Parliamentary Debates
(HANSARD)

FORTIETH PARLIAMENT
FIRST SESSION
2019

LEGISLATIVE COUNCIL

Tuesday, 12 February 2019

Legislative Council

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THE PRESIDENT (Hon Kate Doust) took the chair at 2.00 pm, read prayers and acknowledged country.

LEGISLATIVE COUNCIL — 2019 SITTINGS — WELCOME

Statement by President

THE PRESIDENT (Hon Kate Doust) [2.02 pm]: Welcome back to this new year in 2019. I look forward to a very active and interesting year for everyone.

BILLS

Assent

Message from the Lieutenant-Governor and Administrator received and read notifying assent to the following bills —

1. Betting Tax Assessment Bill 2018.
2. Betting Tax Bill 2018.
3. Industrial Relations Amendment Bill 2018.
4. Reserves (Tjuntjuntjara Community) Bill 2018.
5. Gaming and Wagering Legislation Amendment Bill 2018.
6. Sentence Administration Amendment (Multiple Murderers) Bill 2018.

INTERNATIONAL STUDENTS — INDIA

Statement by Minister for Education and Training

HON SUE ELLERY (South Metropolitan — Minister for Education and Training) [2.04 pm]: Madam President, thank you for your welcome back. I also extend my welcome back to everybody in the house.

I rise today to update members on a recent delegation to India to showcase Western Australia as an ideal location for international students to live and study. From 12 to 20 January, my parliamentary colleague Yaz Mubarakai, MLA, the member for Jandakot, and I visited Mumbai, New Delhi and Ahmedabad to meet with government ministers for education, labour and skill development and medical education; researchers; international and business schools; and universities. We want to expand our relationship with India and we want to encourage more Indian students to study in Western Australia to not only further their education but also increase the collaboration and research work between Western Australian and Indian universities.

The McGowan government made an election commitment to make international education one of our priorities, and in October last year we launched our landmark international education strategy, and last week StudyPerth launched the plan that details the activities to turn the strategy into action. Encouraging international students to choose Western Australia as an education destination is central to helping boost our economy and create jobs. The international education, training and research sector will help us to diversify our economy. We made a decision to focus particularly on our region, and that includes India. There is great enthusiasm in India about the opportunities studying in WA can offer.

As you know, Madam President, Western Australian and Indian families share more than just a passion for cricket—I could not have chosen a worse time to go because India had just won the series and people were keen to point that out to me!—they also have a passion for quality education. No matter what their area of interest—agribusiness, health, education, teaching, astronomy, earth sciences, business, engineering or tourism—there are opportunities for international students at our five universities. We are in the same time zone and we have a fantastic climate. On top of all that, we have outstanding universities. WA is open for business when it comes to international education.

ANIMAL WELFARE — CATTLE DEATHS — NOONKANBAH STATION AND YANDEYARRA RESERVE

Statement by Minister for Agriculture and Food

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Agriculture and Food) [2.06 pm]: Mine is less happy news. In the last two months, the Department of Primary Industries and Regional Development has responded to two serious animal welfare issues on pastoral properties in the Kimberley and Pilbara. After receiving a report from a pilot, shortly before Christmas, of cattle in distress on Noonkanbah station, the department flew in and found that a number of water points on the property were inaccessible or not operational and required urgent repairs. Some hundreds of cattle were found dead or dying. Approximately 85 cattle were then destroyed by DPIRD officers. High-priority water points have been repaired or replaced and the department is continuing to monitor the situation.

Over the last four weeks, after the RSPCA referred an animal welfare report to DPIRD, the department has been responding to an even more serious issue at Yandeyarra reserve and neighbouring Kangan station. Inspections have found a significant number of cattle in poor condition with limited access to water and, in some cases, feed. Emergency management activities are underway to improve access to water for cattle in poor condition. To date, the department has destroyed more than 740 head of cattle. Senior officers from DPIRD and the Department of Planning, Lands and Heritage are meeting at Yandeyarra today with community representatives. In both cases, the department issued direction notices under the Animal Welfare Act relating to requirements around monitoring of cattle, provision of proper and sufficient food, and appropriate access to water. In both cases the department's livestock compliance unit is investigating potential breaches of the Animal Welfare Act.

The department has conducted aerial rangeland surveys of parts of the Kimberley and Pilbara looking at rangeland condition, surface water availability, stream flows, dry standing feed and new pasture growth for livestock. Survey results have been provided to pastoralists in the north to assist in management strategies throughout this dry and hot period. I want to thank local pastoralists, industry members and the Kimberley Pilbara Cattlemen's Association for their support during this difficult time. We have received numerous offers of support from local pastoralists and businesses, and these offers will be taken up when they are practically possible. I put on record our government's appreciation for the tremendous work by our DPIRD officers, who have shown great dedication and competence in managing these very trying situations. I emphasise that these cattle losses are not purely the result of low rainfall and high temperatures. When it is a tough season, farmers work harder. They employ extra staff to run water. They move cattle out of dangerous areas. They keep up feed and nutritional supplements.

Our government will not turn a blind eye to animal welfare issues. Responsibility for the wellbeing of livestock lies with the people managing the livestock, and when there are breaches of the Animal Welfare Act, we will prosecute. In the longer term, we will double-down on our efforts to drive a viable, modern and responsible pastoral industry in the north. Next week, we are holding a roundtable with key representatives of the northern pastoral industry in Broome, to consolidate a partnership approach to long-term sustainable industry development with a particular focus on properties that are considered to be at risk. In April, I will bring together a Pilbara–Kimberley Aboriginal pastoralists forum in partnership with the northern development commissions, with an emphasis on best practice governance and animal welfare management.

END-OF-LIFE CHOICES LEGISLATION

Statement by Parliamentary Secretary

HON ALANNA CLOHESY (East Metropolitan — Parliamentary Secretary) [2.11 pm]: I rise to inform the house that this year the Western Australian Parliament will consider landmark legislation regarding voluntary assisted dying, and I would like to provide an update to the house.

The Minister for Health has appointed an expert panel, including senior palliative care physicians, a Queen's Counsel, a law reform commissioner, community representatives, a former Chief Medical Officer and a former chief nurse for Western Australia. The expert panel is hard at work preparing to consult experts and the community. Following its consultation and deliberation, the panel will provide a report to government that will inform the final bill to be introduced for debate in the second half of 2019. The bill will provide a rigorous process with safeguards embedded to ensure that only those who meet the eligibility criteria and who are making an informed, voluntary and enduring decision will be able to access voluntary assisted dying.

This bill is likely to raise deeply personal and difficult issues for members, and I encourage all members of the house to proceed with compassion and care. The Joint Select Committee on End of Life Choices received evidence of people experiencing profound suffering from advanced terminal illness. It was apparent to the committee that even with the best palliative care, people often suffer unnecessarily. We may hear many statistics during this debate of those who suffer at end of life, but it is important to remember that these people are more than just statistics; they represent real people and real pain.

The government also recognises that there is a need to continue to improve and develop palliative care services across the state. We have accepted all the palliative care recommendations of the joint select committee. The Department of Health is developing a plan for increased education of community and health professionals, reviewing the palliative care service model and assessing current governance structures. This government is committed to working with the community and clinicians to improve and develop high-quality care, systems and services for people at a time when they feel most vulnerable with advancing illness and at end of life. This legislation will not be a question of choosing between voluntary assisted dying and palliative care. Palliative care will be strengthened and continue to be provided for those around end of life, whatever choices they make.

Some form of voluntary assisted dying legislation exists in 14 jurisdictions around the world, including Victoria. Oregon has had a legal framework in place for 20 years. There is now ample evidence that it is possible to provide for safe and compassionate legislation and it is time for us to do so. Voluntary assisted dying is not simply a medical issue. This is an issue for civic discussion. I ask all members to participate in this debate with civility and sincerity and compassion.

PAPERS TABLED

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

PROHIBITION ON FISHING (GREENS POOL) ORDER 2018 — DISALLOWANCE

Notice of Motion

Notice of motion given by **Hon Rick Mazza**.

