eye on it myself.

With that in mind, I will say that, overall, the Greens will support the bill because there are some important provisions in it. But my concerns about this particular provision remain very strong.

HON ADELE FARINA (South West) [8.14 pm]: I rise to commend the work of the Standing Committee on Uniform Legislation and Statutes Review and, in particular, the members of the committee for the excellent work they put in analysing the Residential Tenancies Amendment Bill 2011 and providing very relevant comment, which appears to have been picked up by all those members who have spoken this evening. I would also like to put on the record my appreciation for the work provided by the staff to the committee, without whom we would be lost. I do not intend going through all the details in the report because I think most people who spoke to the report covered the issues. I simply say to members that I commend the report and I hope they read the report before we vote on this bill this evening.

However, there are three matters I would like to speak to and I will speak to that in my capacity as a member, not as the Chair, of the committee. The first is in relation to the option fee. A lot of representation has been made to my electorate office on this issue by people who are struggling financially and have lost their homes either

because they have been unable to make their mortgage repayments or are unable to purchase a home because the cost was too high and need to consider renting. They are finding it extremely difficult at the moment to find rental properties. We live in a really tight rental market. On top of that, real estate agents have adopted the practice of requiring an option fee. This is having a huge impact on the ability of prospective tenants to put in an option and look for a place to rent, because each time they find a home they are interested in renting, they are required to pay a week's rent so that they can be presented as a prospective tenant to the lessor. Once paid, it often takes at least two weeks to get back that money. It restricts the ability of people who have limited means to apply for a rental home. They are not only dealing with very few properties being available due to a really tight rental market but also they are further restricted by their capacity to lay out a whole lot of option fees at any point in time and the delay of often two weeks in being paid back that option fee. I cannot see any justification whatsoever for the option fee, particularly when more people are looking to rent properties than there are properties available. It is not as though the landlord will miss out, because more people are looking to rent the property than there are properties to rent. I can see absolutely no justification for it. This is a huge additional impost on people who are struggling financially. I will be very disappointed if this Parliament endorses the provisions in this bill that will legitimise this option fee. I think we should be doing the opposite and outlawing it because there is absolutely no justification for it. Some real estate agents have made the argument that it covers their administrative costs. I would have thought, as Hon Lynn MacLaren indicated, that the costs of administering these option fees and paying them back would be just as onerous as processing the application. I would have thought that the landlord would pay for the processing of applications anyway, given the landlord has appointed an agent to manage the property. I have real issues with the option fee and would like an explanation from government for why we are contemplating legitimising the option fee when I think we should be outlawing it. It is a big issue in Bunbury and a lot of constituents have come to see me about this issue.

The other matter I want to raise is the frequency of the landlord inspecting a property. The bill proposes a limit on a landlord of not being able to inspect a property more than four times in any 12 months. While I generally agree with the intent behind that provision—that is, tenants should be able to have quiet enjoyment of the property and should not be hounded by the landlord wanting to inspect a property more frequently than that—I have one small concern about the lack of flexibility in the legislation. If a person has a bad record as a tenant but has reformed their behaviour or their circumstances have changed, then a landlord may be prepared to rent a property to them if the landlord has the option of undertaking more frequent inspections than the limit of four. I am concerned that, as a result of eliminating that option for landlords, people in those circumstances who may be really struggling to get a rental property because of their bad record will be further discriminated against because a landlord is not likely to take the risk if they get only four inspections in the course of 12 months. I have been a landlord and I certainly would give someone a go, but at least in the initial stages—perhaps the first six months or so—I would have more inspections to ensure that the property was not being damaged. We have to ensure when we pass legislation that we provide scope for all sorts of circumstances. Although I accept that the intent of this provision is to provide for the tenant's quiet enjoyment of the home, I am worried that it may result in some prospective tenants being discriminated against because of their history, whereas if the legislation allowed for an extra couple of inspections, at least in the initial period, it might be easier for them to find a home. Given the rate of homelessness in our community at the moment and the long waiting list for Homeswest accommodation, I think that we should not pass legislation that further discriminates against prospective tenants unnecessarily.

The only other issues I want to raise were raised by the Commissioner for Equal Opportunity. The committee did not have time to investigate fully the issues raised by the Commissioner for Equal Opportunity, but other members have spoken quite extensively on her concerns. I am interested to hear the minister's views on those concerns expressed by the Commissioner for Equal Opportunity. The point I want to make is my concern about the ramifications of the antisocial behaviour provisions that the government proposed. I have had representations from constituents who live next door to tenants who engage in antisocial behaviour on a regular basis. Some of the stories that they tell me are horrendous and I sympathise with them and I can understand why they do not want that tenant living next door to them any more. I have also had constituents come to my office who are tenants who feel that they are being picked on by their neighbours for racial reasons and their neighbours are using those misbehaviour provisions to get the tenant out of the street. I can see the issue from both points of view. My concern is that the government's policy position removes the tenant who is misbehaving from the home but does not deal with what happens to that tenant once they have been evicted from the premises. In many cases, that tenant will go on to either move into another Homeswest rental of a family member, thereby creating another problem and a possible further eviction with more people being made homeless than was initially the case, or they end up on the streets, which raises a whole lot of other social issues that the government just chooses to ignore.

Although I have sympathy for those people who live next door to disruptive tenants, and we need to act and address that issue, my view is that simply evicting disruptive tenants onto the streets without any solution for what happens to those people and without any consideration of the social ramifications that result from them living on the streets—such as property damage and other disruptive behaviour that could occur because they are

angry at being put in that situation—will only create a bigger problem in the community than it will solve. Although the government has put this policy in place, it needs to further evolve that policy to deal with the problem in full because it deals with only part of the problem; in fact, in many cases, it simply transfers the problem. Therefore, in addition to the concerns raised by the Commissioner for Equal Opportunity, I am interested in hearing how the government proposes to deal with the problem it will create through the eviction process, which could have greater social ramifications than we currently experience. I again stress that I have complete sympathy for those people who complain about disruptions and misbehaviour by neighbours because some of the cases that have been relayed to me are clearly horrendous and it would be extremely difficult to live under those circumstances on a day-to-day basis. My point is simply that the government's policy solution to this problem is half-baked and merely transfers the social problem onto the streets or elsewhere without addressing the problem. I want to know what the government is doing to address that problem.

HON LINDA SAVAGE (East Metropolitan) [8.25 pm]: I have decided to make a few comments, even though I was a member of the Standing Committee on Uniform Legislation and Statutes Review that presented the report to the Parliament and everyone has had the opportunity to read that report and many people have spoken before me and not only raised many of the concerns but also pointed out the challenge in developing policy and legislation that tries to balance the interests of both tenants and neighbours. I appreciate that is complex and difficult to do.

The reason I make a few comments on the Residential Tenancies Amendment Bill 2011 is that the issue has been raised about how this legislation will affect women who are victims of domestic violence or threatened violence and whether that would result in an incident being noted or registered as antisocial behaviour because of what someone who may not be resident at the property does. I raise that issue because we know that domestic assault is the one category of crime that continues to increase. We also know that one of the challenges in dealing with domestic violence is that women are often, for a number of reasons, reluctant to report abuse at the hands of their partner. That fear of reporting domestic violence can be because of the disruption that it will cause to themselves and their children and because of the shortage of places to go, such as refuges—any number of reasons. Given that we already know women can be very reluctant to report abuse, my concern is that an unintended consequence of this legislation is that that reluctance to report could be heightened because of the fear that by reporting and having the incident recorded against them as the tenant in the property, they could find themselves inadvertently part of a process in which, through no fault of their own, they face eviction. Therefore, I add my voice to the others who seek some clarification and assurances on that element of the bill before us. I am sure that would not be the government's intention, but anything that made women even more reticent to come forward and report domestic violence would be a retrograde step. That is all I want to add to the debate at this stage.

HON SIMON O'BRIEN (South Metropolitan — Minister for Commerce) [8.29 pm] — in reply: I would like to commence my remarks in response by thanking members for their contributions to the debate. In the course of the debate general support was expressed for the Residential Tenancies Amendment Bill 2011, though moderated in one or two cases quite strongly about one or two specific provisions that members have problems with. Even those objections were countered by general support for most of the provisions of the bill, and so it should be, because this bill is about improving the current rental market situation for all stakeholders whether they be tenants, landlords, agents or whomever else is involved in a community activity that is used by hundreds of thousands of Western Australians as an accommodation option. As the rental market is such a large part of our community, it is also not surprising that each and every one of us has a collection of anecdotes we can refer to on occasions such as this about landlords who have had horror run-ins with tenants and about tenants who have been given the rough end of the pineapple by a landlord, including the state government if it was the landlord. We all have stories like that because so many transactions take place every single day in the rental market in Western Australia. But all in all, I think we have a system that is well established and that delivers most of what we would like it to deliver, but of course, like any other system, can be improved. That is what we seek to do by this bill.

As members observed, there are probably three main elements of design to this bill. The first springs primarily from my own Department of Commerce and the work it has done over a very long time in reviewing the principal act. Now I have the honour to bring that collection of amendments, all aimed at making life better and easier for both lessors and tenants in our rental market. I will come to those in detail shortly. The second element was one, from memory, that I approved to be added to this amending bill after initial drafting approval had been granted. It relates to elements of the residential tenancies database, which, as we have heard several times, reflects an intergovernmental agreement intended to provide a single reference point for all of the reasons I outlined in my second reading speech. That of course was the element that caused us to see the bill referred to the Standing Committee on Uniform Legislation and Statutes Review. The committee provided us with a quite comprehensive report. I thank them for that. I notice, too, that the minister not only got the information required into the committee within three days, but also he actually got it into the committee three months before they got

the bill. That was obviously because he must have been stung by a bit of tardiness with the last bill that was referred to that committee! Hopefully, we have made amends there.

I will come to the committee's recommendations shortly. Members will then see that we have given a lot of thought to the committee's recommendations. Some recommendations ask me to respond to a few matters; others propose amendments. Whether we accept those amendments or not, we will talk them through. Speaking of amendments, we have a supplementary notice paper —

[Quorum formed.]

Hon SIMON O'BRIEN: I would like to thank my ministerial colleague for joining us. There is an old saying that we have cemeteries full of indispensable people. We could not do without him. He saved the day by giving us our quorum!

The third key element of the bill contains another matter that again came up later in the piece. It was convenient for government to include those amendments in this bill. It related specifically to social housing, to use the generic term used by other members. In each of those areas, matters of interest have been raised by several members who have spoken. I thank each for their contribution.

I want to now respond to some of the points raised by members. The first speaker was Hon Sally Talbot, who raised a number of very important issues—so important in fact that she wanted to make sure Hon Peter Collier was here to hear me talk about them now, so he is! I know he will enjoy this. There were some themes, too, which also thread their way through various members' speeches. Hon Sally Talbot raised a few matters that require a specific response. I will do that now. I will also do that for other questions that were raised. There is a fairly extensive supplementary notice paper. There are matters, including matters in the committee report, that it might be more convenient to simply address during the committee stage to save them being visited twice. Hon Sally Talbot asked me to consider and respond to the proposition of the fairness of a situation in which a tenant might be evicted from public housing rather than an antisocial element, not being the tenant who actually caused the problems. I am advised, and I would have expected this to be the case—it has been discussed before when I have represented the Department of Housing at estimates committee hearings—that in relation to, say, the domestic violence scenario raised by Hon Sally Talbot, the Department of Housing does not seek to evict a tenant when they are the victim of the violence and not the perpetrator. That is how I would expect it to be out there in the real world. We can talk about it all we like, and people elsewhere in the public can talk about these things all they like—they can ring up radio stations and all the rest of it—but we have some dedicated officers in the Department of Housing who have to deal with these issues in a live situation every day. I think members will be relieved to know that the housing officers exhibit not only compassion but experience and good old-fashioned nous in applying existing policies. Hon Sally Talbot would be reassured, as I am, that the Department of Housing does not seek to evict the tenant when they are the victim and not the cause.

Hon Sally Talbot: If the minister will take an interjection: it was a little more complicated than that. I was talking about a situation in which the person was not the tenant. If a person is living in a de facto relationship with a violent partner against whom a violence restraining order has been taken out, my amendment addresses the situation if that person is living in the same house as the partner but is not, strictly speaking, the tenant.

Hon SIMON O'BRIEN: Look, if the member likes, I will come back to that point when we go into committee.

Hon Sally Talbot: I'm happy with that.

Hon SIMON O'BRIEN: But I think I can give the member a very similar answer in that the situation does arise. In fact, let me deal with this issue now. I have been advised about the situation that the member describes, in which a tenant is possibly to be evicted and yet there is some other blameless cohabiter there who is not officially the tenant, and the question of whether that cohabiter loses the roof over their head; that is the gist of what the member is saying. I can imagine a number of situations in which that happens and some of them actually come to my notice as a member, including when the official tenant dies, for example, or becomes infirm and has to leave the house for that reason. There is a capacity, as I understand it, for the cohabiter—not the official tenant—to take over the lease. It does not happen all the time, but there is provision for a court order to be obtained to commit that to happen. I will seek a bit more information about that and perhaps come back to the member a bit later on if that issue needs little bit more detail.

Hon Sally Talbot: It is amendment 14/56.

Hon SIMON O'BRIEN: That is the amendment that Hon Sally Talbot is proposing. We will get on and discuss that in due course.

Hon Sally Talbot also asked how having the Department of Commerce hold the bonds is better than the current system. The act currently allows for a bond either with a bond administrator, a bank or a real estate agent trust account. In the course of the review, there were examples, and I cannot give the member the numbers offhand, but there were certainly sufficient examples of situations in which private landlords had been depositing bonds in

their own bank accounts to warrant the recommendation to government of this particular amendment. There have been occasions in which property managers or others with the custody of the cash in the bond have absconded.

Hon Sally Talbot: But they have acted illegally haven't they?

Hon SIMON O'BRIEN: Definitely they have, but the thing is that the bond —

Hon Sally Talbot: Has gone.

Hon SIMON O'BRIEN: — has gone, and that is the ill that we want to repair.

The member also asked about the regulation of the database. In answer to her question about how one checks if they are on the database and perhaps change the detail that appears on it, a person would apply directly to the database operator. Who else can check up on a person's details on the database? Only that person can access the information. Other people can only access a person's information if they have authorisation, and that could be as the prospective landlord of the person in question, for example. The reason for that restriction, of course, is that the database would be guarded by commonwealth privacy laws.

In relation to how these provisions would be expected to affect people in remote communities, the legislation applies if there is a housing management agreement in place; therefore the legislation is beneficial to tenants because it not only imposes obligations on them, it also gives them rights such as the right to urgent repairs, for example, which is something else we discussed. The Department of Commerce is working to develop education strategies for these remote communities to ensure that tenants understand both their rights and their obligations.

In relation to the question about what research we have done into who is in public housing and what profound thinking we have applied to our approach, the government formed the social housing task force and then the affordable housing strategy in response to these questions. We are probably getting a bit beyond the scope of the bill there; that is maybe a discussion for another day, but I provide those examples as ones in which the government is applying conscious and deliberate thought to examining all aspects of social housing and seeking to find answers to the problems that go with the program.

In relation to clause 41, the member asked what "urgent repairs" meant, and I gave her a bit of an answer by way of interjection, which the member received. In addition to what I said, regulations will also give a bit more meat to the definition contained in the bill, which I read out, to include items such as sewerage and waste, water, electricity, gas, hot water systems, cooking appliances and a fridge or refrigeration, if supplied. They are the sorts of things that are essential elements of emergency repairs.

When I responded to Hon Sally Talbot's question about the residential tenancy database, I omitted to mention something else, and that is the current system that exists because, of course, there are retail tenancy databases out there. Currently the only option to amend the listing is to appeal to the operator or to the landlord or property manager who listed the tenant. If that is not successful, a person would have to seek assistance from the commonwealth Privacy Commissioner, who has very limited options to assist. Under this bill, of course, if those other avenues failed, a person would be able to obtain a court order to enforce. I think we have dealt with the other matters the member raised for now.

I would also like to acknowledge Hon Lynn MacLaren's broad support for the bill, together with her lateral thinking about the matters she raised. She referred in large part to the amendments that stand on the notice paper and we will come to those in a few minutes, I hope. I also note that member is generally opposed to the changes proposed in public housing. That is what a public debate is all about, and we will put those matters to this Council again in due course.

Hon Ljiljanna Ravlich also contributed to the debate and, in addition to offering her observations, she also asked a couple of specific questions, firstly relating to outcomes of a departmental working group looking at tenants with mental illness. This was a new subject to me because, of course, I am not the Minister for Housing; I act in a representative capacity. The reason I have carriage of this bill is that the principal act it amends is one of my acts. But this question touched on working groups with housing, with mental health and, probably, with others—but certainly between the housing authority and the Mental Health Commission. In relation to the first question, I can only tell members that there is a working group; I do not believe that I can tell members what outcomes have been achieved. That information is simply not available to me at this time. I take the question on board and perhaps we can provide that information when it becomes known.

The honourable member also asked to get some sort of sense about the maintenance or repairs backlog for public housing. The Department of Housing policy is to initiate repair work within three hours of receiving a report for urgent repairs, and 48 hours for priority repairs. Tenants are provided with an after-hours phone number to facilitate these processes. The Department of Housing is working with a head contractor to ensure compliance with provisions—legislative and contractual—and of course tenants can make a complaint to the Department of Commerce and the department will investigate if necessary. I regret that, during the course of the dinner break, information about the maintenance backlog or any outstanding amount that may be in train at the moment was

not forthcoming. If the member wishes to pursue that matter, we can do so. I will seek to have some information about that for tomorrow's sitting. I have a feeling this matter might still be carrying on by then, so we will present it then.

Hon Max Trenorden gave us the benefit of some observations and I thank him for his contribution to the debate. For one moment there, I thought that he was actually having a go at the author of the bill, but it turned out that he was venting against the author of some offensive behaviour towards one or other of his constituents. I do not blame him for that because the things he described are the sorts of things that people should not have to put up with—that is, people jumping fences and strangling chickens and whatnot. However, I thank him for his support for the bill because we need people like him, with his long experience, to help guide us in these matters, particularly when we get to consideration of the clauses.

Hon Sue Ellery made a worthwhile contribution as usual. In particular, she wanted to discuss clause 95, its effects and how it might impact on the principal act. I acknowledge the things that she had to say. She also asked some specific questions that I think I can answer to some degree of satisfaction. The member was asking about the Housing policy introducing a system of three strikes, as it is colloquially known. She indicated that she thought it commenced in about May. The figures that I am about to provide are for the period from 3 May 2011 to 30 September 2011. I have been advised that the number of first strikes incurred in that period was 459. I am further advised that the number of those who subsequently incurred a second strike was 132, and that the number of those who then incurred a third strike was 45. I regret that I am unable to provide a breakdown on how many of those parties had children. I am sorry; that information was not available at this stage.

I can provide some other information in response to the member's further question about the arrangements now in place at district level between Housing and the Department for Child Protection. There are some memoranda of understanding and protocols that rely on that district level relationship working properly. The agreement at the director general level, in relation to strikes, is for DCP to take referrals at the first strike when a tenant has children. That is when that department gets involved. I understand that a former regime—prior to that protocol—was for DCP to have the matter referred to it when eviction was imminent. So I think it is an improvement that the first strike triggers the referral from Housing to DCP. I understand that is the standard thing that happens out there in the real world that I referred to earlier—at district level where people are dealing with real people. I am encouraged by that. It is what I would expect to happen and I am reassured to be told that that is what is happening.

Furthermore—I will just go back a bit to when Hon Sue Ellery and I were together on Tuesday, 14 June for the estimates hearing into the Department of Housing. This question was taken on notice and a response was subsequently given. To refresh the member's memory, and for the benefit of the house, the member asked —

> The protocol between the Department of Child Protection and the Department of Housing—is it a continuation of what was in place before or whether it is something new?

The answer given was that —

> The *Operational State-wide Memorandum of Understanding* between the Departments of Housing and Child Protection took effect in June 2010, as a strategic bilateral agreement that formalised new protocols and replaced earlier protocols established under the Tenant Referral Program.
>
> Under the new protocols, the Department of Housing will make referrals to the Department for Child Protection at the earliest stage possible where a household with children faces tenancy action that may lead to eviction.

Such as a first strike —

> The Department for Child Protection's role is to support families to prevent escalation of the issues to eviction.
>
> The Department of Housing has also committed to working closely with the Department for Child Protection to ensure a coordinated approach to the implementation of the Government's Disruptive Behaviour Management Strategy.

I hope that gives some clear response to the theme the member raised in her question in terms of what was put in place in June 2010, what we discussed again in June 2011, and what I am told as recently as this evening is actually what happens on the ground. The member was concerned that DCP was perhaps not taking the opportunity to intercede at the first sign of real strife —

Hon Sue Ellery: I don't know that I'd blame DCP. I just wanted to be convinced that both agencies were actually putting in place processes. If DCP doesn't know about it, DCP can't do anything about it. I hope that that is the case.

Hon SIMON O'BRIEN: Well, that is my advice. I know that the Minister for Child Protection, who is listening to the debate closely, will perhaps assist me in confirming that understanding from DCP's point of view.

Hon Robyn McSweeney: Yes, I can confirm that.

Hon SIMON O'BRIEN: That is what we are told.

I would like to thank Hon Alison Xamon for her contribution and also Hon Adele Farina, who referred to the committee report and raised several questions. The first question was in relation to option fees. Hon Adele Farina advised the house of the system of option fees. I would characterise it as almost a deposit—a gesture of goodwill extracted from a prospective tenant, whether they like it or not, to make sure agents have dinkum applications for tenancy that they take forward to the owners. The cases for and against that have been made, and opinions have been raised. The fact of the matter is that that is a feature of what is happening. What this bill proposes to do is to put a cap on it so that option fees are not going to be overly onerous.

In some cases it is the equivalent of one week's rent. I think Hon Lynn MacLaren said median rent was in the order of $395. If someone is looking at a figure in the vicinity of $350, I think that would be difficult for people to raise, particularly if they were making inquiries on several places at once in this particular market. I am not in a position to say what the prescribed fee might be, but an option fee might be more like $100 or even $50. Please do not try to hold me to that, but the idea is that it would certainly be markedly less than the median rent, and that would reflect the interests of those who we are concerned about here. That is the first thing.

The second thing raised by Hon Adele Farina was the frequency of inspections and whether four inspections a year gives landlords enough opportunity to create the required confidence in their new tenant, particularly if they are a bit unsure about them. I guess there is a need to balance the interests of a landlord who is protecting their investment in the property against the natural entitlement and right of a tenant to the quiet enjoyment of the property that they inhabit. An option provided for in this bill is for landlords to perhaps take out a shorter fixed contract time of six months, for example, to give them a concentrated time to exercise their inspections and be satisfied that the tenant is honouring their obligations. A figure had to be arrived at, and a maximum of four inspections in 12 months, having weighed all the other submissions that were made, was seen as a reasonable balance between the two conflicting interests.

Finally, Hon Adele Farina, as did other members, raised questions of whether this bill presents a conflict with our obligations under either state or commonwealth equal opportunity legislation. My advice from the relevant department is that state solicitors have advised that there is no inconsistency or conflict between this bill and our requirements under equal opportunity legislation. I have taken a bit of time to respond, but I do so in response to quite a large number of members who have raised quite a large number of issues. I hope I have done them justice. As I indicated earlier, there are some other matters on the supplementary notice paper, so hopefully we will come to those in just a moment during the committee stage. But for now, I thank all members for their support for the second reading and commend the bill to the house.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon Col Holt) in the chair; Hon Simon O'Brien (Minister for Commerce) in charge of the bill.

Clauses 1 to 21 put and passed.

Clause 22: Part IV Division 1A inserted —

Hon LYNN MacLAREN: I have a question about clause 22 before we get to the amendment on the notice paper. It is about some of the concerns of the Tenants Advice Service. I want to make it clear yet again that we support proposed section 27A, which is in clause 22. However, there was some concern about whether the bill needed to include a provision that prohibits the lessor from presenting a tenant with a backdated residential tenancy agreement to sign. I note that in the other place there was mention of the Fair Trading Act. Parts of the Fair Trading Act could protect tenants and the means by which they can address concerns about backdating. I wonder whether the minister can advise us of what sections in the Fair Trading Act could prevent this.

Hon SIMON O'BRIEN: I thank the honourable member for her interest in this area. I have sought some advice. Perhaps if I just give this summary of advice in toto, it might deal with her question. Firstly, I make the observation that parties should be free to reach agreement as they see fit. There are some circumstances in which backdating the contract may be appropriate. For example, if a tenant needs to access accommodation urgently and is permitted to move into a house prior to the lease agreement being signed, it would be appropriate to date the contract from the date on which the tenant takes possession of the premises, which is not what the member is talking about, though. In other circumstances, however, it would not be appropriate for a contract to be backdated—for example, if a landlord is seeking to take advantage of a tenant by making them liable for damage that occurred before the tenant moved into the premises or if the landlord is adjusting the date to their own benefit for taxation purposes. I think that is the sort of thing the member is asking about; am I right?

Hon Lynn MacLaren: Exactly.

Hon SIMON O'BRIEN: There is existing legislation, including our Fair Trading Act 2010, that provides sufficient remedies and penalties in these circumstances, as the Fair Trading Act prohibits a person from engaging in either misleading or deceptive conduct, or unconscionable conduct. I do not have the exact sections here, but we can look them up if we need to. Therefore, the proposal that the backdating of residential tenancy contracts be prohibited is not supported, because we believe they already are, in effect, proscribed by the provisions that I have just referred to where appropriate. That is why this clause is, I think, silent on that particular matter, and I think that is how it should stay. I could provide an additional level of comfort, though.

Hon Lynn MacLaren: Could you, please?

Hon SIMON O'BRIEN: Apparently, I can. The department will consider inserting a note in the margin of the prescribed tenancy agreement to advise tenants that the start date for the contract should not be a date prior to the date on which the tenant was entitled to take possession; and, if they have concerns about this matter, they can contact the department for further advice.

Hon Lynn MacLaren: Very good, minister.

Hon SIMON O'BRIEN: I think that dots all the i's and crosses the t's for the member.

Hon Lynn MacLaren: Thank you very much.

Hon SALLY TALBOT: This is a very good start to the committee stage of the bill. The minister and his advisers are clearly very closely attuned to the mood of the chamber. I was just going to rise to point out that because we are moving to a prescribed form—I understood this was the basis of the point that the Tenants Advice Service was making—we can at least let people know what the circumstances might be.

Hon Simon O'Brien: Indeed.

Hon SALLY TALBOT: Like Hon Lynn MacLaren, I am happy that the minister has covered that in his response.

Hon Simon O'Brien: We are in furious agreement, Mr Deputy Chairman.

Hon SALLY TALBOT: Absolutely.

The DEPUTY CHAIRMAN (Hon Col Holt): Members, we are dealing with clause 22, and two amendments, 1/22 and 17/22, are listed on the supplementary notice paper. The second one is to be moved by the Minister for Commerce. Is anyone moving the first amendment listed on the supplementary notice paper, 1/22?

Hon LYNN MacLAREN: Does a member of the standing committee have to move that amendment or can anyone move that amendment?

The DEPUTY CHAIRMAN: Any member can move it.

Hon Simon O'Brien: Or do you want to wait for mine?

Hon LYNN MacLAREN: Can we not have them both?

Hon Simon O'Brien: This is the cake-and-eat-it-too argument, is it?

Hon LYNN MacLAREN: Yes. It is consistent at least.

The DEPUTY CHAIRMAN: Members, I point out that amendment 1/22 is to delete "as soon as practicable" and insert "within 7 days", and amendment 17/22 is to insert after "practicable" the words "and in any event within 14 days".

Hon LYNN MacLAREN: I move —

> Page 17, line 26 — To delete "as soon as practicable" and insert —
>
> within 7 days

I think it is fair enough for lessors to be able to inspect a property within that week so that tenants can conclude the termination of their tenancy. The committee made this recommendation in its report after careful consideration, and the Greens support the amendment.

Hon SIMON O'BRIEN: I want to find a way ahead on this, and a lot of work has been done about this out of session. What I propose is that we do not delete the term "as soon as practicable" in exchange for "within 7 days", but, instead, that we retain "as soon as practicable" and add the words "and in any event within 14 days". I think that this will strike the balance that we need. I must admit that I do not have a problem with "as soon as practicable", but I recognise that in practice a person possibly could. There might be a dispute about what one person might think it means and what another party or a court or someone else might think it means, because people do not always act with goodwill. We need people who are responsible for providing these reports to do so

in a timely way, so that, for example, the ex-tenant can get their bond back. This was, I think, the motive behind the committee's thoughts that there needed to be some finite time for it. We have suggested that we go for 14 days rather than seven days because we can see all sorts of potential unintended consequences with seven days. It could artificially cut things unreasonably short for some lessors. I will not go into the detail unless people want me to, but I am sure that members can imagine how it could in certain circumstances be an unreasonable or, indeed, impractical time limit. But 14 days should be more than enough, and if we retain the term "as soon as practicable", that clearly invites the task to be completed well inside the 14 days if possible. I think that is the best of both worlds. I do not know what the committee thinks about that. What I propose we do is dispose of this current amendment by voting against it now, and then I shall move the next amendment. That is the outcome that I think we should have.