WESTERN ROCK LOBSTER FISHERY

Notice of Motion

Hon Jim Chown gave notice that at the next sitting of the house he would move —

> That this house expresses its concern at the Labor government's mismanagement of recent policy concerning the western rock lobster fishery and, in the interests of preserving the peace of mind of fishing families and restoring stability and confidence in the industry, calls upon the government to undertake that it will not pursue such a policy in future.

NON-GOVERNMENT BUSINESS — SCHEDULE

Motion

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

> That, pursuant to standing order 111(4), the schedule for non-government business tabled by the President be adopted.

[See paper 2326.]

PRIVATE MEMBERS' BUSINESS — SCHEDULE

Motion

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

> That, pursuant to standing order 112(4), the schedule for private members' business tabled by the President be adopted.

[See paper 2326.]

JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION

Inquiry into Public Sector Procurement of Goods and Services and its Vulnerability to Corrupt Practice — Extension of Reporting Time — Statement by President

THE PRESIDENT (Hon Kate Doust) [2.24 pm]: Members, before we move to orders of the day, I have received a letter from the Joint Standing Committee on the Corruption and Crime Commission, which states —

> Dear Madam President
>
> **Inquiry report tabling date**
>
> The Joint Standing Committee on the Corruption and Crime Commission resolved at its meeting on Tuesday 18 December 2018 to amend the date for the tabling of a report on its inquiry into public sector procurement of goods and services and its vulnerability to corrupt practice.
>
> The Committee will now report on the inquiry by Thursday, 15 August 2019.
>
> Yours sincerely
>
> **HON JIM CHOWN, MLC**
>
> **DEPUTY CHAIR**

GENDER REASSIGNMENT AMENDMENT BILL 2018

Second Reading

Resumed from 21 November 2018.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [2.25 pm]: I rise as the lead speaker on behalf of the Liberal opposition in respect of the Gender Reassignment Amendment Bill 2018, and I indicate at the outset that we support the bill. I have a few comments to make regarding its history and the context in which it is being presented to this place.

The purpose of the bill is quite a simple one. It is to delete current section 15(3) of the Gender Reassignment Act 2000. To put this in context, the Gender Reassignment Board was established under that act to deal with questions of gender reassignment—as one might expect from the name of that body. Under section 14 of the Gender Reassignment Act, in situations in which a person has undergone a reassignment procedure, whether before or after the commencement of the act and whether within Western Australia or elsewhere, an application may be made to the board in accordance with the act for the issue of a recognition certificate.

The provisions for the issue of a recognition certificate and the criteria for the issue of such a certificate are set out under section 15 of the act. In situations in which the application relates to an adult, the board may issue a recognition certificate if the reassignment procedure was carried out in the state; the birth of the person to whom the application relates is registered in the state; and the person to whom the application relates is a resident of the state and has been so resident for not less than 12 months. The board must be satisfied that the person believes that his or her true gender is the gender to which the person has been reassigned; has adopted the lifestyle and has the gender characteristics of a person of the gender to which the person has been reassigned; and has received proper counselling in relation to his or her gender identity.

Those are the criteria for an adult, and they more or less accord with those for a child. The board may issue a recognition certificate if the reassignment procedure was carried out in the state; the birth of the child is registered in the state; and the child is a resident of the state and has been so resident for not less than 12 months. The board must also be satisfied that it is in the best interests of the child that the certificate be issued.

All of this is predicated on a reassignment procedure, and there has been a lot of debate over the years as to the extent to which that should be necessary and the extent of medical intervention that ought to be required, but that is a debate for another day. The critical thing in this case is that there is also a prohibition, and that is relevant in the issue of a certificate. A recognition certificate cannot be issued to a person who is married, and that is the content of section 15(3) of the act. Once a recognition certificate is issued, it can be sent to the Registrar of Births, Deaths and Marriages, who then registers the receipt of that certificate and can issue a birth certificate under the reassigned gender, in accordance with the gender recognition certificate. But the prohibition under subsection (3) means that this is limited only to people who are not married. That was necessary as a restriction previous to the recognition and statutory enabling of same-sex marriages—an issue that falls under the commonwealth jurisdiction rather than the state jurisdiction.

Of course last year we had a great debate on the subject and same-sex unions formalised and recognised as marriages by law are now the law of the country. Nevertheless, a recognition certificate cannot be issued in cases in which a person having undergone a reassignment procedure and fulfilling the other criteria mentioned in section 15 of the act is married. That, of course, was to avoid the anomaly of having, say, a man and a woman who are married, and one of those people then undergoes a gender reassignment procedure and we have, in effect, a same-sex marriage. It would have been an anomaly and wrong in principle in accordance with the law at that time, but that law has changed and now we have the anomaly of requiring, in effect, a union to be dissolved by way of divorce or otherwise in order that a change of gender can be appropriately recognised for one of the members of that union. To remove that anomaly, it is only right and proper that subsection (3) be removed as a criterion that prohibits the issue of a gender recognition certificate and the matter corrected in the manner proposed by the bill. There are a couple of issues with this. One of them is, unfortunately, the time that has passed. Of course, the legislation could not have been drafted and moved until same-sex marriages were recognised. I make no criticism of the government in this regard. It is unfortunate that it is not one of those issues that could have been resolved last year.

The Gender Reassignment Amendment Bill was read into Parliament on only 15 August last year, and it was brought on for debate on 1 November and thereafter on 7, 8 and 20 November. It finally passed and received its third reading on 20 November last year, shortly before the Assembly rose for the end of the calendar year. I could say that I read the debate with interest; I did not. Much of it seemed to be irrelevant to the merits of the bill, which is unfortunate. Had it been relevant to the merits of the bill itself and the very narrow mischief that it is correcting, this could have been passed by the Assembly well before 20 November, and this house could have received it much earlier than 21 November. Given that we had a very full legislative agenda at the end of last year and we rose on 6 December, the bill had not been brought on for debate at that time. That is not the fault of the Leader of the House; it is simply the manner in which things went down in the other place. It is unfortunate that we missed a critical date, which I think was 9 December last year—the date that the commonwealth had set to repeal any provisions in state law that required an individual to be unmarried in order to legally change their gender on their birth certificate. Had the matter been expedited by the other place, I am sure that this matter could have been dealt with before the house rose on 6 December last year and the state of Western Australia could have met the deadline that the commonwealth had set. Nevertheless, it is now being addressed, and hopefully it can be expeditiously and effectively dealt with by this place.

The only other matter that I wish to raise about the bill is the date on which it takes effect. Clause 2 of the bill deals with commencement and prescribes that sections 1 and 2 of the proposed act come into operation on the day on which the act receives the royal assent. I suspect that if the bill managed to pass through all stages of this house today, that would be done with alacrity and it would probably receive the royal assent within 24 hours—perhaps a little longer but very, very shortly. The rest of the act, of which there are only two sections and only one of them is the operative one—the sharp end, as it were—will come into operation on the twenty-eighth day after that day. I have had a query from one member of the public asking why that is the case and why this bill cannot come into effect and realise the reform that is being sought by it, especially in light of the time it has taken to deal with it, before 28 days. I understand that person has been informed that there is a need to amend forms in the regulations

and forms that may be prescribed by a schedule to the act. I do not understand the "schedule to the act" bit because the first schedule to the act does not require any forms to be made. It does involve the keeping of a register, which is kept by the board. I would have thought it would require no particular effort to change the material that is recorded in that register, if there is a need for any change at all. However, there is a need to change the forms in the regulations. I can understand the need for a bit of time to do that. The current forms in schedule 1 of the regulations do have a space therein requiring certification of compliance with section 15 of the Gender Reassignment Act. Most of that will be the same before and after the passage of this bill. However, it also has a couple of tick boxes regarding whether the applicant is or is not married. It may well be that that requires some formal change. I would have thought that there is no requirement for that in a form, but perhaps the Leader of the House representing the Attorney General, whose bill this is, can assist us in that regard. If there is a way of expediting the operation of this bill in order to regularise Western Australia's approach to this issue and align us with other jurisdictions, I think that opportunity ought to be availed of.

On that particular query, I ask that the leader assist us as to whether there is any way of expediting the operation of the bill, whether by amendment of that clause or otherwise, or simply by the expedition of the preparation and gazettal of new forms. That would be of assistance and, I suspect, of some comfort to those who will be affected by this reform.