Hon LYNN MacLAREN: As I noted in my second reading contribution, I recently entered into a new lease, so it is fresh in my mind what a person does when they move in and out of a property. When a person leaves a property, they need their bond, and they need their bond because they need to put it on to the next property. A person does not have two weeks' rent lying around, which they normally need to pay up-front when they are moving into a property. The practice is to have the inspection on the last day of a person's tenancy. The person is rushing around to try to get out of one place and get into the next one, because if the person has been paying a median rent, they do not have an extra $395 in their back pocket to cover rent for both places. It just makes sense that as a person leaves one tenancy, they start the next one. Part of leaving a tenancy is that final inspection. That is when a person's bond is released to them, and they then have it to put onto their next place. When I see "as soon as practicable", to me it means within 24 hours; it does not mean within two weeks. Therefore, further defining it to 7 days, as the standing committee has attempted to do, is a good way forward. However, to then fall back another week to 14 days, even though the minister is saying that it will be within that 14-day period, seems a bit extreme. I would be interested to hear what consultation the minister had that indicated that 14 days was necessary. I would like to see some evidence as to why 14 days is necessary, because I am sure the minister can understand that the financial impact on tenants is considerable if they are paying rent for two places, waiting for that final inspection.

Hon SIMON O'BRIEN: I do not want this to become a class war either about who is backing the tenants and who is backing the landlords or anything like that. I think what we need here is a balance struck that represents the rights of both parties. In this respect, we have to come up with a provision that is, as they say, one size fits all. That is why I am asking for a bit more latitude. Consider then, if members will, the situation in which, for argument's sake, a city-based lessor has a rural or remote area property, and they have to arrange to get up there to do the inspection. They may have a situation in which the tenant does indeed wish to exercise their option or their entitlement to be present. If we throw in a few public holidays, or it might be over Easter or something, seven days suddenly becomes very, very difficult to reasonably achieve. I ask members to also consider that a lessor, after having got one tenant out, wants to get on with it and get another tenant in or use the property for whatever other purpose. It is commonsense for someone to try to finish up a bit of unfinished business as soon as they can. If things take too long, as happens now, the Magistrates Court can be approached. We think it is a good idea to have this provision in the bill so that it at least puts some cap on it, in fact quite a strict cap on it, whereas currently it can sometimes be an ongoing problem, as I understand it, to get inspections and return of bonds done in a reasonable time. This should fix it.

Hon SALLY TALBOT: There is one other aspect of this that I think we need to consider. After all, this is about the timely wrapping up of a lease. The Tenants Advice Service points out that a certain cohort of tenants finds that they are not invited to the final inspection. That can cause any number of problems because the tenants have no chance to have input into that final inspection process. Therefore, they might find things on the final report that are simply not the case.

Hon Simon O'Brien: There is no current requirement for them to be present, but this bill will provide that they may be present.

Hon SALLY TALBOT: I acknowledge that and that is a good thing. However, if we want to encourage people to be present at the final inspection, even if it is only to protect their rights, I would have thought that it is perfectly appropriate to make the inspection within seven days of the end of the tenancy. If somebody was moving some distance away to live in a new area of the state or, indeed, in another state, they would have a much better chance of being at the final inspection if it took place within a couple of days of the tenancy ending than they would have after 14 days. The minister has addressed the basic argument raised by the committee. I can see why it could be "as soon as practicable", but if we want to put a time limit on it, why not seven days rather than 14 days?

Hon SIMON O'BRIEN: I remind members that we have come up with a one-size-fits-all solution. We will always find hypothetical cases that are on the fringe. I ask members to consider the situation of an outgoing tenant who is busy and wants to attend the exit inspection, but cannot make themselves available in the seven days because of their requirements to move elsewhere. It can cut both ways. I hope that in most cases there

would be a decent relationship between a landlord and a tenant. I remember my experience many years ago was that I got on to the chap who was the owner of the property that I rented and indicated when we wanted to go. We gave him plenty of notice and in the course of that we arranged between ourselves for him to come over and do a final inspection. He had the bond in his back pocket and handed it over when he was satisfied with what he had seen. That is probably the reality. When we need a provision in law, this one probably strikes the balance and will lead to fewer unwanted consequences when people cannot meet the seven days or it is inconvenient for both parties for that to be the limit.

Hon ADELE FARINA: I suppose I have difficulty with this because the normal practice is that the property inspection on exit is done on the last day of the tenancy—the day on which the tenant leaves the property. Therefore, I do not really understand why we need to allow 10 days. The tenant is required to leave the property in a good state of repair. In 10 days there could be quite a change to the state of repair of that property; there could be weeds and overgrown grass and even cobwebs inside the house. It may impact on the tenant's ability to meet the requirement to keep the property in a good state of repair.

Hon Simon O'Brien: My opening gambit is —

Hon ADELE FARINA: Can I finish, please, minister?

Hon Simon O'Brien: Sure.

Hon ADELE FARINA: Also, my concern is at what point the keys are handed over. Are they handed over when the tenant leaves the property even though the inspection may not be for another 10 days? If during that time the landlord allows people to come in to inspect the property and they trudge in with muddy shoes and leave marks all over the carpet that has just been dry-cleaned, whose responsibility is it to get the carpets dry-cleaned? If the property is damaged as a result of a burglary to the property during that 10-day period, who has the legal responsibility for any damage? The longer those premises are left unattended and uninhabited, the greater likelihood that some mishap will occur during that time. It is not clear to me, and it is certainly not clear in this bill, who has legal responsibility for any damage to that property during that 10-day period? At what point are the keys handed over? That would be a pretty critical factor in the courts determining who has responsibility. Seven days would be about the maximum time. I even have issues with the seven days, because the reality is the inspection is done on the day the tenant leaves the property because that is when they have the property in a good state of repair. The tenant leaves the property and hands over the keys; they should not be responsible for what might happen to the property over the next seven to 10 days when they are not even there. In this scenario proposed by the committee, it leaves a window of opportunity of seven days. I think that is wide enough. Extending it to 10 days creates a new range of legal issues that have not been addressed by the bill.

Hon SIMON O'BRIEN: It appears that I have been misled. I thought that this was what the committee wanted. The facts of the matter in response to the member are these: the tenants' liability for mud on the carpet, or whatever it might be, ends when the tenancy ends. The tenancy comes to an end when the tenant hands over the keys and departs the place. The bill reads "as soon as practicable". Yes, the member is right; the point when the keys are handed over and the people leave the property is when the owner would normally do an inspection. Of course they would. However, there may be some reasons why an inspection cannot be done at that stage, but it needs to be done soon. For all the reasons the member said, such as grass and weeds overgrowing, it should be done as soon as practicable. That is why the wording is what it is in the bill. Hon Adele Farina's committee did not like that. The committee wanted to substitute a number of days. I do not know why, but it wanted to do that. We have come up with a compromise that recognises the things that can arise. If the member is now telling me that compromise is not what she wants, fine; I will not move the amendment and we will stick with what we have in the bill.

Hon ADELE FARINA: I want to clarify the committee's reasoning for this. The committee does not seek to extend "as soon as practicable". The committee sought to reduce it through this proposed amendment, because during the hearing we were told—as an example to support why those words are in the bill rather than a specified period—that a landlord could live in another state, or another country, or in Perth and the property could be in the country. Therefore, it may take the landlord a number of weeks to free themselves up to go and inspect the property. We should not put any onus on the landlord to do it any faster than is practicable from that landlord's point of view. Our concern was to try to limit that. Officers from the department who gave evidence before the committee expressed the view of submissions they had received from landlords who wanted that open ended. The committee saw the downsides to that. But in trying to accommodate the views expressed by officers from the department, the committee came up with this proposal of seven days. That was the committee's attempt to be reasonable and to try to balance both views. All I am saying—I am entitled to a point of view separate from the committee's view because I am also a member of this house—is that my personal point of view is that would be the maximum amount of time we would give for all the reasons I have raised. Pushing the time out to 14 days brings into play all the issues I have raised and brings into sharper focus the issues Hon Lynn MacLaren raised about the bond. They also are valid reasons, particularly for people who are not cash rich and need quick access

to the bond money so they can pay the bond on another property or pay the rent on the other property. I do not think it is reasonable for the minister to misinterpret what I said earlier to suggest that the committee was trying to expand "as soon as practicable" to a longer period. That was not the committee's intention.

Hon LYNN MacLAREN: I was listening intently to the different views expressed. The minister is obviously keen to progress this. I want to canvass with other members the idea of a third amendment, which would introduce the notion that it can be done immediately but also allow for that two-week period. If we change it by deleting "as soon as practicable" and insert "on the day of and in any event within 14 days", we would be clearly stating that in most cases we would expect it to be done on the day of the termination of the tenancy, but we would allow that 14-day period. That may address both of the concerns about the provision being explicit that it should be done quickly, but in the minister's case, allowing for the worst case scenario when someone comes in from Doha or somewhere.

Hon LIZ BEHJAT: I would like the minister to clarify something for me in relation to proposed subsection 27C(4). Although seven days might have been what the committee recommended, I do not think 14 days is unreasonable. The way I am reading clause 4 —

The DEPUTY CHAIRMAN (**Hon Col Holt**): Excuse me, member, we are on clause 22.

Hon LIZ BEHJAT: Line 26?

The DEPUTY CHAIRMAN: That is right. Sorry; continue.

Hon LIZ BEHJAT: Do not confuse me; do not do that. Sorry; I apologise I am not being rude to you, Mr Deputy Chairman, I thought I was on the right clause. From my reading of proposed subsection (4), it is not just proposed paragraph (a) that has to be conducted and completed as soon as practicable and, in any event, within 14 days, it is also proposed paragraph (b), prepare a final report describing the condition of the premises, and proposed paragraph (c), provide a copy of the report to the tenant. From my reading of the proposed section, all those things must be done within that period. If, for instance, at proposed subsection (5) the tenant is to be given a reasonable opportunity to be present but cannot be present at the time of the inspection because they are away, the inspection would take place, the details would then be taken back to the office and a report may be compiled. There may be photographs comparing the pre-condition with the post-condition. That report must be then given to the tenant who might be away, so I think that time will be needed to complete all the things set out in proposed subsection (4).

Hon LINDA SAVAGE: I wish to seek some clarification from the minister and to make one point. Was I correct when I heard the minister say that liability for the condition of the property ceased when the keys were handed back to the owner of the property? If I did hear that from the minister, I request that he confirm that. I am not sure that that is my understanding. I assume with regard to the condition of the property, that any liability for money that could be taken from the bond for damage or repairs, or perhaps carpet cleaning, which sometimes goes with a tenancy ending, would remain and could, as has been pointed out by another member, involve further costs if something happened in the period between the tenant leaving the property and handing over the keys and the time of the inspection.

Hon Simon O'Brien: I can do that.

Hon LINDA SAVAGE: I have one other point of clarification while I am on my feet, and that is on the actual term "seven days". I do not have the Interpretation Act in front of me, but I think that could mean seven working days and that may make a difference. The minister said earlier that one of his concerns was that there could be public holidays and weekends.

Hon SIMON O'BRIEN: The responsibility of the tenant for the condition of the property finishes when the tenancy agreement expires—when the tenant vacates and hands back the keys, to speak a little colloquially. Technically, when the contract ends is when the responsibility of the tenant for the condition of the property also concludes.

I propose a way forward and my proposal draws on what Hon Lynn MacLaren was wishing for. I suggest we keep the words "as soon as practicable" and insert the words "and, in any event, within 10 days", as a compromise. I think that will meet the needs of the various parties. There will be landlords and, more to the point, their representatives of all shapes and sizes in terms of the volume of work they have. There are different distances to be travelled, particularly those in remote areas. A classic example of a landlord having to travel a long distance is when state housing is in a remote area. The final answer to the member's question is that, in the absence of other advice, "days" in an act I believe would mean working days. That is why I suggest that we perhaps opt for an expression, in a moment, maybe of "10 working days". That might achieve a happy medium.

Hon LINDA SAVAGE: As I said, I did not have the Interpretation Act in front of me and I could not remember, but it could possibly be—certainly, that is what I was getting at—working days.

I am still not quite sure that I followed the minister in regard to the other matter I raised. Quite clearly, the tenancy comes to an end when the contract is finished, and obviously that is the case. I was not unhappy about that; I was talking about the liability. That is one of the issues that have been raised. Until the report is done on the condition of the property, the liability for the damage done and upgrades or maintenance that needs to be done remains with the now former tenant. That was the point Hon Adele Farina raised when she talked about the longer that period is, then the possibility could arise that something happens to the property that is beyond the control of the tenant who has left the property for what could be some days. The committee chose seven days because it seemed reasonable, given that usually when tenants go into a property the report has to be done almost immediately and certainly within a few days.

Progress reported and leave granted to sit again, pursuant to temporary orders.

DOMESTIC VIOLENCE — WHITE RIBBON DAY

Statement

HON LINDA SAVAGE (East Metropolitan) [9.43 pm]: As members know, this Wednesday will mark the twenty-first anniversary of the Silent Domestic Violence Memorial March in Perth. This march is held every year to commemorate and honour people who have died in the past 12 months from family and domestic violence. Shockingly, domestic homicide accounts for a very significant proportion of homicides in Western Australia. Behind all those terrible deaths are literally thousands of incidents of family and domestic violence, which, although not resulting in death, can result in dreadful injuries, a life of misery and fear and devastating effects on women, who are overwhelmingly the victims. Previously I have spoken in this place about children who are often described as the forgotten victims of domestic violence and about honour killings, which is another dreadful form of domestic violence that we have begun to witness in Australia. This Friday is also the launch of the global campaign, 16 Days of Activism Against Gender Violence, to raise awareness about violence against women, as well as to raise awareness about its impact on a woman's physical, psychological, social and spiritual wellbeing. The 16 days of activism begins on 25 November, which is the International Day for the Elimination of Violence against Women and ends on 10 December, which is international Human Rights Day. These two dates highlight that violence against women is an abuse of human rights.

Sadly, in Western Australia the reporting and incidences of domestic violence continue to rise. This is a category that is rising, not falling. Figures published in *The West Australian* on 1 September 2011 as part of the "Mid Term Progress Report" by the Minister for Police show that police received 1 300 more reports of domestic violence in 2009–10 than in 2008–09. Even if that is due to a greater preparedness of women to go to the police, it still represents only the tip of the iceberg. That is not just my view but the view of the Commissioner of Police and others. This is a very complex challenge for governments, and it has been for successive governments. For the first time in this state we have a state plan and also for the first time a national plan that was released this year by the federal government to coordinate action across jurisdictions and provide a 12-year comprehensive plan. WA Police also has a strategy. We need all of this and obviously more in the face of the increasing figures.

I note that the Commissioner of Police recently announced a crime strategy to sweep from the streets potential juvenile offenders over the coming summer months. The point was made that that period represents a peak in that type of crime. The Christmas and new year period is also a peak period for domestic and family violence. There are a range of reasons for that. One that has been identified is the fact that it is a holiday period and that in our culture a great deal of drinking occurs during those times. We know that alcohol is a risk factor for family and domestic violence. Studies show an association between the use of alcohol and the severity of violence. That makes me wonder whether we need an advertising campaign over the holiday period for domestic violence just as we have road traffic campaigns. I say this because I think that the message that women are more at risk in their homes from someone they know than they are from a stranger is not well enough publicised or condemned for the heinous act that it is. The fact that a woman is more likely to be assaulted in her own home, rather than in a dark street at night, shows just how far we have to go to address this issue. For the criminal law, Parliaments and the media, it is sometimes far easier to deal with what happens on the streets. We naturally do not want to see those dreadful types of things, such as the shocking footage we saw at Beckenham train station. That is visible violence. How we make visible what is overwhelmingly invisible violence is what White Ribbon Day, the annual Silent Domestic Violence Memorial March and 16 days of activism are about. As I said, there is no easy answer.

I draw members' attention to a case in the United Kingdom that has had some publicity and led to the release of a draft law called Clare's Law. It concerns Clare Wood, a 36-year-old who was killed in 2009 by her ex-boyfriend. She had met him on Facebook and, unbeknown to her, he had a long history of violence against women, including threatening and kidnapping at knifepoint one of his ex-girlfriends. She was unaware of this. After their relationship broke up, she called police when he threatened her. Despite that, he subsequently killed her. That led to what is called Clare's Law, which is currently in a consultation period in England. Clare's Law would enable people to visit a website and get information about someone else's previous record. People would

then be able, so they say, to make a more informed decision about the person they are forming a relationship with. Obviously, this approach to crime and keeping people safe is something that Western Australia is also looking at to deal with another area of dreadful offending. Of course it is very contentious because it goes to revealing someone on a website, which could lead to that person either being made a target or could lead to someone inadvertently finding themselves being targeted because someone may misinterpret what is on the website.

This Parliament, certainly since I have been a member of Parliament, has considered laws to recognise particular acts of violence against certain categories of people. I suppose it begs the question whether the time has come to consider that in the case of domestic and family violence. When I was a member of Chief Justice David Malcolm's Taskforce on Gender Bias in the 1990s we were very concerned that if domestic violence was perceived and identified as somewhat different from other crimes, we would be reinforcing that it was not as serious; that it was a family and/or social problem more than a criminal matter. At that time our approach focused squarely on ensuring that it was treated as a crime and it would be viewed just as if it had occurred on the street. The report says, at page 157, that domestic violence is a crime and should be treated as such by police. I wonder perhaps whether the time has come to identify the crime of domestic homicide more specifically for what it is, given the challenge we face in this very difficult area; an area in which we have not made the inroads we would have hoped since the 1990s.

DOMESTIC VIOLENCE — WHITE RIBBON DAY

Statement

HON ALISON XAMON (East Metropolitan) [9.52 pm]: I also rise tonight because I wish to acknowledge that this week there will be an increased focus on domestic violence, specifically men's violence against women, as Friday is White Ribbon Day. Tonight, during the dinner break, I attended a function to mark White Ribbon Day. Tomorrow, I will be amongst others from this place who will partake in the annual Silent Domestic Violence Memorial March for those who have died in the past year due to family and domestic violence.

According to WA Police crime statistics, there were 9 772 domestic assaults in WA in 2010–11. The government has responded to domestic violence in a range of ways over past decades, including funding shelters, support services and counselling programs, and using a variety of legislative approaches. There has also been a change in government service responses including responses by police, the courts, and health and child protection services. The statistics demonstrate there is still much more we need to do, particularly in the area of the prevention of domestic homicide. Approximately nine people died in WA from domestic homicide last year, yet we know there are more deaths generally attributed to domestic violence than are currently acknowledged. One of the difficulties with the statistics is they often do not take into account broader cases associated with incidents of domestic violence including new partners, friends, work colleagues, or bystanders. Other deaths may also be relevant, including those who suicide as a result of domestic violence, or who die in other circumstances, as well as relevant missing persons cases. In any event, I have always held the strong view that public responses should be evidence based. Unfortunately, domestic violence is an area in which the evidence continues to need to improve; we still do not have access to consistent and publicly available data.

Recognition of the need to have a better understanding of the circumstances surrounding the events leading up to domestic homicides is one of the rationales behind the proposal to establish a domestic violence death review mechanism in Western Australia, and that is a move that I wholeheartedly support. The aim of the establishment of such panels, which exist elsewhere around the world, is to reduce domestic violence homicides by improving service provision and systemic responses, and to compile and interpret accurate detailed data.

A domestic violence death review panel would review systemic issues—where the system has failed or where the law has failed. For example, we know of recent cases of domestic homicide where it has been demonstrated that the legal system does not have the appropriate tools to ensure the perpetrators are adequately held to account for their actions. In other cases there has been a lack of follow-up or coordination between different agencies or service providers, and the capacity of these groups—or lack of capacity, as the case may be—may be able to be identified.

What we do know is that domestic violence deaths are predictable and therefore preventable. There are patterns of escalation, and victims usually tell people about their fears. It is common for victims of domestic homicide to have sought help from a variety of agencies and service providers prior to their deaths. In other countries—in particular, in many jurisdictions in the US, where there are more than 100 domestic violence death review panels—the application of recommendations from domestic violence death reviews has led to changes resulting in significant reductions in deaths. For example, the Santa Clara Domestic Violence Death Review Board showed a significant decrease in domestic and family homicides. Over a 10-year period, 1997 to 2007, there has been a 94 per cent decrease in domestic homicides.

Victoria first announced and established a review process, located out of the Coroner's Court, which has a good reputation and a strong history of focusing on systemic issues. In Queensland, there is the newly established

death review unit, and New South Wales enacted a death review unit through legislation in 2010. In Western Australia, at the annual family and domestic violence memorial march in 2009, a Department for Child Protection representative announced that a forum would be held to explore the introduction of a fatality review process in WA. A report on the findings of the forum was developed, outlining possible fatality review models for consideration by the government. It is my understanding that the recommendations were presented to the Minister for Child Protection in 2010 and we are still waiting to see what the final response will be. I know that some people who were involved in the forum were pushing strongly for a community-based review panel, to take into account the particular characteristics and circumstances in communities that led to the failures. This is particularly important, given the diversity of Aboriginal communities and the higher rates of domestic violence in these communities. Certainly, there was an argument that changes needed to be primarily driven at the community level; I note that that particular proposal did not get very far. In any event, the panel would ideally have broad input, including from government and non-government agencies, as well as representatives from significant groups, to provide specialist input including, where relevant, Aboriginal groups and members of culturally and linguistically diverse communities, as well as appropriate independence and autonomy from the main agencies involved in domestic violence cases.

The two main models they looked at were to locate the review panel with either the State Coroner or the Ombudsman. I acknowledge that neither is perfect. One of the main concerns with the coroner's office is that it uses the police for investigations, which is not necessarily appropriate given that improvements in police responses to domestic violence is one of the core areas the fatality review would need to look at. The decision has been made to locate it with the Ombudsman's office, and I suggest that that was probably the best option of the two. I note there have been some concerns about the transparency of the Ombudsman's office and certainly a desire that the reviews be put on the Ombudsman's website, and also for there to be a requirement that the government respond within a certain time frame and for that response to be made public. I know there have been arguments that this could be done under existing legislation, but nevertheless a strong, clear legislative basis for this would be good, and the involvement of the Attorney General would also be good and would ensure that silos were prevented. I also know that significant questions are still being asked about how broad the parameters for review will be. Will it only capture those people who have been found to have been murdered, and by that I mean that the perpetrators have been convicted of murder or manslaughter? Will it capture people who have died but the perpetrator has been convicted of assault causing death? Is there potential for near fatalities to be investigated as well? We have had some horrendous cases in this state of women who have managed to survive by sheer luck; they have been the subject of absolutely horrendous attempted murder cases, and there is a question about whether those cases could be incorporated in the review as well.

In any event, we know that death review findings will serve to put domestic violence–related deaths on the public agenda where they certainly need to be. Domestic violence fatality review panels or boards or mechanisms—whichever one we look at—take a variety of forms. There are a range of terms of reference and methods of operating. In any event, it is very important that we have the model that will be most appropriate for WA. The domestic violence death review is very different from a coronial review investigation because it represents an opportunity to consider a much broader range of systemic failings, rather than focusing on the cause of death in isolation. The domestic violence death review process considers individual cases, but within the whole system, including taking into account the history of violence with a view to preventing and improving responses, and does not look to apportion blame or to shame individuals. We know that too many homicides, such as that of Saori Jones, who I have mentioned before in this place, are preceded by multiple efforts by the victim to get help and multiple failings by the system and the community to not only protect the victim, but also make the perpetrator accountable for the violence. Deaths from domestic violence are completely unacceptable. We have a social responsibility to prevent these deaths. The establishment of a domestic violence death review process is an important step in the right direction, but we will need to ensure that we get it right and we need to see it soon.

House adjourned at 10.02 pm

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QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

DISABILITY SECTOR — ACCOMMODATION AND SUPPORT SERVICES

4641. Hon Alison Xamon to the Minister for Disability Services

I refer to the Disability Services Commission (DSC) service users by accommodation type listed in the DSC Annual Report 2010, and I ask —

(1) Of the DSC Service users in hostels —

(a) how many are in hostels that are privately operated; and

(b) how many are in hostels that are operated by DSC?

(2) Of the DSC Service users in Community Residential Living —

(a) how many are in Community Residential Living that is privately operated; and

(b) how many are in Community Residential Living that is operated by DSC?

(3) Of the DSC Service users under the Community Living Support Funding strategy —

(a) how many are in housing provided through the Community Living Support Funding strategy that is privately operated; and

(b) how many are in housing provided through the Community Living Support Funding strategy that is operated by DSC?

(4) Of the DSC Service users in Supported Community Living how many live in —

(a) accommodation that is privately owned, rented or sourced independently by the service user;

(b) mainstream housing authority rental housing;

(c) housing provided under the Community Disability Housing Program;

(d) hostels;

(e) Community Residential Living;

(f) accommodation provided under the Community Living Support Funding Strategy; and

(g) other?

(5) Of the DSC Service users in Supported Community Living:

(a) how many are receiving Supported Community Living services from privately operated service providers; and

(b) how many are receiving Supported Community Living services operated by DSC?

(6) Please state the average number of people who have applied for accommodation and support services and have not been provided those services in each of the years 2008–2009, 2009–2010, 2010–2011, and currently for each of the following service types —

(a) hostels;

(b) Community Residential Living;

(c) Supported Community Living; and

(d) Community Living Support Funding Strategy?

Hon HELEN MORTON replied:

1. (a) In 2009–2010, there were 276 service users in privately operated (by endorsed disability sector organisations funded by the DSC) hostels and 270 in 2010–2011.

(b) In 2009–2010, there were 90 service users in DSC operated hostels and 66 in 2010–2011.

2. (a) In 2009–2010, there were 934 service users in privately operated (by endorsed disability sector organisations funded by the DSC) Community Residential Living and 1,032 in 2010–2011.

(b) In 2009–2010, there were 510 service users in DSC operated Community Residential Living and 508 in 2010–2011.

3 (a)–(b) The Community Living Support Funding strategy does not provide housing.

4 (a) This information is not gathered by the Commission, as it is not part of State and Federal Governments' reporting requirements.

(b) This information is not gathered by the Commission. People with disability are able to access Department of Housing rental housing via the Department of Housing's mainstream public housing process.

(c) This information is not gathered by the Commission. The Community Disability Housing Program is a Department of Housing program. Tenancy management is the responsibility of community housing providers registered with Department of Housing.

(d) Hostels do not fall under the Supported Community Living program stream.

(e) Community Residential Living is a separate program from the Supported Community Living program stream.

(f) The Community Living Support Funding strategy does not provide housing.

(g) The Commission does not collect information and data on funding and/or programs it does not directly provide or fund.

5 (a) In 2009–2010, 1,142 service users received Supported Community Living services from privately operated service providers and 1,237 in 2010–2011.

(b) In 2009–2010, 297 service users received Supported Community Living services from DSC operated service providers and 333 in 2010–2011.

6 (a)–(c) [See paper 4095.]

(d) 2008/2009 — Five people
2009/2011 — 12 people
2010/2011 — One person

MENTAL HEALTH PATIENTS — HOSPITAL DISCHARGE POLICY

4705. Hon Ljiljanna Ravlich to the Minister for Mental Health

I refer to the discharge of mental health consumers after an extended stay in a ward, and I ask —

(1) Is it ensured that a patient that is discharged is financially sound upon discharge?

(2) Is it ensured that a patient that is discharged has food and other essential items available upon discharge?

(3) Is it ensured that a patient that is discharged has transportation to home upon discharge?

(4) If no to (1), (2), and (3), why not?

Hon HELEN MORTON replied:

(1)–(3) Upon discharge, a patient's financial circumstances, the availability of food and other essential items and arrangements for transportation to home are taken in to consideration.

(4) Not applicable.

NON-GOVERNMENT SERVICE PROVIDERS — COMPONENT 1 FUNDING

4818. Hon Sue Ellery to the Minister for Finance

(1) Have any complaints been received from non-government service providers related to whether the provider meets the scoping criteria to qualify for the first component of the 15 per cent price adjustment?

(2) If yes to (1), how many?

(3) How many of those complaints related to disputes as to whether a contract was rolled over or was designated a new contract, despite minimal change in service delivery conditions?

Hon SIMON O'BRIEN replied:

(1) Yes

(2) The Departments of Finance and Treasury have received 21 complaints (both written and verbal) regarding the eligibility criteria for Component 1 funding. Specifically:

- 12 from for-profit organisations;
- Four from not-for profit organisations with a Commonwealth funding contribution greater than 50%;

- three regarding the eligibility cut off date; and
- two regarding the categorisation of a grant.