On that note, I indicate the opposition's support for this bill and commend the government for introducing it. My only regret is that it was not disposed of before 9 December last year.

HON RICK MAZZA (Agricultural) [2.38 pm]: The Gender Reassignment Amendment Bill 2018 seeks to amend the Gender Reassignment Act 2000 to allow a person to be issued with a recognition certificate of a change of gender regardless of their marital status. The act governs the process by which the individual can obtain official recognition of reassignment of gender. The act also allows for the establishment of a gender reassignment board and the power to issue such certificates. A person who has undergone a reassignment procedure may apply to the board for a recognition certificate, which is conclusive evidence that the person is of the sex and has the physical characteristics stated in the certificate. A reassignment procedure is defined as a medical or surgical procedure, or a combination of both, to change the genitals and other gender characteristics of a person. Once the reassignment of the sex of a person has been registered and the register altered, a recognition certificate can be issued that identifies the person as belonging to the sex to which they have been reassigned. The act also allows the board to authorise the Registrar of Births, Deaths and Marriages to amend the sex recorded on a person's birth certificate to reflect their assumed gender. Under section 15(3) of the act, a recognition certificate currently cannot be issued to a person who is married, because in the past, same-sex marriage was illegal in Australia.

This is a very simple bill. In fact, the operative part is a simple line that deletes section 15(3) of the act. I advise that I will be supporting this bill, which will allow married persons to apply for and receive a recognition certificate stating their new gender. Having said that, I understand that there were 17 recommendations in the Law Reform Commission of Western Australia's final report on Project 108, which was tabled last year and entitled "Review of Western Australian legislation in relation to the registration or change of a person's sex and/or gender and status relating to sex characteristics", including a recommendation that an administrative process be put in place through the registrar and that the current board should be abolished. The report also recommended that we move away from the legal requirement of a reassignment procedure to change the applicant's physical sex characteristics to merely a person determining for themselves that they now have a different gender. I foreshadow that I will have some difficulty supporting a number of those recommendations. I know that that is not covered by this bill, but I wanted to mention that. This bill is really just an administrative bill, which will bring us in line with the changes to the commonwealth Marriage Act. Therefore, I will be supporting it.

HON ALISON XAMON (North Metropolitan) [2.41 pm]: I rise as the lead speaker of the Greens on the Gender Reassignment Amendment Bill 2018 and indicate that we wholeheartedly support this bill. It is a very short bill, which I note will come into effect 28 days after it receives royal assent. The bill will delete section 15(3) of the Gender Reassignment Act, which states that a recognition certificate cannot be issued to a person who is married, noting that a recognition certificate is conclusive evidence that a person has undergone a reassignment procedure and is of the sex as stated in the certificate. Importantly, prior to December 2017, commonwealth law did not permit same-sex marriage, so the effect of this has been that a married person who reassigns their gender and thereby effectively makes their marriage a same-sex marriage has had to choose between their marriage and a birth certificate that shows their reassigned gender. In December 2017, a commonwealth amendment changed the law to permit same-sex marriage. That same amendment also changed commonwealth sex discrimination laws to prohibit states and territories from refusing to change the recorded sex on a person's birth certificate if the person is married. That change came into effect on 9 December 2018. Therefore, since that date, section 15(3) of the Gender Reassignment Act 2000 has been inconsistent with commonwealth law. Section 109 of the commonwealth Constitution states —

> When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

Accordingly, section 15(3) is finally being deleted.

Without fail, the Greens have spoken up for the rights of all members of the LGBTIQ community. As such, we are obviously extremely supportive of this bill. I will always be pleased to speak to legislation that has the effect of removing discrimination against members of the LGBTIQ community, as this legislation does and as did the Historical Homosexual Convictions Expungement Bill, which we debated in this place last year. If I have one criticism to make of this bill, it is the time it has taken to come to the Council. We are the last state to make the necessary changes to ensure consistency with the commonwealth Marriage Act. I had hoped that this bill would make an appearance by the end of last year. I recognise that we had a lot of legislation that we were trying to get through. I would argue that some of that was not particularly time sensitive, but I acknowledge that some of it was. This is one bill that surely could and should have been introduced earlier in this place. Nevertheless, it is here now and I am very, very pleased that we are finally able to debate this piece of legislation and, I sincerely hope, see it pass. It is an important piece of legislation that is yet again being introduced to slowly work towards dismantling the legal barriers that have prevented the LGBTIQ community from being afforded the same rights as all other Western Australians.

In addition to commending the government on the bills it has introduced, I commend it for introducing two reviews that should further remove barriers and promote opportunities for LGBTIQ people. Some people have already spoken about the Law Reform Commission finalising its review on inconsistencies between WA and commonwealth law in relation to recognition of a person's sex, change of sex or intersex status. I note that this review made a number of recommendations for further amendment of the Births, Deaths and Marriages Registration Act 1998. I acknowledge the commission's extensive involvement in that review process with community-based advocacy organisations and other advocates; it was comprehensive. It is a testament to the commission that the recommendations in its report of that review are very considerate and I think they are achievable and would serve to deliver meaningful change to the LGBTIQ community. I hope that this excellent piece of work does indeed result in much-needed change.

The second review is one that the government only recently announced and will also be undertaken by the Law Reform Commission—a long overdue and comprehensive review of the Equal Opportunity Act. As I have spoken about before, the current act focuses on anti-discrimination measures rather than genuine promotion of equal opportunities, and they are two very different things. It prescribes certain actions but does not really address inequities. The review should look at how to put an onus on the provision of reasonable accommodation for people's circumstances, whether it be employment, accommodation or provision of goods and services. But however much this particular review is welcome, it does not detract from the immediate need to address some of the more concerning and hideously outdated provisions within the act. I am specifically concerned about what I think are very outdated provisions within our state act around religious exemptions, noting that other states, such as Tasmania, have not had those provisions in their acts for decades and they work perfectly fine. I remind members of my bill in this place—the Equal Opportunity (LGBTIQ Anti-Discrimination) Amendment Bill—which of course would address this. It is really important we recognise that the legal barriers that exist for LGBTIQ people are very serious and serve to seriously undermine people's human rights. The anti-discrimination bill is in line with what is being talked about more broadly within the Australian community. It is indicative of where we are at as a community. I think most people were pretty much outraged when they discovered that religious schools are legally able to make employment and enrolment decisions based on whether staff members, students and their families identify as LGBTIQ. I note what was a bit of an own goal by the anti–marriage equality proponents when they insisted on an overall review of the issue of religious exemptions, because when that happened and people became aware that these things even existed, there was general outrage within the community. Rather than being able to push what I think is a pretty hideous agenda, which many churches and religious schools do not agree with, the proponents instead chose to highlight a terribly outdated provision that a lot of people would like to see the back of.

Last year, I was very pleased to receive a letter from the Commissioner for Children and Young People, who was very supportive of changing these provisions. I will quote briefly from the commissioner's letter —

> All LGBTI children and young people have the right to be recognised for their gender identity, sexual orientation or intersex status, and to feel safe and respected wherever they are. Despite this, many LGBTI children and young people experience issues or challenges which impact on their health, safety, wellbeing, and other areas of their life.
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> …
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> I would like to offer my support for the *Equal Opportunity (LGBTIQ Anti-Discrimination) Amendment Bill 2018* which you recently tabled in WA Parliament, and to thank you for raising awareness of this important issue.

The Commissioner for Children and Young People has also established three advisory committees of LGBTIQ young people and their peers, in Perth and at Bunbury Senior High School, to advise the commissioner's work in this space. That is an incredibly positive move. Members of the Perth committee have described a range of experiences and systemic discrimination, including in access to education, employment, health services and accommodation, as well as very distressing stories of discrimination and harassment at an individual level within the community.

The committee has specifically identified the need to improve legislative protections for LGBTI children and young people through the Equal Opportunity Act, as well as the need to ensure that LGBTI children and young people are not exposed to harmful practices in Western Australia, such as gay conversion therapy. It makes sense that the government might want to consider looking at progressing some of these reforms, sooner rather than later. The sorts of reforms that are envisaged within my Equal Opportunity (LGBTIQ Anti-Discrimination) Amendment Bill 2018 would be a good start.