(3) One

EXMOUTH GULF — PORT REZONING

4820. Hon Robin Chapple to the Minister for Finance representing the Minister for Transport

With reference to Exmouth Gulf Port Rezoning, I ask —

(1) Is the Department of Transport seeking to rezone all, or any part of, Exmouth Gulf as a port?

(2) If yes to (1), will the Minister please provide the boundaries, notional or otherwise, of the rezoning proposed?

(3) If yes to (1), what is the rationale for seeking any such rezoning of Exmouth Gulf?

(4) What controls are planned for any zoned port in Exmouth Gulf?

(5) Will rezoning, or any implemented controls, change the nature of vessel movement, or use, within Exmouth Gulf?

(6) If yes to (5), will the Minister please describe any such changes?

(7) Has the Department of Transport provided the opportunity for public consultation on the planned Exmouth Gulf port?

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

(9) Has the Department of Transport consulted with experts regarding potential impact on environmental biota protected under Western Australia legislation?

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

(11) If yes to (9), will the Minister please provide details of such opinions?

(12) Has the Department of Transport consulted with the Environmental Protection Agency (EPA) regarding the planned port?

(13) Has the Department of Transport referred planned port rezoning or controls to the EPA?

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

Hon SIMON O'BRIEN replied:

The Department of Transport advises:

(1)–(14) The issue is being investigated but no decision has been made. If a decision is taken to proceed consultation at all appropriate level will be conducted.

EXMOUTH GULF — MARINA EXPANSION STAGE 1

4821. Hon Robin Chapple to the Minister for Finance representing the Minister for Transport

With reference to the Exmouth Marina Expansion Stage 1, I ask —

(1) Will Stage 1 Expansion of Exmouth Marina allow increased vessel use and movement?

(2) If yes to (1), what level of increased vessel traffic is —

(a) expected; and

(b) made possible by these expansions?

(3) Is the Minister aware of other projects within Exmouth Gulf, actual or planned, which could increase vessel traffic within Exmouth Gulf?

(4) If yes to (3), will the Minister please provide a list of these projects within Exmouth Gulf?

(5) Has there been opportunity for public consultation regarding Exmouth Marina Stage 1 Expansion?

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

(7) If yes to (5), will the Minister please provide details?

(8) Has the Department of Transport consulted with any cetacean experts to ascertain possible impacts of increased traffic on resting humpback whales utilizing Exmouth Gulf?

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

(10) If yes to (8), will the Minister please provide details?

(11) Has the Department of Transport consulted with the Western Australian Environmental Protection Agency (EPA) to ascertain if increased vessel movements will impact on the Exmouth Gulf marine biota?

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

(13) Has the Department of Transport referred Exmouth Marina Expansion Stage 1 to the EPA?

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

Hon SIMON O'BRIEN replied:

The Department of Transport advises:

(1) Yes

(2) (a)–(b) Up to 25 vessels but a large number of those vessels are already operating in the Exmouth Gulf and surrounding areas.

(3) Yes

(4) Exmouth limestone and MG Kailis Group Pty Ltd Learmonth projects.

(5) Yes

(6) Not applicable

(7) In 2008 when an option to expand the harbour basin was considered, an extensive community consultation process was conducted through the Exmouth Harbour Development Community Consultation.

(8) No

(9) The Department of Transport has no control over vessel movements in the Exmouth Gulf.

(10) Not applicable

(11) No

(12) The increased vessel movements are as a result of vessels servicing the resources sector and the Environmental Protection Authority would have been consulted in the approval processes associated with those developments.

(13) No

(14) The Department of Transport will consult with the Environmental Protection Authority regarding approvals and conditions prior to any works commencing..

PALLIATIVE CARE — BED COST

4822. Hon Nick Goiran to the Minister for Mental Health representing the Minister for Health

In relation to the answer to question on notice No. 3975 given by the Minister for Health on 9 August 2011 regarding the average cost of each Palliative Care day bed, I ask —

Given that a specialist care level three bed requires a more specialised service, in what circumstances is it appropriate for a level two bed to be given greater funding than a level three bed?

Hon HELEN MORTON replied:

There are many factors that influence the average cost of each palliative care level 2 and level 3 bed reported in PQ 3975.

The terms specialised specialist palliative care level one, two and three relate to the peak body Palliative Care Australia's (PCA) Capability and Resource Matrix framework described in the document "Standards for providing quality palliative care for all Australians" (2005.)

The PCA terms for categorising specialised palliative care service levels are not endorsed for use within the WA Department of Health nor are services formally funded or resourced according to this framework. Without clear definitions for the specialist levels, any reporting in relation to this framework will inevitably have inconsistencies.

Specialised palliative care services may self nominate a specialist service level when participating in the voluntary PCA National Standards Assessment Program. The nomination of the specialist level relates to the service ability to meet the national standards but not to funding and resources.

Palliative care bed usage is captured within health data as "palliative care type." For reporting purposes palliative care type will also capture patients who are in general hospital beds and not just in dedicated specialised palliative care units.

Economies of scale come into play. These factors may include:

The number of patients;

The number of specialist staff;

The ratio of specialist staff to patient numbers;

Hospital size — efficiencies that come with ability to apportion overhead costs across a high number of patients.

If a palliative care service is provided in a smaller hospital and not necessarily via a dedicated palliative unit; and there is a relatively small number of patients that will still require a minimum number of specialist staff; the high ratio of specialist staff per patient may, when combined with the apportionment of general overhead costs, result in a relatively high cost per patient.

Whereas a palliative care service that is provided by a dedicated palliative care unit as part of a larger hospital may have a higher number of patients and therefore a better staff to patient ratio. Additionally the larger hospital can be more efficient in terms of cost per bed day through having the opportunity to allocate overhead costs etc across a larger patient and service base.

PALLIATIVE CARE — LIVERPOOL CARE PATHWAY FOR THE DYING

4823. Hon Nick Goiran to the Minister for Mental Health representing the Minister for Health

In relation to the answer to question on notice No. 4469 given by the Minister for Health on 7 September 2011 regarding the Liverpool Care Pathway for the Dying (LCP), I ask —

When do you expect the concurrent evaluation on the implementation of LCP, that is to have commenced at Fremantle Hospital in September 2011, to be complete?

Hon HELEN MORTON replied:

The completion date of the evaluation of the implementation of LCP in Fremantle Hospital is expected to be February 2013, but this will depend on the progress on implementation of the LCP within Fremantle Hospital.

METROPOLITAN FREIGHT INTERMODAL NETWORK PLAN

4824. Hon Ken Travers to the Minister for Finance representing the Minister for Transport

(1) Is the State Government preparing a Metropolitan Freight Intermodal Network Plan?

(2) Will a steering committee be established to oversee the network plan?

(3) If yes to (2), who will be appointed to the steering committee, and will members be remunerated?

(4) If yes to (3), how much will they be paid?

Hon SIMON O'BRIEN replied:

The Department of Transport advises:

(1)–(2) Yes

(3) The following members have been appointed to the Peer Reference Group:

Officers from a number of government departments and representatives from the industry and relevant stakeholders.

(4) Only one representative from the non-government sector will be remunerated not more than $5 000 in accordance with the Department of Transport's procurement guidelines.

MOTOR VEHICLES — REGISTRATION RENEWAL NOTICES

4825. Hon Ken Travers to the Minister for Finance representing the Minister for Transport

(1) Is the Department of Transport still issuing vehicle registration renewal notices to motorists?

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

(3) If yes to (1), does the Department of Transport have any plans to cease issuing vehicle registration renewal notices to motorists?

(4) If yes to (3), why?

Hon SIMON O'BRIEN replied:

The Department of Transport advises:

(1) Yes

(2) Not applicable

(3) No

(4) Not applicable.

GNANGARA MOUND — WATER ALLOCATION PLAN

4827. Hon Alison Xamon to the Minister for Mental Health representing the Minister for Water

I refer to the answer to my question on notice No. 3686 regarding the Department's *Strategic Policy 5.03 – Metering the Taking of Water*, in which it was identified that of the 1,786 licences entitled to draw more than 50ML/annum, only 801 were required to meter and report their usage, and of that 801, only 259 were doing so, and I ask —

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

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

Hon HELEN MORTON replied:

The Minister for Water provides the following response:

(1)–(2) The answers to question on notice 3686 have no association with the Department of Water's Strategic Policy 5.03 — Metering the Taking of Water and it did not provide the numbers as stated in the current question.

GNANGARA MOUND — WATER ALLOCATION PLAN

4828. Hon Alison Xamon to the Minister for Mental Health representing the Minister for Water

I refer to the answer to my question on notice No. 3887 in which compliance actions from the 2009–10 season were about to be undertaken, and I ask —

(1) How many of the 78 licensees who exceeded their allocated limits in this season will be subject to some sort of compliance action?

(2) How many of these licensees will, or have, received warning letters?

(3) What other types of compliance action will be taken regarding these licensees?

Hon HELEN MORTON replied:

The Minister for Water provides the following response:

(1) 101.This is a revised figure based on the response to question on notice 4377.

(2) 11

(3) A pilot compliance scheme was initiated in November 2010. A compliance education strategy is in place and their meters are being read quarterly.

WATER LICENCES — APPLICATIONS TO STATE ADMINISTRATIVE TRIBUNAL

4829. Hon Alison Xamon to the Minister for Mental Health representing the Minister for Water

I refer to 8 cases regarding water licences that went before the State Administrative Tribunal between January 2005 and 31 August 2011 where the Department of Water reached a negotiated outcome with the applicant, and I ask for each licence, can the Minister please identify —

(a) the volume of water that was originally requested by the applicant;

(b) the volume of water that the Department was originally willing to grant to the applicant; and

(c) the volume of water to which the parties eventually agreed?

Hon HELEN MORTON replied:

(a)–(c) This is not information that is publicly available and the Department of Water does not release or disclose a licensee's request for water unless it is in the public interest.

PERTH WATERFRONT PROJECT — FORESHORE EXCAVATION

4830. Hon Alison Xamon to the Minister for Mental Health representing the Minister for Planning

I refer to the replies to question on notice No. 4565, and I ask —

(1) When is the independent audit expected to be completed?

(2) Which regulatory authorities will the results be referred to?

(3) Will these results be made public once they have been referred?

(4) If the answer to (3) is no, why not?

(5) Do you intend to announce what Government land sites will be nominated to receive the excess fill?

(6) If the answer to (5) is no, why not?

(7) If the answer to (5) is yes, when do you expect to announce those sites?

Hon HELEN MORTON replied:

(1) The independent audit will not be completed until remediated areas have been validated to confirm the removal of contaminated material.

(2) Results will be referred to the Department of Environment and Conservation, Department of Health, Swan River Trust and the Office of the Environmental Protection Authority.

(3) No.

(4) It is not standard practice for such reports to be made publicly available.

(5) No.

(6) It is not necessary to announce where excess fill will be deposited.

(7) Not applicable.

ASBESTOS REMOVAL — COMPLAINTS TO WORKSAFE

4832. Hon Alison Xamon to the Minister for Commerce

I refer to the answer to question on notice No. 4255 asked on 21 June 2011 in relation to complaints about the handling of crysolite asbestos removal from 8a Carbon Court in Osborne Park by Len Fode Roofing and Action Asbestos, and ask —

(1) What circumstances led the Worksafe Inspector to form the opinion that the regulations in the *Occupational Safety and Health Regulations 1996* referencing the *Code of Practice for the Safe Removal of Asbestos* 2nd edition [NOHSC: 2002 (2005)] were not applicable to this matter?

(2) In particular, please explain why the following regulations were not considered applicable —

  (a) regulation 5.45 — Asbestos removal work; and

  (b) regulation 3.126 — Demolition work involving asbestos (which references regulation 5.45).

(3) In relation to the Worksafe Inspector's findings regarding regulation 5.43 of the *Occupational Safety and Health Regulations 1996* —

  (a) please specify the breaches of the *Code of Practice for the Management and Control of Asbestos in Workplaces* [NOHSC: 2018 (2005)] found by the Worksafe Inspector; and

  (b) please specify what actions Worksafe undertook in relation to each of these breaches.

Hon SIMON O'BRIEN replied:

(1) The inspector did not form such an opinion.

(2)–(3) The inspector issued the improvement notice requiring compliance with regulation 5.43 because of the conflicting views about the presence of asbestos between the parties at the workplace.

Regulation 5.43 requires that the presence and location of asbestos is identified at the workplace and process for identification is conducted in accordance with the Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018(2005).

If asbestos is detected and requires removal, regulation 5.45 requires the work to be done in accordance with the Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC:2002 (2005)].

Regulation 3.126 relates to workplaces where thermal or acoustic insulating material containing asbestos is apparent. The work at the workplace involved the removal of roof sheeting. There were no allegations that the workplace had thermal or acoustic insulating material containing asbestos.

LAW REFORM COMMISSION — REPORT RECOMMENDATIONS

4834. Hon Giz Watson to the Parliamentary Secretary representing the Attorney General

I refer to the June 2002 'Thirtieth Anniversary Reform Implementation Report' of the Law Reform Commission of Western Australia ('the Commission') which identified, in order of priority, recommendations contained in

final reports of the Commission that had not been implemented and that the Commission believed would substantially enhance the quality of the legal system in our State, and I ask which of those recommendations will be implemented this term (for each recommendation identified, please include the priority level attributed to that recommendation at page 258 of the Commission's report)?

Hon MICHAEL MISCHIN replied:

The Government is aware of the June 2002 'Thirtieth Anniversary Reform Implementation Report' of the Law Reform Commission of Western Australia and has noted the comments of the Commission that there has been a high implementation rate of their recommendations, but that a range of recommendations from a number of reports remain unimplemented.

The Law Reform Commission has also noted that it believes that some of those recommendations are no longer relevant and considers some to be of low priority.

The Government is also aware that the Law Reform Commission believes that some of the recommendations which have not been implemented would enhance the Western Australian legal system. I note that the Law Reform Commission's 2002 report lists 36 project reports.

Of these 36 project reports, 15 have been considered to be of 'high priority' by the Law Reform Commission.