Returning to the specifics of the bill before us and to wrap up my comments, I would like to pay particular tribute to my friend and colleague Senator Janet Rice, and her dearly beloved spouse of 32 years, Dr Penny Whetton, both of whom I have known for a very long time. Janet and Penny have long campaigned to uphold the rights of LGBTIQ community members. Their own lives have been deeply affected by forced divorce laws. Their experience highlights just how ridiculous the current law is. When Janet first met Penny, Penny was living as a man. The two were married and, some years later, Penny transitioned to a woman. Because Penny was married when she transitioned, she was unable to change her birth certificate without first divorcing Janet. Having to choose between remaining married and truly affirming her gender was a terrible predicament to be forced into. I have always been perplexed about this requirement. One of the reasons is that I have always understood the sanctity of a legal contract of marriage to have intended primacy. If we talk about the way that the covenant of marriage has been used, for example, to protect spouses from having to give evidence against their loved ones, it has always been recognised that marriage is the legal contract with the utmost sanctity, which needs to be protected at all costs. We talk about this all the time, yet here is a piece of legislation that effectively tries to force people into getting divorced. I think that is hideous and abhorrent. If two married people do not wish to get divorced, nothing ever makes it okay for the state to attempt to intervene and force a couple who wish to be married to be divorced. I find that abhorrent and I have always found it utterly perplexing. For that reason alone, I have always wanted to change this particular provision. It is truly despicable for the state to seek to intervene and tear apart a married couple. In Penny's case, she chose to remain married and to put away her birth certificate. She did not use it as a means of identification. Penny and Janet loved each other and they wanted to be married. It is not the state's place to try to tear them apart. Janet and Penny have been very generous in sharing their experiences of living together, as both a heterosexual couple and now as a same-sex couple. They are in the rare position of knowing exactly how differently society responds to people who are in a relationship that is outside the mainstream. For example, Janet and Penny said that after Penny transitioned to a woman, they now very rarely hold hands in public, knowing that if they do so, they may be subject to abuse, or worse—violence—from strangers in the street.

It is clear that discrimination has an insidious effect on people. Although the drivers of discrimination are, of course, very complex, it is completely unacceptable for the state to allow this sort of discrimination to be legal. Rights are rights, and they should apply to all. Although I am absolutely delighted this section of the Gender Reassignment Act will be removed, transgender people face myriad unnecessary hurdles in order to have their gender identity officially recognised. I will be proud to continue to work alongside the LGBTIQ community on ways in which we can best address this issue. The Greens will, of course, support the Gender Reassignment Amendment Bill 2018. It is very important. I would have preferred it to happen sooner rather than later, but I am glad the amendment is now being made.

HON NICK GOIRAN (South Metropolitan) [2.57 pm]: I rise to speak on the Gender Reassignment Amendment Bill 2018. Members who are familiar with the bill will note that it is, perhaps, the most concise of bills that one could conceive of being before the chamber. I cannot recall a bill that is more concise than the bill that is before us. As is made plain in the explanatory memorandum, which itself contains more words than the bill, the purpose of the bill is to amend the primary act—the Gender Reassignment Act 2000—to allow a person to be issued with a recognition certificate of their gender, regardless of their marital status.

As was already mentioned by the opposition's lead speaker, the shadow Attorney General, it is not the opposition's intention to oppose this concise bill. However, from a personal perspective, I noted with interest that the second reading speech in both places included the following paragraph. I quote the respective ministers —

> This bill, however, is only one aspect of the government's broader lesbian, gay, bisexual, transgender, intersex, queer equality agenda especially with regard to facilitating and empowering people to reassign their correct gender as easily and with as much dignity as possible.

That remark was made in both houses by the respective ministers. Although I do not oppose this bill, which, in effect, will allow one government department to pass a piece of paper to another government department, I ask: Where are we going with all this? If the government is saying that this is merely one aspect of its agenda, where would the government like to lead us as a community in Western Australia?

All members in this place are motivated by compassion and when it comes to this issue of a person's gender, I think it is fair to say that all members would agree that if there is a problem, consideration of the difference between members' perspectives is how the problem might be addressed. In essence, there are only two alternatives. One perspective believes that the solution is a physical one—in other words, the state has a responsibility to assist and to engage at a physical level—whereas others, including me, believe that the solution should be to treat it

psychologically. If there is an issue, there are two ways in which we can treat it. We can do it with either physical or psychological intervention. I have a number of concerns and queries that I will go through this afternoon.

I begin by noting that in the lead-up to the last election, the government, as the then opposition, released a manifesto in which it states, and I quote —

> WA Labor:
>
> …
>
> Will take steps to ensure that the Gender Reassignment process is as streamlined, efficient and expedient as possible, with a minimum of bureaucracy, expense and unnecessary complication.

This has been repeated almost verbatim in the second reading speech by the minister in this place and the other place, and I quote —

> The McGowan government aims to ensure that the gender reassignment process is as streamlined, efficient and expedient as possible, with a minimum of bureaucracy, expense and unnecessary complication.

The questions then are: What is this government doing to ensure that the gender reassignment process is as streamlined as possible? What is it doing to ensure that the gender reassignment process is as efficient as possible? What is it doing to ensure that the gender reassignment process is as expedient as possible? What is it doing to ensure that the gender reassignment process involves the minimum amount of bureaucracy as possible? What is it doing to ensure that the gender reassignment process involves the minimum amount of expense as possible? Indeed, what expense is involved in this gender reassignment process? Is it expensive? What typical expense referred to in its manifesto would the government like to reduce? Importantly, what is the government doing to ensure that the gender reassignment process has the minimum of unnecessary complications as possible? It is one thing prior to an election for an opposition to espouse commitments, manifestos and the like, but it is another thing to fulfil those commitments when in government. Prior to the election, WA Labor made quite a big deal about the fact that it was going to do these things, but all we have heard so far is that this Gender Reassignment Amendment Bill is one aspect of its broader agenda. What are the other things that the government said in its second reading speech that it intends to do? Why not itemise them? Why not set out its vision for this efficient, expedient, inexpensive, uncomplicated system? Perhaps we will be able to flesh that out during the Committee of the Whole House stage.

That takes me to the Law Reform Commission report that was tabled last year. Indeed, I note that the Leader of the House delivered a ministerial statement on 6 December 2018. I cannot recall whether that was the last day of sittings, but to the best of my recollection it would have been the last week of sittings. In that ministerial statement by the Leader of the House, Hon Sue Ellery, this Law Reform Commission report, entitled "Project 108: Final Report: Review of Western Australian legislation in relation to the registration or change of a person's sex and/or gender and status relating to sex characteristics" was tabled in this place by the Leader of the House on 6 December last year. In that same statement, interestingly, before anyone in this place had had an opportunity to peruse and consider the Law Reform Commission report—in fact, the copies would not even have had an opportunity to be distributed to members at that stage—on 6 December 2018, Hon Sue Ellery said this, and I quote —

> The government is yet to consider the full contents of the report, but will not be accepting recommendations 5 and 6, which are to remove and expressly prohibit the recording of sex or gender on birth certificates.

I found that fascinating at the time. As it so happens, I agree entirely with the government and Hon Sue Ellery and her counterparts in not accepting that recommendation from the Law Reform Commission. However, I find it interesting that the government takes a breath and says that it is yet to consider the full contents of the report, and by the time it finishes its breath it says that it will not be accepting recommendations 5 and 6. What was so outrageous about recommendations 5 and 6 that the government was in such a hurry to make sure that everyone knew it would not accept these recommendations of the Law Reform Commission? It would be interesting to know. I certainly have my own view. As I said, I agree with the McGowan government that the recording of a person's sex and gender on a birth certificate is important. I am therefore pleased that it has sent those Law Reform Commission recommendations on an express rocket out of the state and that it will not it be implementing them. But I would like to know why the government says that it will not be accepting those recommendations. The Law Reform Commission says recommendations 5 and 6 are very important but the McGowan government says, "No, they are not important; we will not be accepting them." However, having invested the commission's time and money in doing the report, I think the government owes it to the community to articulate why it will not accept recommendations 5 and 6.

What other recommendations will the government not accept? Remember, I said that the Leader of the House tabled this report on 6 December last year. It has been a long time since 6 December. What has the government been doing over the summer recess? It has had more than two months now to consider the Law Reform Commission's report, so what other recommendations will the government oppose and what other recommendations will it accept? It cannot take too long to think about all those things because, remember, within

an instant, it was happy to say it would not accept recommendations 5 and 6. That was contemplated very speedily by the government and a point on which I have congratulated it already. Nevertheless, what is the government's position regarding the remainder of the recommendations? In particular, I note why this is so relevant to this particular debate. If members take a moment to familiarise themselves with the recommendations of the Law Reform Commission that the Leader of the House tabled on 6 December last year, they will note that recommendation 10 states —

> The *Gender Reassignment Act 2000* (WA) and *Gender Reassignment Regulations 2001* (WA) be repealed.

The Law Reform Commission says that the act that the government wants us to amend should be repealed. The question is: why are we doing this? The government cannot have it both ways. Either it thinks that the Gender Reassignment Act is an important piece of legislation for the Western Australian community and therefore we need to amend it—we just heard Hon Alison Xamon's passionate speech about the importance of changing this piece of legislation—or it thinks that it should be repealed. The Law Reform Commission says that the whole thing should be repealed, but, interestingly, that was not one of the recommendations that the government speedily ruled out on 6 December last year. It was silent on recommendation 10. It was very speedy about recommendations 5 and 6; it said that that would not happen on its watch. But we still do not know what the government's position is on recommendation 10. I would like the Leader of the House, when replying to the second reading debate or in Committee of the Whole House, to explain to us the government's position on recommendation 10. Does it agree with the Law Reform Commission that the Gender Reassignment Act 2000 and the Gender Reassignment Regulations 2001 should be repealed, because if it does, why are we dealing with this bill today? Why is this the number one priority for 2019? Why is this the first bill that the government has decided to bring on if, in the end, it is going to repeal the legislation anyway? Is this just another incredible waste of time, as we had on multiple occasions last year? I look forward to the government's response about its view on recommendation 10 of the Law Reform Commission. Is the very legislation that we are about to amend going to be made redundant very shortly by the government?

I also draw to members' attention recommendation 7 of the Law Reform Commission. This recommendation of the Law Reform Commission, which can be found on page 7 of the report, states —

> The *Births, Deaths and Marriages Registration Act 1998* (WA) be amended to provide an application process for a person born in Western Australia to apply for a Gender Identity Certificate.

Not all members might be familiar with this, but at present in Western Australia there is no such thing as a gender identity certificate. This is something that the Law Reform Commission is suggesting that we implement and it has recommended to the government that the Births, Deaths and Marriages Registration Act be amended to provide a process for a person born in our state to apply for such a certificate. I am keen to know the government's view on this recommendation because, as members will remember, earlier I referred to WA Labor's manifesto prior to the election. The manifesto said that WA Labor will take steps to ensure that the gender reassignment process is as streamlined, efficient and expedient as possible, with a minimum of bureaucracy, expense and unnecessary complication. Contrast WA Labor's manifesto prior to the election with what the Law Reform Commission has just said. It would like us to establish an additional process. It would like us to have a new process under the Births, Deaths and Marriages Registration Act to allow people to apply for a gender identity certificate. Forgive me, Mr Deputy President, but that seems to me to be the complete opposite of an efficient, streamlined system if people are going to apply to multiple systems. But that is for the government to sort out. That is another recommendation that it has not, as of late last year, speedily ruled out, so presumably it is under active consideration. I would like the government to let us know what is a gender identity certificate, because it seems that there is a competing agenda between WA Labor's manifesto and the recommendations of the Law Reform Commission. I fail to see how a two-tiered system will be more efficient.

I turn to a very interesting publication that I came across during the summer recess. It is a fairly new book by Pat Byrne entitled *Transgender: one shade of grey*. I will read a couple of useful quotes from this publication that has just been put out. For those members who might have access to the publication, I am looking at chapter 3.5 and the heading "Sex Defines Rights, Responsibilities, Privileges, Protections and Access to Services" on page 38, where the following commentary is made —

> Sex, binary male and female, is the foundation of the biological world view of the human person.
>
> This has been so obvious that most people take for granted laws, regulations, codes, and economic and cultural frameworks, that define an extensive array of rights, responsibilities, privileges, services and benefits, depending on whether a person is male or female.
>
> Theodore Bennett (2014), who broadly supports the transgender world view of the human person, says that the state nevertheless has a major "interest in having children registered as either biological male or female at the time of birth and continuing to identify them through these sex categories for the rest of their lives".
>
> Bennett says that a person's sex identification "is still extremely important" for numerous reasons. These include: determining which school a child attends; accessing sex-specific sports, bathrooms, toilets, change rooms, homeless shelters, and school and university dormitories; insurance; employment and

> placement in sectors such as the military. Sex is important for determining who can enter safe spaces, particularly safe spaces for women against rape; for affirmative action and to counter forms of discrimination based on sex; for national security; for protection against fraud; for medical research; for government planning and provision of services; for accurate monitoring of the sexes in public activities. Identification of biological sex is important for promoting procreation, particularly in relation to marriage.

Earlier in that same publication at chapter 3.4, under the heading "The State's Interest in Sex, Marriage and Family", the following comment is made —

> State and territory births, deaths and marriages registration laws require that all newborn children be issued an accurate birth certificate. It is a legal identity document that forms part of a chain of documents that a person will use over the course of their life to establish their identity, relationships, rights and responsibilities.

It identifies a child's sex, and parental and sibling relationships. This protects a child's right to know their biological identity. It also records their country of origin and confers their citizenship. It protects their right to be raised by their parents, wherever possible. It determines their inheritance rights and is a primary source for knowing family lineage and medical history. Hence, a birth certificate is a cardinal identifier of the human person.

As I said earlier, those quotes are found in a book by Pat Byrne entitled *Transgender: one shade of grey*, for those members who are interested in picking up that publication.

I move now to a couple of other concerns I have. Members will recall me saying earlier that all members will be motivated by compassion to the extent that there is a common view amongst members that there is a problem; and, when there is a divergence of views, how does that problem get addressed? It gets dealt with either by physical interventions—surgeries and the like—or psychological interventions. They are the two options, and people have a different view about which is appropriate. The question that I ask and have wanted to get some more information on is whether there are any risks with one approach over the other. I came across an article from 10 July 2018 entitled "New study finds life-threatening risk in transgender hormone therapy". It concerned me to know that academic research had been done in recent times noting that there were risks with the physical intervention approach. I heard Hon Alison Xamon decry the alternative approach, which is a view she is quite entitled to hold. However, it is not just a case of people holding different views; one would think it is important that the scientifically, academically and rigorously considered risks be known by members before they signed up to one regime over the other.

The other interesting thing that came across my desk during the summer recess was some statistics provided by the Perth Children's Hospital gender diversity service. These statistics were obtained under freedom of information—interestingly, not by me, but by a member of Parliament in another jurisdiction. The Perth Children's Hospital gender diversity service was founded in July 2015, so less than four years ago. I understand from the statistics that prior to the service being founded in July 2015, some 51 patients were known to the unfunded service in some way and were offered assessment or treatment. Of these, three adolescents were on stage 1 puberty suppression treatment. That was in 2014, prior to the service being founded in July 2015. It is interesting how the numbers have radically escalated over the last few years. In the first proper year of service there was one person receiving puberty blockers. That is known as stage 1. In 2016 that jumped to 14 people, in 2017 it jumped to 28 and in 2018 it jumped to 35. Last year, 35 adolescents were receiving puberty blockers stage 1 through the Perth Children's Hospital gender diversity service. Stage 2 is receiving gender affirming hormone treatment, and there were 36 of them receiving it last year. The numbers have increased. There was one person in 2015, three in 2016, six in 2017 and then the number escalated remarkably to 36 in 2018.

The total number of people receiving treatment last year was 71, which was more than double that of the previous year. Every year since the service has been in place the total number of adolescents receiving treatment has more than doubled. What concerns me is that this is a contested area. As I say, people with goodwill can hold two different views on whether physical or psychological intervention is the appropriate approach, but either way members need to be mindful that industries are being created. It is in the interests of some within the industry to continue to promote these services, but is it in the best interests of the adolescents concerned when we look at the research, the consequences and the risks? The questions I have for the government are: Why has there been such a growth in the numbers of children and adolescent undergoing treatment? What procedures and practices are being used by Perth Children's Hospital gender diversity service to attract, engage with and assess children and adolescents? What information is being provided by Perth Children's Hospital gender diversity service to would-be candidates to programs and their parents? Is an independent, long-term assessment being done of those individuals who undertake these programs?