A number of these 15 reports have been proceeded with. These include:

- the Local Courts: Jurisdiction, Procedures and Administration Report and the Enforcement of Judgements of Local Courts report, which resulted in the Civil Judgements Enforcement Act 2004 (WA);
- the Courts of Petty Sessions: Constitution, Powers and Procedures report, which by virtue of the Courts Legislation Amendment and Appeal Act 2004 (WA), the Magistrates Court Act 2004 (WA) and the Magistrates Court (Civil Proceedings) Act 2004 (WA), the local courts and the courts of petty session have now been amalgamated as the Magistrates Court;
- the Medical Treatment for the Dying report, which resulted in the Acts Amendment (Consent to Medical Treatment) Bill 2006 which was assented to in 2008;
- the Police Act Offences report, which resulted in the implementation of recommendations through the Criminal Law Amendment (Simple Offences) Act 2004 (WA);
- the Professional Privilege for Confidential Communications report, which the Standing Committee on Uniform Legislation and Intergovernmental Agreements expressed its preference for enactment of a general judicial discretion in matters of confidential communications;
- the Review of the Criminal and Civil Justice System report, which resulted in many of the recommendations being implemented primarily by the Criminal Procedure Act 2004 (WA) and the Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 (WA), as well as the Magistrates Court (Civil Proceedings) Act 2004 (WA) and the Magistrates Court (Civil Proceedings) Rules 2005.

Of the remaining projects, work is underway within the portfolio of the Attorney General on the following reports:

- the Judicial Review of Administrative Decisions report, this is being undertaken by the Solicitor General;
- the Limitation and Notice of Actions: Latent Disease and Injury report, this is being undertaken by the State Solicitor;
- the Limitation and Notice of Actions report, this is being undertaken by the State Solicitor;
- the Writs and Warrants of Execution, this is being undertaken by the State Solicitor; and,
- the Confidentiality of Medical Records and Medical Research Report, this is being undertaken by the State Solicitor.

The remaining projects fall within other various portfolios for consideration and implementation. These include:

- the Financial Protection in the Building and Construction Industry report for consideration by the Minister for Commerce;
- the Sale of Goods Act report for consideration by the Minister for Commerce; and,
- the Restrictive Covenants report for consideration by the Minister for Planning.

The Law Reform Commission is a highly valued body and the Government frequently supports and implements many of the recommendations contained in the Commission's various reports. All reports produced by the Commission are important and add to the discussion around the operations of our legal system, and the Government continues to draw on the reports long after they are published.

NEIL WINZER — REDEPLOYMENT OPTION

4836. Hon Giz Watson to the Minister for Finance representing the Minister for Transport

Further to my question on notice No. 3772 asked on 24 March 2011 and referring to the desire of Mr Neil Winzer to return to work, I ask —

(1) Has redeployment under the Public Sector Management (Redeployment and Redundancy) Regulations 1994 been considered for Mr Neil Winzer?

(2) If yes to (1), what was the outcome of the consideration?

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

Hon SIMON O'BRIEN replied:

The Department of Transport advises:

(1)–(3) The Department of Transport is currently seeking further information regarding Mr Winzer's fitness to return to work in the Public Sector. Mr Winzer has been advised of this.

PRESCRIBED BURNING PROGRAM — DEPARTMENT PROCEDURES

4838. Hon Giz Watson to the Minister for Mental Health representing the Minister for Environment

I refer to Prescribed Burn F110, and I ask —

(1) How does the Department of Environment and Conservation ensure that local residents in the area maintain power and telephone connection during a prescribed burn?

(2) How many power poles were burnt in the prescribed burn?

(3) What agency paid or pays for the replacement poles and related labour?

(4) Page 7 of the burn plan requires two species to be excluded from the prescribed burn. How is the Department ensuring that these species are not affected by the past and upcoming prescribed burn F110?

(5) The protection of rare or endangered fauna communities (page 7 of burn plan) targets a mild mosaic burn as an outcome of the prescribed burn, and I ask —

  (a) what strategies does the Department implement to create a mild mosaic burn;

  (b) how do these strategies differ to the usual mosaic burn outcome;

  (c) how does the Department assess whether the target has been reached; and

  (d) what percentage of fully crown scorched trees is compliant with a mild mosaic burn?

(6) When does the Department assess the status of the known rare or endangered flora or fauna communities?

(7) Who makes this assessment and using what strategies?

(8) How is the outcome of the assessment made public?

Hon HELEN MORTON replied:

The Minister for Environment has provided the following response:

(1) Upon request from the Department of Environment and Conservation (DEC), Western Power and Telstra advise DEC of the location and a description of their infrastructure located within a proposed prescribed burn area. This information is included in the prescribed fire plan. Prior to ignition of the burn known infrastructure is protected by exclusion from the burn area, removal of any flammable fuel and/or wetting down of the fuel.

(2)–(3) Nil.

(4) The two species occur in discontinuous fuel associated with rock outcrops. It is planned for both species to be excluded from the burn, by the populations being burnt around prior to the core ignition.

(5) (a) The burn is prescribed to be burnt when the fire weather and fuel moisture conditions are mild. These conditions relate to a desired fire danger index (FDI) of 24–28 in spring and 22–26 in autumn. This prescription uses Forest Fire Behaviour Tables for Western Australia1998 to calculate the FDI.

  (b) The strategies are the same.

(c) Observations of fire behaviour and area burnt are recorded on the day of the burn. This information is used to adjust the ignition of the burn and monitor outcomes against the burn success criteria.

(d) Crown scorch is not a measure used to determine a mild mosaic burn for F110.

(6) Rare or endangered populations or communities identified in the prescribed fire plan are assessed prior to commencement and at the appropriate time interval following burn completion.

(7) DEC's nature conservation staff use established scientific survey techniques to assess the condition of populations or communities identified in the prescribed fire plan.

(8) Documents are available for viewing by the public at the Walpole DEC office at any time. Burn outcomes are communicated annually via DEC's public consultation meetings held in Walpole, Denmark and Mt Barker.

COMMUNITY–BASED WOMEN'S HEALTH CENTRES

4839. Hon Giz Watson to the Minister for Mental Health representing the Minister for Health

I refer to my question on notice No. 4516 asked in the Legislative Council on 16 August 2011, and I ask —

(1) What are the contracted outcomes for the core funding from the Department of Health provided to each of the women's health centres?

(2) Does the Minister believe that an Agreement established in 1999 to provide funding to women's health centres remains adequate to meet the needs of those centres and the changing demographics of their catchment areas in 2011?

(3) If yes to (2), on what basis?

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

(5) Will the Minister review the 1999 agreement?

(6) In relation to the one off grant of $95,000 provided to Ishar Multicultural Women's Health Centre (Ishar) for a basic health service and assessment of women's ongoing needs in Merriwa, Clarkson and Butler areas, I seek clarification on the following —

(a) at the time of giving the grant, was the funding from the Department of Health's budget for Women's Health Centres fully allocated;

(b) if yes to (6)(a), where is the funding for the grant coming from;

(c) on what basis was the funding provided to Ishar rather than to other service providers operating in the northern corridor;

(d) what are the consequences of funding the one off grant to other programs and budgets in the Department of Health;

(e) did the Minister receive, or seek, advice from the Women's Unit in the Department of Health with regard to what other services are delivered through Women's Health Centres in the outer northern suburbs of the northern corridor;

(f) if yes to (6)(e), please provide details;

(g) how is the Minister or Department planning to meet the health needs of the general population of women in the Merriwa, Clarkson and Butler area who are at risk because they are marginalised and/or at risk of achieving sustainable health gains given that Ishar is a multicultural women's health centre;

(h) referring to the answer to question (4)(b), which stated that parts of the grants were provided to assess the ongoing needs of women in Merriwa, Clarkson and Butler areas, who will be funded to deliver any services identified through that assessment process;

(i) when does the Minister expect the conclusion of this assessment; and

(j) what other information will be taken into account when considering future health services in the area?

(7) How does the Minister or Department plan to deliver programs to women in the Merriwa, Clarkson, and Butler areas to achieve sustainable health benefits?

Hon HELEN MORTON replied:

(1) Whilst the contracted outcomes vary slightly in each service agreement, the women's health centres provide most of the following core services that are funded by the Department of Health:

- Individual counselling for women;
- Clinical services provided by a nurse and/or allied health staff;
- Information and referral service;
- Therapeutic group sessions to prevent poor health;
- Self help group support;
- Health education group support to promote healthy choices;
- Network development with other local service providers; and
- Organisational development and capacity building through advocacy on women's health, consultations and professional development.

(2) No.

(3) Not applicable.

(4) Up until the end of the Public Health Outcomes Funding Agreement, there was no opportunity to review or influence funding amounts and the link to local changing demographics.

(5) The 1999 National Public Health Outcomes Funding Agreement is no longer in existence and the Department of Health now provides direct funding to the women's health centres. The draft "Western Australian Women's Health Strategy 2012–2015" will enable the development of a health funding model that will be aligned to identified priorities for women's health and work towards addressing the issues of specific population needs and long-term sustainability for women's health services.

(6) (a) The Women and Newborn Health Service receives a specific budget allocation from Department of Health for funding the 12 women's health centres core outcomes. Additional projects such as the Ishar one-off grant is sourced through other areas in the Department of Health.

(b) There are other discretionary resource sources within the Department of Health for various purposes or specific projects.

(c) Ishar has a long term history and experience in delivering services and meeting agreed outcomes to diverse vulnerable and high risk groups of women and therefore the project proposal was supported.

(d) Each year there are competing priorities for resources and the Department of Health balances its decisions on the priority needs at the time and potential outcomes for future, longer term planning and resourcing.

(e) Yes, the Minister sought and received advice from the Women's Health Policy and Projects Unit (WHP & PU), Women and Newborn Health Service, in regards to the services delivered through women's health centres in the northern corridor.

(f) The advice from WHP & PU was that the Unit maintained regular contact with the women's health centres; that both Ishar and Women's Health Works in Joondalup had expressed a need for services in the upper northern corridor; that both centres were already offering limited services to women in this region; and suggested that the two centres work together to develop a joint proposal.

(g) It is anticipated that the "Western Australian Women's Health Strategy 2012–2015" will be endorsed early next year. Principles and priorities in the current draft Strategy include seeking substantive equality, identifying best practice that will improve the overall health and wellbeing of women particularly targeting vulnerable groups. Future service funding and activities will be aligned with the Strategy and based on accurate data and research for women in Western Australia.

(h) At this point in time, no agencies have been identified to provide services as the assessment process is not yet complete. This will also be dependent on availability of resources.

(i) The one-off grant to Ishar is for a year and is due to end second half of 2012. It is expected that the assessment of the ongoing needs of women in Merriwa, Clarkson and Butler areas will be complete at this time.

(j) The Department of Health, through the "Western Australian Women's Health Strategy" will identify, collect and analyse a host of information for women living throughout Western Australia.

(7) The Department will consider all information obtained over time through the Strategy, and in the short term, it will include Ishar's assessment of ongoing need. Any decisions on delivery of new or existing programs for the Butler, Merriwa and Clarkson areas will be balanced against competing priorities to improve women's health throughout the entire State.

KWINANA INDUSTRIAL AIR BUFFER ZONE — EXTENSION

4841. Hon Lynn MacLaren to the Minister for Mental Health representing the Minister for Environment

In regard to the decision recently to extend the Kwinana Industrial Air Buffer Zone made by the Western Australian Planning Commission in September 2010, please outline the following —

(1) What technologies could be used to reduce any current perceived dust problems caused by Alcoa's operation and to what extent have these alternatives been explored?

(2) Can the Minister confirm that Alcoa only uses sprinklers to suppress dust?

(3) Could mulching be used to suppress dust?

(4) How is the dust being monitored and where are dust monitors specifically located?

(5) Who controls dust monitoring (the Government or Alcoa)?

(6) What are the known health risks in the affected area and surrounds as a result of Alcoa's operations?

(7) Have there been any independent impact statements and/or assessments conducted regarding the current and projected impact of Alcoa's operations in the area?

(8) If yes to (7), please provide details.

(9) What independent assessments of Alcoa's operations in the area are planned in the future?

(10) What are the known environmental risks in the affected area?

Hon HELEN MORTON replied:

The Minister for Environment has provided the following response:

(1)–(2) The Department of Environment and Conservation (DEC) has advised that Alcoa currently uses various methods of dust control for its residue storage areas (RSAs), including sprinklers and water carts, mulch, oil, bitumen, pastures, blue metal and carbonation.

I am advised that Alcoa has initiated a research program which reviews new and alternative dust control measures. DEC is not aware of any other suitable methods of dust suppression which are not currently utilised by Alcoa.

(3) Mulch is currently used on external embankments, together with various other dust suppression methods. Mulch cannot be used directly on residue as this would inhibit the drying process and reduce the drying capacity of each RSA.

(4) DEC requires Alcoa to operate high volume samplers at locations defined in its licence. These samplers measure particulates over a 24-hour period and are located in the direction of prevailing wind conditions.

Monitors are located between approximately 300 and 900 metres from Alcoa's Kwinana RSAs. All dust monitoring data are submitted to DEC annually.

DEC also requires Alcoa to maintain a particulate monitoring network which provides instantaneous particulate results. The locations for this network are not specified by the licence, but are intended to be utilised by Alcoa to manage dust generated on-site.

(5) Alcoa's licence conditions require it to operate and maintain dust monitors.

(6) This question should be referred to the Minister for Health.

(7)–(8) DEC is aware that a dust assessment and Health Risk Assessment (HRA) have been completed by environmental consultants on behalf of Alcoa. The HRA is a generic assessment which looks at refinery and RSA impacts, and is also applicable to Alcoa's Wagerup and Pinjarra refineries.

The HRA was originally required by the Environmental Protection Authority as part of the public environmental review process for Alcoa's Pinjarra Efficiency Upgrade and the Wagerup 3 expansion proposal. Both DEC and the Department of Health (DoH) reviewed the HRA and provided their comments. The HRA was independently peer reviewed by Professor Philip Weinstein of The University of Queensland.

The findings have been applied to the Kwinana refinery as a voluntary action by Alcoa to understand its potential contribution to health risks in the environment surrounding the RSAs. DEC is not aware of any other independent assessments.

Any proposed expansion or alterations of Alcoa's RSA are assessed by DEC. These assessments are based on information provided by Alcoa and environmental consultants.

(9) I am not aware of any planned independent assessments.

(10) The environmental risks in the area are defined in the Environmental Protection (Kwinana) (Atmospheric Wastes) Policy 1999. Environmental risks include potentially elevated dust, odour, nitrogen oxides, sulfur dioxide, volatile organic compounds, and noise emissions.

KWINANA INDUSTRIAL AIR BUFFER ZONE — WATER QUALITY TESTING

4842. Hon Lynn MacLaren to the Minister for Mental Health representing the Minister for Environment

(1) Has the Department been requested to test the water quality of any rainwater tanks in the Alcoa buffer zone?