I have a couple of other areas to cover as I conclude. The opposition, and I, as a private member, do not oppose this legislation, which, in effect, allows one piece of paper to be passed from one government department to the other; that is all it effectively achieves. It seems pointless to oppose that. I remain concerned about the ongoing agenda, given that the government in its own second reading speech said that this is just the beginning. The beginning of what? Where are we going?

This type of thing has consequences in prisons. It is all very good for everyone to straightaway jump on the bandwagon and say that they want to support reassignment, but it starts to have consequences for government when managing these things in prisons. I will go as far back to 2010. I found a very interesting story that I think will interest members. I will quote an article entitled "Sex change killer Maddison Hall to be free as a bird". The article says —

> In Adelaide, Marrion Saunders was waiting for her son Lyn, 28, to come home for the holidays. His car had broken down and he was having to hitchhike from NSW.
>
> Sleep wouldn't come and she was on the phone to a friend at 1am, standing at the open front door for relief from the heat, when the police came. They told her that she had to ring detectives at Broken Hill. It was about her son.
>
> Lyn, the "baby" of the family of three children, had been shot in the back. When that didn't kill him, the shortened shotgun was put in his mouth and the back of his head blown off.
>
> He had been killed only about an hour before the man exercising his horses found his body …
>
> It was 18 months before police would arrest Lyn's killer when the murder featured on the TV show *Australia's Most Wanted.*
>
> An anonymous woman called in to name Noel Crompton Hall, then 26 and living with his wife Sharon in Campbelltown.
>
> Hall, who had given Lyn Saunders a lift before killing him after a row, was jailed for life.
>
> Justice Kep Enderby said there were "no mitigating circumstances."
>
> It was at this point that the focus of the story changed. Noel Crompton Hall decided he was really a female trapped in a male body.
>
> He wanted to become a woman. It was no longer about Lyn Saunders, murder victim, but Maddison Hall's "gender identity disorder".
>
> "The courts stopped treating him like a murderer but as a medical case," Ms Saunders said with disgust.

Remember, Ms Saunders is the mother of the murdered victim —

> Hall claimed he belonged in a female jail. In August 1999, the Serious Offenders Management Committee recommended he be moved to the all-woman Mulawa prison.
>
> Although still a man, Hall was on hormone treatment but it did nothing to curb his behaviour as a sexual predator. He was charged with raping his cellmate. Other inmates reported Hall had sexually assaulted them.
>
> Hall was moved back among the men, at Junee jail within three months. Courts have been told he prostituted himself for drugs.
>
> In January 2000, the prison rape charge was dropped because the victim had been released and moved home to New Zealand.
>
> Prisons boss Ron Woodham tried to keep Hall in a male jail but it was only the first of a series of fights that not even the notoriously tough Woodham could win as Hall exploited his legal rights as a prisoner, backed by the publicly-funded Prisoners Legal Service.
>
> He sued the Department of Corrective Services claiming psychological trauma and won a $25,000 out-of-court settlement.
>
> Hall has since sued the prisons department twice claiming discrimination.
>
> When Hall returned to the Supreme Court in November 2001 to have his life sentence redetermined under Truth in Sentencing laws, he appeared as a beefy man, bulked up by pumping iron in prison gyms. His muscles bulged against his regulation green sweatshirt, his face covered by a five o'clock shadow.
>
> The court was told Hall was polite. He had taken up craft work, using recycled materials.

Remember that Marrion Saunders is the mother of the murdered victim —

> Marrion Saunders was disgusted and distressed at the psychiatric reports which focused on Hall's female side. Hall claimed to have first seen a doctor about gender problems in 1985 and was given "treatment" — two years before Lyn Saunders was killed.
>
> "Ms Hall's only psychiatric diagnosis is gender identity disorder, trans-sexual type," one forensic psychiatrist wrote. "The successful adoption of female identity and the continuation of treatment with hormones may well reduce her aggressiveness."

> Ms Saunders, a physical education teacher, had been seeing a psychiatrist herself. "He taught me how to survive," she said.
>
> Her psychiatrist told her: "Your son's killer was a violent and brutal man. He will continue to be a violent and brutal woman."
>
> Hall's life sentence was cut to 22 years with 16 years and six months non-parole.
>
> He became the poster child for gender reassignment with support from the Department of Community Services-funded Gender Centre. In 2003, Hall had full sex change surgery, funded by the $25,000 payout, which she described 21 days later on the Gender Centre's website.
>
> "While I didn't wake up as Elle McPherson (sic), I did wake up with a feeling of completeness that was lacking in my life previously. I woke up as me, Maddison."
>
> Hall applied for parole as soon as her minimum sentence ran out in January 2006 and the State Parole Authority was about to grant it, despite Hall having been in strict segregation since 2004 due to serious assaults on other prisoners—until Ms Saunders stepped in.
>
> Hall, who appeared via videolink with a blonde bouffant hairdo, had no work or accommodation to go to. Parole was revoked.
>
> As a registered victim, Ms Saunders was informed about parole hearings and invited to make submissions. Yet, she believes that when she started criticising the authority, attitudes changed. Instead of automatically receiving transcripts of Hall's hearings, she was told they cost $10 a page.
>
> She hasn't opposed parole—just wanted to ensure Hall was properly supervised outside prison walls.
>
> "Hall did a terrible crime and if dreadful criminals' behaviour could be assuaged by the addition of oestrogen, I'm sure it would be prescribed," Ms Saunders said.
>
> She was relieved, when the SPA this week granted Hall parole from April 15, that it was under some of the strictest conditions including 24-hour surveillance via an electronic bracelet.

I ask members to keep in mind that the person concerned here, Noel Crompton Hall, at the time of the murder was 26 years of age and was living with his wife Sharon in Campbelltown. To make it absolutely clear, I am not suggesting for a moment that every person who might be interested in gender reassignment surgery and is married might be the same as this person. That is not the point of the speech and that is the not the point of reading the article. The point is that these types of policy changes by government create consequences and, in this instance, it creates a consequence for the government to manage this prisoner in jail. If the prisoner says that they are now identifying as a female, the government now suddenly has to engage in that and sort out that person's problem in the female or male jail. That is exactly what happened in this instance. This legislation is not going to change that. That is already the case in Western Australia with gender reassignment surgery. That is already a problem for government. My point is that prior to the election, WA Labor said that this is just the beginning, and that this is part of an ongoing agenda. I keep asking the question: where are we going with this?

In my final few minutes, I want to talk about the impact of all this in schools. During the summer recess, an editorial in *The Sunday Times* called on the government to "Stick to respect message". The context of this is that there has been some suggestion that the government is pressing ahead with its so-called Respectful Relationships program in schools and that part of the curriculum is to coach or to teach students that gender is fluid. This is gender theory, which is a highly contested area. That provoked a response by *The Sunday Times*. Its editorial says, amongst other things —

> The Sunday Times firmly believes schools have a role to play in giving children the skills, knowledge and attitudes to engage in respectful relationships.
>
> It's also important for teachers to be equipped to help children who tell them they are exposed to violence at home. And we're all for teaching kids about the dangers of pornography. We believe all of this can happen without politicising classrooms and muddling young brains with gender theory.

Again, government has to make a decision. If it supports gender reassignment and physical intervention, it needs to make that known to the community. If we have a gender theory worldview that says that gender is a spectrum and there are 51 types of gender and so forth, we would support physical intervention. However, if we do not hold that worldview, like *The Sunday Times* does not, we would say, "Hang on a second; where are we going with this gender theory agenda?" If we are like *The Sunday Times*, we say that classrooms are not the appropriate place for it and the government needs to reconsider its Respectful Relationships program in its curriculum. Again, I ask the question: where is the government going? Remember that in the second reading speech of this bill the Leader of the House and the minister in the other place said —

> This bill, however, is only one aspect of the government's broader lesbian, gay, bisexual, transgender, intersex, queer equality agenda, especially with regard to facilitating and empowering people to reassign their correct gender as easily and with as much dignity as possible.

We already know that the statistics from the gender service for adolescents are skyrocketing. Every year it doubles in number. The government wants to promote its so-called Respectful Relationships in schools. We would like to see the curriculum for that. Does it include a gender theory? Really, it is the responsibility of the government to satisfy the community about that. It has remained very tight-lipped. I think it is a secret curriculum. Where are we going with that issue? If the government is saying that this is only one aspect of its broader agenda, why does it not reveal its agenda? The opposition has been consistent over the last 24 months in saying that the government needs to adhere to its so-called gold standard in transparency. If it is saying that this is one aspect of its agenda, it should reveal its agenda. I see no reason, given that it was important enough for the minister to mention it in the second reading speech, that the agenda cannot be released in reply. If it is too long—because the government wishes to promote a massive agenda—and the government has other priorities to deal with, it should table the list of things that it says it wants to do as part of its broader agenda to facilitate and empower people "to reassign their correct gender as easily and with as much dignity as possible". While it is doing that, the government should let us know what it thinks about the Law Reform Commission's recommendations; it has had the summer recess to consider them. Furthermore, the government should explain to us why the numbers are escalating so high in the adolescent service, as I mentioned earlier. These are the questions that I think the government needs to answer. Although this is a concise bill, the government has said that it is part of a broader agenda, so it needs to answer questions about those matters.

Finally, I am interested to follow on from the line of questioning commenced by Hon Michael Mischin in his contribution to the second reading debate. I note that the government has said that it would like the operative provisions of the Gender Reassignment Amendment Bill 2018 to commence 28 days after it receives royal assent. I wonder what the science is behind 28 days; why not 27, 21 or 14 days? What is so special about 28 days? In the briefing I attended sometime last year, there was talk about the need to allow for regulations to be prepared and for changes to be made to forms, so perhaps some draft regulations or forms might even have been prepared that could be tabled—those types of things. Maybe the government could also give us an update on whether 28 days are still required. Perhaps everything is in order and it could be done after seven days. I do not really much mind whether it is seven, 21 or 28 days or longer, but I think the government needs to explain why it was so specific in choosing 28 days and no other period, and whether it has prepared the forms and regulations that were mentioned in the briefing given last year.

Apart from that, I reiterate that I do not oppose the bill. Following on from the comments made by the shadow Attorney General, it has already been outlined that the opposition will not oppose the legislation, and I look forward to hearing from the Leader of the House some answers to the various questions I have posed.

HON MARTIN ALDRIDGE (Agricultural) [3.41 pm]: I rise as the lead speaker for the Nationals WA to make a brief contribution to debate on the Gender Reassignment Amendment Bill 2018, and to indicate from the outset that my parliamentary colleagues and I will support its passage.

In late 2018, I was one of the co-hosts of Pride in Parliament, along with, from this chamber, Hon Alison Xamon, Hon Stephen Dawson and Hon Michael Mischin. I think I have captured everyone from this house who was a co-host, but I apologise if I have missed anyone. I spoke with many of the guests there that night and they were obviously still celebrating victory in respect of the passage of the same-sex marriage legislation at the federal level, and the vote that preceded the passage of those laws. One thing they reinforced with me that night was that there were still other things that needed to be done, and they raised with me—for the first time, from my perspective—the so-called "forced to divorce" laws, or as some other people described them, the "divorce to marry" laws on the Western Australian statutes book. Of course, those conversations related directly to the bill before us this afternoon.

The bill is very brief but obviously very important to the people within our community upon whom it will impact. The substantive amendment is to delete section 15(3) of the Gender Reassignment Act 2000. For the benefit of members, section 15(3) states —

> A recognition certificate cannot be issued to a person who is married.

I understand that this subsection was created to avoid conflict between state law and the federal Marriage Act 1961, which, until recently, prohibited same-sex marriage in Australia. Section 15(3) was intended to avoid a situation in which a partner in a heterosexual marriage sought gender reassignment under state law. This, if granted, would have resulted in two people of the same sex being married, which, until recently, was not permissible under federal law.

The minister's second reading speech outlined the dilemma faced by people in these circumstances: whether to end their marriage in order to legally change their gender, or to maintain their marriage without legal recognition of their reassigned gender. That situation was well outlined in the second reading speech and led to the law's characterisation as the "forced to divorce" law.

In preparation for speaking to this bill today, I had a look at the Gender Reassignment Board of Western Australia's annual report for 2016–17. I have never before had cause to have a look at that annual report. It is very brief—

some three pages long—but it outlines some key statistics for applications. In 2016–17, some 33 applications were lodged with the Gender Reassignment Board, and three were carried over from 2015–16. It therefore could be argued that there were 36 applications either received or dealt with in 2016–17. Of those, 29 were approved without appeal and seven were pending, so we are not talking about a great number who are affected, but we should keep in mind that those people who had made the decision to maintain their marriage and therefore not seek gender reassignment, would not appear in these statistics.

It was interesting to read a section, at the bottom of page 3 of the report, about legislative change. It states —

> During the previous two reporting periods draft amendments to the *Gender Reassignment Act 2000* were before Parliament. The impact of these amendments if proclaimed will be to abolish the Board and have all matters under the Act dealt with by the State Administrative Tribunal in its original jurisdiction. The draft amendments remain before Parliament at the time of preparing this report.

That was something that the Gender Reassignment Board reported on in both its 2015–16 and 2016–17 annual reports.

I went back to have a look at the introduction of bills in the last Parliament and, indeed, the Gender Reassignment Amendment Bill 2015 was introduced into the Legislative Council on 18 March 2015, but did not progress before the cessation of that term of Parliament. In effect, that bill was to amend the Gender Reassignment Act 2000 to abolish the Gender Reassignment Board of Western Australia and confer on the State Administrative Tribunal jurisdiction to make recognition orders and to amend the Constitution Acts Amendment Act 1899 and the Equal Opportunity Act 1984 as a consequence.

I read the second reading speech for the 2015 bill, which, I reiterate, did not pass both houses of Parliament before the 2017 election. I refer to the rationale behind the proposal that was outlined in the second reading speech. It states —

> First, one of the principal aims in establishing the State Administrative Tribunal was to reduce the number of administrative decision-making bodies in Western Australia. It would therefore make sense that decisions associated with gender reassignment also be determined by this tribunal. Second, the determination of gender reassignment applications would sit comfortably within the human rights work undertaken by the State Administrative Tribunal. Third, the number of jurisdictions dealing with gender reassignment matters through reviews and appeals would reduce, thereby simplifying the process and reducing the cost to the community. Fourth, as the board utilises the facilities and resources of the State Administrative Tribunal, this move would have a negligible impact upon applicants and current operations. Fifth, the board has a very low caseload making it difficult to justify its existence as a stand-alone entity.

As I said, the 2015 vintage bill did not progress before the 2017 general election. It is interesting that it is somewhat related to the act that we are amending through the Gender Reassignment Amendment Bill 2018. I would be interested if the Leader of the House, in her reply, could offer anything about why the government did not pursue a similar approach to that taken by the former government on the Gender Reassignment Board. Is it something that the new government did not agree with, did not consider or perhaps will consider as part of another process down the track?

Some comments were made during today's second reading debate—it was also mentioned in the second reading speech delivered by the Leader of the House—about the referral made to the Law Reform Commission by the Attorney General, which resulted in the report on Project 108, which was provided to the government in November 2018. That report further examined inconsistencies between state and federal law relating to the recognition of a person's change of sex or intersex status. Obviously, some members referred to that Law Reform Commission report in their contributions, as it relates to the matter before us today. I have not had the opportunity to fully consider that report, but I understand that the government will consider it and perhaps bring further legislative reforms to the Parliament in due course.

Although the bill is relatively brief in nature, I am sure that the substance in its few short clauses will have a positive impact on the lives of many in our community who are faced with either having to divorce to change their gender and then remarrying, or maintaining their marriage whilst being unable to amend their gender under the Gender Reassignment Act.

With those few words, I reiterate that the Nationals support the bill. I look forward to the response of the Leader of the House.