(2) If yes to (1), when were those tanks tested and what were the results?

(3) If no to (1), what circumstances would trigger the Department's environmental safety team to investigate rainwater tanks in the area?

Hon HELEN MORTON replied:

(1)–(3) The Member needs to specify which Alcoa plant buffer zone she is referring to in her questions.

KWINANA INDUSTRIAL AIR BUFFER ZONE — ALCOA OPERATIONS

4843. Hon Lynn MacLaren to the Minister for Mental Health representing the Minister for Health

In regard to the decision recently to extend the Kwinana Industrial Air Buffer Zone made by the Western Australian Planning Commission in September 2010 —

(1) Does the Department of Health recommend that residents in the affected area and surrounds drink and cook with rainwater from their rainwater tanks?

(2) What independent monitoring and long-term assessments of the health impact of Alcoa's operations in the area are presently taking place?

(3) How has the Department of Health satisfied itself that it is safe to grow vegetables commercially in the area (some of which is exported) for human consumption?

(4) Is it safe to operate child care facilities (like family day care in the area)?

(5) Have any independent impact statements and/or assessments been conducted regarding the current and projected impact of Alcoa's operations in the area?

(6) If yes to (5), please provide details.

(7) What independent assessments of Alcoa's operations in the area are planned in the future?

(8) What are the known health risks in the affected area?

Hon HELEN MORTON replied:

(1) The Department of Health (DOH) in general advises that households that rely on rainwater tanks as their main source of drinking water should observe good tank hygiene practices and regularly test their water supply. Sampling undertaken within the new buffer zone has not found any contamination of rainwater by heavy metals.

(2) None. The buffer is standard planning practice designed to separate industry from residential estates to protect public health from industrial emissions from all industry in the area.

(3) Vegetables grown for commercial purposes are tested for contaminants and natural toxicants under the Food Standards code. It is normal practice for the DOH to be notified when guidelines are exceeded. Dust analysis has not found contamination by heavy metals.

(4) The DOH's standard advice is that child health care facilities or child day care centres should not operate inside any industrial buffer zone. Where such facilities already exist due to previous planning decisions, the DOH advises steps to improve indoor air quality such as installing or upgrading air conditioning systems that can help reduce overall exposure to dust.

(5)–(6) Yes. Air quality modelling and monitoring of Alcoa's dust emissions has been undertaken. Environmental consultants undertook this work and concluded that dust from the drying ponds may

impact areas within 2.0 km. The magnitude of dust impact was found to decrease with distance from the drying ponds.

(7) None by the DOH. The Department of Environment and Conservation, as the State regulator, has the responsibility to ensure Alcoa meets its environmental obligations in terms of pollution control.

(8) Health risks for the area are those normally associated with exposure to dust. Some individuals, particularly those with asthma or pre-existing respiratory conditions, may be adversely affected by dust while others will not be affected despite living in the same area for many years. Individuals vary in their sensitivity to dust; therefore, anyone concerned that dust from the area may be having an adverse impact on their health should seek a medical opinion from their doctor regarding managing their health.

ALCOA — MANDOGALUP OPERATIONS

4844. Hon Lynn MacLaren to the Minister for Mental Health representing the Minister for Planning

In regard to the operation of Alcoa near Mandogalup, please outline the following —

(1) When does the Western Australian Planning Commission (WAPC) anticipate that Area F in the Alcoa Residue Storage Area will be closed and how certain is any projected closure date?

(2) How does the WAPC anticipate Area F will be rehabilitated?

(3) Have a range of alternative rehabilitation initiatives been explored that may eliminate perceived dust problems fast?

(4) If yes to (3), how have they been considered?

Hon HELEN MORTON replied:

(1) The closure date of Area F is the responsibility of Alcoa.

(2) The rehabilitation of Area F is the responsibility of Alcoa. It is understood that Alcoa is preparing a Long Term Residue Management Strategy for its Mandogalup site.

(3) Refer to answers (1) and (2) above.

(4) Refer to answers (1) and (2) above.

KWINANA INDUSTRIAL AIR BUFFER ZONE — EXTENSION

4845. Hon Lynn MacLaren to the Minister for Mental Health representing the Minister for Planning

In regard to the decision recently to extend the Kwinana Industrial Air Buffer Zone made by the Western Australian Planning Commission in September 2010 —

(1) How long has the buffer existed?

(2) How long is the buffer projected to exist?

(3) What permits, licences and statutory authority allow Alcoa to operate in the area?

(4) What alternative uses are anticipated and/or planned for land affected by the decision to extend the buffer?

Hon HELEN MORTON replied:

(1) A buffer has existed in this area since 2002. The extended buffer area was designated by resolution of the Western Australian Planning Commission (WAPC) in September 2010 and confirmed in May 2011.

(2) The WAPC resolved to review the buffer area in five years (from the 2011 decision) to take into account any changing circumstances that may influence the extent of the buffer.

(3) The Department of Environment and Conservation licenses Alcoa. Alcoa also operates under the Alumina Refinery Agreement Act 1961 administered by the Department of State Development.

(4) No changes to the Urban, Urban Deferred or Rural zones in the Metropolitan Region Scheme in the buffer area are proposed. However, the intention of the buffer area is that no residential subdivisions and sensitive uses (such as child minding centres, kindergartens and schools) should be approved, therefore alternatives to residential development need consideration. Any proposals to modify land uses in town planning schemes, to accord with Department of Health advice, would be subject to discussion between State and Local Governments and, if amendments to local schemes were proposed, they would be subject to public consultation.

KWINANA INDUSTRIAL AIR BUFFER ZONE — WATER QUALITY TESTING

4846. Hon Lynn MacLaren to the Minister for Mental Health representing the Minister for Water

(1) If modelling of groundwater contamination has been done, please table this modelling?

(2) If modelling has not been done, why not?

(3) Does the Department of Water regularly sample water quality in Mandogalup?

(4) If yes to (3) —

(a) where are those samples taken from;

(b) how often are samples taken and analysed;

(c) please table the results of the last two years for each sampling site; and

(d) what is the schedule for the next two years for testing the water from each sampling site?

Hon HELEN MORTON replied:

The Minister for Water provides the following response:

(1)–(2) Additional information is required to respond to this question.

(3) The Department of Water is not responsible for undertaking regular water sampling in Mandogalup.

(4) Not applicable

KWINANA INDUSTRIAL AIR BUFFER ZONE — ALCOA OPERATION

4847. Hon Lynn MacLaren to the Minister for Mental Health representing the Minister for Water

(1) Does the Department expect that Alcoa's activities will have an impact on surface or ground water in the buffer area?

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

(3) Are there any water quality monitoring bores in the buffer area?

(4) If yes to (3) —

(a) please provide the location of each bore;

(b) how often is the water in each bore tested for contaminants;

(c) please table results for each bore for the last two years; and

(d) what is the schedule for the next two years for testing the water from these bores?

(5) If no to (3) —

(a) will the Department install monitoring bores;

(b) will the Department request that Alcoa do so; and

(c) how will sites be chosen for monitoring bores?

(6) What input, if any, does the Department of Water have in guiding Alcoa about disposal of their waste products?

(7) Is Alcoa obliged to act in accordance with advice from the Department of Water?

(8) Should the Department of Water have reason to believe that Alcoa's practices are contaminating surface or ground water, what actions will the Department take to protect these natural assets?

Hon HELEN MORTON replied:

(1)–(8) The Member needs to specify which Alcoa plant buffer zone she is referring to in her questions.

KWINANA INDUSTRIAL AIR BUFFER ZONE — EXTENSION

4848. Hon Lynn MacLaren to the Minister for Mental Health representing the Minister for Planning

In regard to the decision recently to extend the Kwinana Industrial Air Buffer Zone made by the Western Australian Planning Commission (WAPC) in September 2010 —

(1) Please outline —

(a) the reason for the decision to modify the Kwinana Industrial Air Buffer Zone;

(b) the information upon which the decision was made, including all relevant reports considered by the WAPC; and

(c) the methodology used to satisfy the WAPC about the safety to the public or otherwise, of the relevant areas in which the buffer was extended and surrounding area.

(2) How were local landowners and residents consulted prior to the decision being made?

(3) If they were not consulted, why not?

(4) Why did the WAPC not formally advise the relevant landowners of the decision, after the decision was made?

(5) Why hasn't the WAPC responded to landowners who have written to the WAPC, seeking an explanation of the decision?

(6) What was the process used to make the decision?

(7) Who was consulted and when were they were consulted?

(8) Were any present health, environmental or water problems or concerns with land affected by the decision reported to the WAPC?

(9) If yes to (8), please provide details.

(10) Were any potential future health, environmental or water problems or concerns with land affected by the decision reported to the WAPC?

(11) Have there been any independent impact statements and/or assessments conducted regarding the current and projected impact of Alcoa's operations in the area?

(12) If yes to (11), please provide details.

(13) Will the WAPC disclose all of the information upon which the decision was made?

(14) If no to (13), on what grounds is information being kept confidential?

(15) Which reports are confidential and why?

(16) Was Alcoa consulted in regard to the decision?

(17) Were affected property developers consulted in regard to the decision?

(18) If yes to (17), when?

(19) To date, has legal action been conducted in regard to the decision?

(20) If yes to (19), by whom and what is the status of any legal action?

(21) Have any accommodations been made for property developers affected by the decision?

(22) Is the decision reviewable?

(23) If yes to (22), how and what timelines apply to local landowners?

Hon HELEN MORTON replied:

(1) (a) The buffer area was designated by the Western Australian Planning Commission (WAPC) after considering recommendations from the former Kwinana Buffer Review Committee, which had received advice from the Department of Health and the Department of Environment and Conservation, in relation to the need to designate a buffer area separation distance between the Alcoa Mandogalup site and the Kwinana Industrial Area, and residential subdivision development proposals. The buffer recognises uncertainties inherent in the level and frequency of impacts from the Alcoa Mandogalup site and the Kwinana Industrial Area generally.

(b) As required by the 2008 Review of the Kwinana Air Quality Buffer Position Paper, Alcoa provided a report on dust emissions from its Mandogalup site to assist the review of the buffer in the surrounding area. The Departments of Health and Environment and Conservation provided advice to the WAPC on the report and the need for a buffer area.

(c) The methodology employed was to review the Alcoa report, seek technical advice from the Departments of Health and Environment and Conservation and consider the relevant planning and policy framework and other considerations of the Kwinana Buffer Review Committee generally.

(2) The decision is made on advice from the Department of Health and the Department of Environment and Conservation, rather than landowners and residents. While WAPC seeks to engagement with stakeholders where possible, by its very nature industrial or buffer zones are not set by community consultation.

(3) The decision rests on health and environmental factors rather than public consultation. The advice from the Departments of Health and Environment and Conservation cannot be modified by public consultation.

(4) Following the September 2010 WAPC decision, consultation was commenced with State Solicitor's Office and Alcoa in relation to determining whether the WAPC could release the Alcoa report to stakeholders. Further, consideration was given to a timeframe for a review of the buffer area and the information relating to the original decision. Those matters were then reported to the WAPC in May 2011. An information letter with Frequently Asked Questions attachment was then prepared, in consultation with the Department of Health, Department of Environment and Conservation, and relevant Local Governments, and the letter was released on 4 October 2011.

(5) Following release of the 4 October 2011 information letter, responses to individual landowners have been dispatched.

(6) Refer to 1 (a) and (b) above.

(7) The Departments of Health and Environment and Conservation were consulted at various times in 2010 prior to the WAPC decision. The former Kwinana Buffer Review Committee consisted of representatives of the Department of Planning, Department of State Development, LandCorp and the Department of Environment and Conservation.

(8) Health and environmental (air quality) impacts were considered and reported to the WAPC and advice was sought from the Departments of Health and Environment and Conservation. Correspondence from the latter was attached to the report to the WAPC; those departments did not comment in relation to water matters. The revised buffer area is intended to incorporate the potential impact of dust on surrounding land uses, as well as longer term strategic planning such as providing for expansion of industrial and residential development.

(9) The Department of Health advised that the potential impact of dust is greatest within the revised buffer area, which does not mean that dust levels will be continuously high but rather, that areas inside the buffer are on average subject to more episodes of high dust levels than areas outside the buffer area.

The Department of Health further advised that high concentrations of dust can trigger coughs, sneezes or asthma in people with underlying respiratory conditions, and that even small increases in dust can make symptoms worse.

The Department of Health advises that the most efficient way to prevent any health problems in an individual is to reduce a whole community's level of risk. The buffer area provides this protection by reducing the number of people moving into the area. People living in the area are not necessarily at increased personal risk of adverse health effects since individual tolerances vary considerably and individuals may never experience adverse health effects.

(10) Refer to (8) and (9) above.

(11) The Department of Health and Department of Environment and Conservation provided their assessments of the Alcoa report which contributed to their advice to the WAPC.

(12) Refer (11) above.

(13) Yes. The 2009 Alcoa Report and September 2010 WAPC report was supplied to residents who have written or telephoned after the letter of 4 October 2011 was released.

(14) Not applicable.

(15) There are no confidential reports.

(16) Consistent with the 2008 Review of the Kwinana Air Quality buffer — Position Paper, Alcoa provided its 2009 report to the former Kwinana Buffer Review Committee which was subsequently referred to DoH and DEC for comment. Alcoa addressed the former Kwinana Buffer Review Committee on several occasions and provided commentary as part of the information gathering process. Alcoa was not a member of the former Kwinana Buffer Review Committee and thus did not contribute to the decisions of that Committee.

(17) No.

(18) Not applicable.

(19) No specific legal action in relation to the buffer is known. However, the WAPC refused a residential subdivision application in Wattleup. An appeal was lodged with the State Administrative Tribunal, which recently dismissed that appeal.

(20) Not applicable.

(21) No.

(22) Yes.

(23) The WAPC resolved to review the decision in 2016, to take into account any changing circumstances that may have occurred in the locality, for example in relation to the Alcoa site.

MENTALLY-IMPAIRED ACCUSED OFFENDERS — HOSPITAL ORDERS

4849. Hon Alison Xamon to the Parliamentary Secretary representing the Attorney General

(1) How many court ordered hospital orders were made in —

(a) 2009;

(b) 2010; and

(c) 2011 to date?

(2) What courts were the hospital orders made from for each of the years in (1)?

(3) Where were each of the mentally impaired accused referred to for assessment by their hospital order?

(4) What were the costs associated with transfers of mentally impaired accused for assessment for each of the years in (1)?

(5) Has the Attorney General given any consideration to having a psychiatrist on-call to triage people on hospital orders by video link or face to face interview, rather than transferring them to Frankland Centre for assessment?

(6) If no to (5), will the Attorney General consider this proposal?

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

Hon MICHAEL MISCHIN replied:

(1) (a) 93

(b) 77

(c) 66 as at 25 October 2011.

(2)–(3) [See paper 4096.]

(4) This question would be more appropriately responded to by the Minister for Corrective Services. It is therefore requested that this question be referred to the Hon Terry Redman MLA.

(5) The decision to have a psychiatrist on-call is a medical operational decision at the discretion of the Frankland Centre or Mental Health Commission. Consequently, it is recommended that this question be referred to the Minister for Mental Health, the Hon Helen Morton MLC.

(6)–(7) Not Applicable

FRANKLAND CENTRE — HOSPITAL ORDERS

4850. Hon Alison Xamon to the Parliamentary Secretary representing the Attorney General

I refer to the Frankland Centre and to the high demand for forensic mental health beds, and I ask —

(1) Why is the Frankland Centre the primary referral centre for court ordered hospital orders?

(2) Is this a policy position?

(3) If yes to (2), please table the policy.

(4) If no to (2), is this a statutory requirement?

(5) If yes to (4), please provide the relevant statutory provision.

(6) Does the Attorney General have any intention of utilising additional referral centres for court ordered hospital orders?

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

Hon MICHAEL MISCHIN replied:

(1) The Frankland Centre is the only maximum-secured inpatient psychiatric hospital in Western Australia operated by the State Forensic Mental Health Service with the capacity to provide assessment, treatment and rehabilitation services to people referred by the courts under a court ordered hospital order. As a matter of practicality, it is the only facility in the State to which relevant referrals can be made.

(2) No

(3) Not applicable

(4) No

(5) Not applicable

(6) As noted in (1), the Frankland Centre is the only maximum-secured inpatient psychiatric hospital in Western Australia operated by the State Forensic Mental Health Service with the capacity to provide assessment, treatment and rehabilitation to people referred by the courts under a court ordered hospital order.

(7) Not applicable.

WATERCORP — ALLIANCE PARTNER TENDER

4851. Hon Alison Xamon to the Minister for Mental Health representing the Minister for Water

I refer to Programmed Facility Management (Programmed) winning the tender to become the WaterCorp's Alliance partner for Perth and Peel, and I ask —

(1) Will the Minister table any and all selection reports that were prepared to assist in deciding between Thiess and Programmed?

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

(3) Which, if any, of the tasks currently undertaken by the WaterCorp are proposed to be transferred to Programmed over the course of the contract?

(4) If tasks are expected to be transferred away from the WaterCorp, what succession planning does the WaterCorp have in place to ensure that key skills are retained in the organisation?

(5) Has the Alliance Manager been appointed?

(6) If yes to (5), please name that person?

(7) How long have Programmed's proposed management staff been working for Programmed?

(8) Please specify which of Programmed's other contracts were considered comparable to the size and scope of this contract?

Hon HELEN MORTON replied:

The Minister for Water has provided the following response:

(1) No

(2) The reports are commercial in confidence.

(3) Nil

(4) Not applicable

(5) Yes

(6) Chris Smith

(7) The Alliance Manager has worked for Programmed Facility Management for a period of seven months. Other management positions are currently being recruited. Recruitment for these roles is focusing on personnel available within the Water Corporation, Programmed, current Thiess or UGL employees and externally, if required.

(8) Programmed Facility Management through existing employees of Swan Water Services and Western Water Services, will work with the Water Corporation to deliver the full range of services in the Perth Region Integrated Alliance.

Programmed Facility Management is a division of Programmed Maintenance Services (Programmed), a publicly listed Australian Company (ASX: PRG), whose headquarters are in Perth, Western Australia. Programmed has over $1 billion in annual revenue, over 100 offices across Australia and New Zealand, over 10,000 employees and more than 5,000 long term maintenance contracts. Some of the relevant contracts, where large number of employees and contractors are managed to undertake maintenance and minor capital works, encompassing facility management, maintenance and/or project delivery capabilities include:

- Public Housing contracts in WA, SA, VIC and NSW;
- City West Water (VIC); and
- Existing facility maintenance services contract with the Water Corporation.

WATERCORP — ALLIANCE PARTNER TENDER

4852. Hon Alison Xamon to the Minister for Mental Health representing the Minister for Water

I refer to the answer to my question without notice No. 1184 regarding Programmed Facility Management (Programmed) winning the tender to become the WaterCorp's Alliance partner for Perth and Peel, in answer to which no loss of jobs was anticipated at Swan Water, and to expectations of 20–30 management jobs are expected to be lost across the current two contracts as reported by *PerthNow* on 29 September 2011, and I ask if the Minister will please also confirm that none of the existing management staff of Swan Water will lose their jobs in the transition to Programmed?

Hon HELEN MORTON replied:

The Minister for Water has provided the following response:

All employees of Swan Water and Western Water service companies will continue their employment into the new arrangements.

SYNERGY — REBATES AND CONCESSIONS REVIEW

4854. Hon Kate Doust to the Minister for Energy

I refer to Synergy's review into the application of rebates and concessions to customer accounts which was delivered to the Minister in April, and ask —

(1) Will the Minister table this review?

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

(3) What were the recommended actions arising from the report and what has not been completed to date?

(4) How many Synergy customers, by type of rebate, have been affected by this problem?

(5) Have all eligible Synergy customers now had rebates correctly applied, and is the Minister confident all anomalies have been found?

Hon PETER COLLIER replied:

(1) No

(2) There is no official report resulting from the review, Synergy has briefed the Minister in relation to issues identified and progress of resolution on an ongoing basis through briefing notes.

(3) Synergy's review was focussed on identifying issues and resolving them expediently once they were identified. In all instances, where issues were identified, immediate actions were undertaken to resolve them. Synergy continues to monitor the application of rebates and concessions closely, and is confident these are being applied correctly in the vast majority of instances.

(4) Of the approximately 250,000 customers who are paid rebates through Synergy, the following numbers were affected by errors of over and underpayment:

Supply Charge Rebate: 13,068
Dependent Child Rebate: 10,550
Air Conditioning Rebate: 18
Late Fee Waiver: 55,068

Synergy notes that many customers are eligible for multiple rebates, thus the data above will contain duplicate and triplicate numbers of customers as they are counted per rebate. For instance, a customer affected by a supply charge rebate error could possibly also have been affected by a late fee waiver omission, thus would be counted in both categories.

(5) Synergy is confident that identified errors have been resolved and that all eligible customers have had their rebates and concessions correctly applied, with the exception of some inactive accounts and specific cases where Synergy is in the process of liaising with customers to rectify errors.

CLIMATE CHANGE — NINGALOO REEF

4858. Hon Lynn MacLaren to the Minister for Mental Health representing the Minister for Environment

With reference to the Climate Commission report entitled 'The Critical Decade — Western Australia Climate Change Impacts' (August 2011), and in particular to findings in relation to Ningaloo Reef on page 12 of the report, I ask —

(1) Will the Minister ensure that a climate change action strategy is developed for Ningaloo Marine Park as has been done for the Great Barrier Reef?

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

(3) If yes to (1), what is the anticipated time frame for delivery of such a strategy?

(4) What actions does the Minister intend to take to respond to the Climate Commission's findings on the impacts of climate change on the Ningaloo Reef?

(5) How will the Minister ensure that strategies are in place to protect —

(a) reef health; and

(b) the viability of the marine tourism industry?

(6) What assistance and guidance will be provided to the tourism industry to enable it to adapt and respond to climate-related risks?

Hon HELEN MORTON replied:

The Minister for Environment has provided the following response:

(1)–(4) The Government is developing a Climate Change Adaptation and Mitigation Strategy for Western Australia which will establish a Statewide strategic framework. Climate change impacts and strategies will be addressed in future revisions of the Ningaloo Marine Park Management Plan, drawing in particular on research through the Western Australian Marine Science Institution (WAMSI) that has examined the expected impacts of climate change on WA's marine environment as well as improved our understanding of the Ningaloo Reef ecosystem.

Research and monitoring strategies are currently in place for Ningaloo Marine Park through the Department of Environment and Conservation's (DEC) Marine Science Program. WAMSI is developing further research proposals for consideration by the Government.

(5) (a) The atmospheric impacts on the reef, such as increasing CO2 causing an increase in ocean temperature, can only be mitigated on an international scale. Monitoring and research programs are in place to detect the frequency and severity of change in the form of bleaching events and coral and fish community composition over time. Monitoring and research findings are incorporated into management of the marine park.

(b) The health of the reef and the sustainability of the tourism industry are inextricably linked. Commercial tourism operators who operate in Ningaloo Marine Park have in place sustainable strategies and practices to ensure the viability and longevity of the tourism industry. Restricted licence operators have sustainability conditions attached to their licences against which they are audited annually by a qualified environmental auditor.

(6) DEC and Tourism Western Australia have worked together to produce online information including a dedicated climate change page on Tourism Western Australia's website. This site provides guidance to the tourism industry and information on tools and resources available to enable it to adapt and respond to climate related risks.

PERTH WATERFRONT PROJECT — BUSINESS CASE

4864. Hon Ken Travers to the Minister for Mental Health representing the Minister for Planning

(1) Was a business case undertaken on the Perth Waterfront Project prior to a decision being taken to proceed with this project?

(2) Will the Minister table this business case?

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

(4) Over what timeframe is it expected that government land holdings in the project area will be sold?

(5) Did the business case estimate the number and land area of land sales that would be expected over each of the next 10 years?

(6) If yes to (5), what are the details?

(7) Does the estimated cost of $440 million include stage two of the project?

(8) Does the $170 million to be recouped from land sales include land in stage two of the project?

(9) What was the estimated population growth for Perth that was used in preparing the business case?

(10) If no estimated population growth was used, what growth figures were used in the business case?

Hon HELEN MORTON replied:

(1) Yes.

(2) No.

(3) The Business Case contains commercial in confidence information that could prejudice contract tendering and the fair marketing and sale of project land.

(4) It is expected that the land release program will conclude in 2018–19.

(5) Yes.

(6) Nine sites will be available to the private sector for development. These sites will be progressively made available to the market between 2012 and 2018.

(7) The budget allocation of $438.5 million covers all costs associated with the construction of infrastructure and the public domain, with the exception of the Indigenous Cultural Centre and the Cable Car.

(8) The estimated revenue of $170 million will be generated from all land sold to the private sector.

(9)–(10) The Business Case applied Australian Bureau of Statistics figures that projected the population of Perth increasing from 1.6 million to 3.4 million by 2050.

OFFICE OF THE INFORMATION COMMISSIONER — APPLICATION PROCEDURES

4901. Hon Giz Watson to the Parliamentary Secretary representing the Attorney General

I refer to the latest annual report of the Office of the Information Commissioner, which states at page 37 that the Information Commissioner considers there is significant merit in amending the *Freedom of Information Act 1992* to remove the legislative requirement for agencies to consult with officers where the agency only proposes to disclose non-exempt information about those persons, and I ask will the Government introduce a Bill to that effect this term?

Hon MICHAEL MISCHIN replied:

The Government is considering the Information Commissioner's views but has not yet finalised a policy decision with respect to the issue.

MENTAL HEALTH FACILITIES — JOONDALUP AND ROCKINGHAM

4922. Hon Ljiljanna Ravlich to the Minister for Mental Health

I refer to the transitional facilities that have been funded for Joondalup and Rockingham, and I ask —

(1) How many Mental Health Consumers will the facilities cover?

(2) When will those facilities be up and running?

(3) How much capital funding has been allocated for the construction of the facilities?

(4) How much recurrent funding has been allocated to each facility for operation?

(5) Is that the full funding the facilities need?

(6) If no to (5), where will the extra funding come from?

(7) Have staff for the facilities been sourced?

(8) When did the application process begin?

(9) How many staff are needed to run each facility?

(10) How many staff have been funded for each facility?

Hon HELEN MORTON replied:

(1) Up to 22 individuals at any one time for each service.

(2) Joondalup is estimated to be operational in October 2012. Rockingham is yet to be determined as it is at the planning stage.

(3) Each service has been allocated $6.4 M for construction.

(4) Each service has been allocated $3.2 M for operations.

(5) Yes

(6) Not applicable.

(7) No

(8) Not applicable.

(9) The staffing arrangements will be the responsibility of the appointed non-Government service providers.

(10) Not applicable.

MENTAL HEALTH FACILITIES — BROOME

4923. Hon Ljiljanna Ravlich to the Minister for Mental Health

I refer to the transitional facility that has been funded for Broome, and I ask —

(1) How many Mental Health Consumers will the Broome facility cover?

(2) When will that facility be up and running?

(3) How much capital funding has been allocated for the construction of the facility?

(4) How much recurrent funding has been allocated to the Broome facility?

(5) Is that the full funding the facility needs?

(6) If no to (5), where will the extra funding come from?

(7) Have staff for the facility been sourced?

(8) When did the application process begin?

(9) How many staff are needed to run the facility?

(10) How many staff have been funded for the facility?

Hon HELEN MORTON replied:

(1) Up to 6 individuals at any one time

(2) 2013

(3) $1.8 million

(4) $2.6 million over 2 years

(5) Yes. Operational funding beyond 2013/14 will be sought through the budget process.

(6) Not applicable.

(7) No

(8) Not applicable.

(9) On average 3–4 staff per day, depending on the needs of the residents

(10) Not applicable.

MENTAL HEALTH FACILITIES — PILBARA, ESPERANCE AND NORTHAM

4924. Hon Ljiljanna Ravlich to the Minister for Mental Health

I refer to the submissions for transitional facility in the Pilbara (2), Esperance and Northam, and I ask —

(1) When will a decision be made on the success or otherwise of the funding submissions?

(2) What is the estimated timeline for the funding and construction of each proposed facility?

(3) How much capital funding has been put aside in the forward estimates for construction of the facilities?

(4) How much recurrent funding has been put aside in the forward estimates for facilities?

(5) Have staff for the facilities been sourced?

(6) When did the application process begin ?

(7) How many staff are needed to run each facility?

(8) How many staff have been funded for each facility in the forward estimates?

Hon HELEN MORTON replied:

(1) This question needs to be redirected to the Minister for Regional Development and Lands.

(2) The estimated timelines for the funding and construction of the proposed facility are: Planning to commence from January 2012 with an estimated completion date in December 2013.

(3)–(8) Not applicable until the outcome of the submission is known.

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