HON SUE ELLERY (South Metropolitan — Leader of the House) [3.52 pm] — in reply: I thank members for their contribution to the debate on the Gender Reassignment Amendment Bill 2018. Hon Michael Mischin indicated the Liberal Party's support for this legislation. I thank him for that. He raised a question, which was also raised by Hon Nick Goiran, about the commencement date and the reference to 28 days in particular. The reason

the amending act will commence operation 28 days after receiving royal assent is, as I think was referred to by both members, to allow time for the government to amend application forms 1 and 2 in schedule 1 of the Gender Reassignment Regulations. These forms currently state that a recognition certificate cannot be issued to a person who is married. The approach was taken to ensure that the act and the regulations come into operation at the same time, without the need for separate proclamation. Twenty-eight days is considered a reasonable amount of time for the administrative processes involved to effect gazettal. I think Hon Nick Goiran asked why the time period was set at 28 days and not 27 or 47. I am advised that 28 days is the default position adopted by parliamentary counsel when drafting legislation.

I thank other members who indicated their support for the legislation and who raised a range of issues, some of which are generally related as they fall within the same policy area but are not directly related to the detail of the bill that is before us. With respect to the comments made by Hon Nick Goiran, in essence—I am paraphrasing him—his prime question was: where are we going with all of this and what are the next steps that will be taken by the government? When I tabled the Law Reform Commission report on Project 108, which has been referred to a couple of times, I think I advised the house that the government was still considering the bulk of that report. That remains the case. We made it clear that we would not be adopting recommendations 5 and 6 of that report. I will explain why in a moment, to answer one of the other questions asked by Hon Nick Goiran. Although I appreciate his particular interest in this area, I am not in a position to provide further advice on the next steps, if any, that the government will take, because those matters are still being considered by government. The direction and policy agenda that we take next is not yet determined, so I am not in a position to provide the house with any more information.

Hon Nick Goiran referred to recommendations 7 and 10. I reiterate that the whole of the rest of the report, except for recommendations 5 and 6, is still before government and under consideration, so I am not able to add any further information to that.

The honourable member also asked a question about schools and respectful relationships, referring to an article in *The Sunday Times*. I am happy to advise the member that no curriculum changes have been made. Victoria adopted a particular model when it came to respectful relationships. Western Australia is not adopting the Victorian model. We are not changing the curriculum. We will develop a respectful relationships program that meets Western Australia's needs. The path that we have chosen to take—we have already announced that we will be doing it as a pilot program—involves training teachers. We will engage highly respected non-government organisations to develop a training program for teachers on how to incorporate discussions about family and domestic violence within the existing curriculum. We are not adopting the Victorian model, which was a mandated curriculum across all of its schools. We do not follow everything that Victoria does; we want to develop what is appropriate for Western Australia.

Hon Martin Aldridge asked whether the government was intending to act on the policy shift that was reflected in the 2015 bills that were not proceeded with. Again, I can advise that the consideration of whether to repeal this particular act is included in the report on Project 108. That is still before government. We have not made any decision about that. I was going to give him a bit more information about why the government did not accept recommendations 5 and 6. I remind the house that the Law Reform Commission's proposed model in recommendation 5 removes the "sex" field from the birth and death certificates and, in recommendation 6, expressly prohibits the recording of sex or gender on birth certificates under the Births, Deaths and Marriages Registration Act 1998 and the relevant regulations. The language in the report was that the recommendation to remove sex from birth certificates is intended to —

> … reduce the likelihood of trans people being accidentally 'outed' and it should reduce the pressure on the parents of intersex children to assign a sex to their child at a time when there can be no medical certainty that the assignment is correct.

The government did not want to go down that path. The final report does not estimate how common such privacy breaches are or contain any specific examples of a person being outed after submitting their birth certificate to a government or private organisation. The commission appears to have based its recommendation to remove sex from birth certificates on the premise that the move would have no impact on the wider community, stating —

> … that the law should not restrict the actions of an individual where such actions do not impact on the broader community.

We took the view as a government that some parents—indeed, most—place great importance on recording the sex of their baby on their birth certificate and, in the government's view, for these reasons Western Australia should retain the ability to identify sex on birth certificates.

With those few comments, again, I thank everyone across the chamber who has indicated their support for the legislation before us and I commend the bill to the house.

Division

Question put and a division taken, the Acting President (Hon Adele Farina) casting her vote with the ayes, with the following result —

Ayes (27)

Hon Martin Aldridge	Hon Peter Collier	Hon Colin Holt	Hon Matthew Swinbourn
Hon Ken Baston	Hon Stephen Dawson	Hon Alannah MacTiernan	Hon Dr Sally Talbot
Hon Jacqui Boydell	Hon Sue Ellery	Hon Rick Mazza	Hon Dr Steve Thomas
Hon Robin Chapple	Hon Diane Evers	Hon Michael Mischin	Hon Darren West
Hon Jim Chown	Hon Donna Faragher	Hon Simon O'Brien	Hon Alison Xamon
Hon Tim Clifford	Hon Adele Farina	Hon Martin Pritchard	Hon Pierre Yang *(Teller)*
Hon Alanna Clohesy	Hon Laurie Graham	Hon Samantha Rowe	

Noes (3)

Hon Robin Scott	Hon Charles Smith	Hon Colin Tincknell *(Teller)*

Question thus passed.

Bill read a second time.

Committee

The Deputy Chair of Committees (Hon Adele Farina) in the chair; Hon Sue Ellery (Leader of the House) in charge of the bill.

Clause 1: Short title —

Hon NICK GOIRAN: From the briefing I attended on this matter, I understood that Western Australia had received an exemption by the commonwealth, which was to expire on 9 December 2018. Could the minister clarify the nature of that exemption and what has been the case since 9 December, if that is the correct date?

Hon SUE ELLERY: The consequential amendments that were made to the commonwealth Sex Discrimination Act by the Marriage Amendment (Definition and Religious Freedoms) Act 2017 removed the statutory exemption in section 40(5) of that act to expressly permit states and territories to refuse to issue or alter a person's birth record of sex on the basis that they are married. The effective date for the removal of that exemption was 9 December 2018. Section 40(5) of the Sex Discrimination Act has been repealed. It is likely that section 15(3) of the Gender Reassignment Act is, therefore, inconsistent with the Sex Discrimination Act and, to the extent of any inconsistency, is invalid as per section 109 of the Constitution. The Attorney General introduced the bill that is before the house to cure any potential inconsistencies.

Hon NICK GOIRAN: The minister mentioned that it is "likely" that section 15(3) of our legislation is inconsistent. Is it not definite that it is inconsistent; is it merely likely?

Hon SUE ELLERY: The member would understand how these things work. We have had discussions before in this place about the relationship between state and commonwealth legislation as a consequence of the Constitution. The advice to use the word "likely" was because, based on history, we expect that it is likely but, of course, the matter has not been tested before a court. We expect, if it were tested, that it would be found wanting, but a court has not determined that.

Hon NICK GOIRAN: Upon whose advice did the government decide that it is likely that the legislation is inconsistent?

Hon SUE ELLERY: The State Solicitor.

Hon NICK GOIRAN: The State Solicitor provided that advice. Was that the State Solicitor or someone from the State Solicitor's Office?

Hon SUE ELLERY: The State Solicitor's Office.

Hon NICK GOIRAN: The minister may not have this information at her disposal, but does she know who in the State Solicitor's Office provided the advice?

Hon SUE ELLERY: No, I do not. I am not sure I would reveal that in any event because the person is a public servant, but it comes from the office on behalf of the office.

Hon NICK GOIRAN: I am interested whenever the State Solicitor's Office says something is inconsistent. The minister might remember that once upon a time when she was on this side of the chamber, there was a piece of legislation to deal with Bell Resources and the government was also told at the time, "No, it will be fine, there will be no inconsistencies", and lo and behold there was a challenge in the High Court. I therefore get a little nervous when I hear that the State Solicitor's Office is telling us there may be some inconsistency. I wonder whether the minister is in a position to table the advice, a precis of the advice or any briefing notes that the government might have obtained that set out a summary of the issues that the State Solicitor's Office considered in determining that it is likely to be inconsistent.

Hon SUE ELLERY: No, I am not. That is not—dare I use the word—inconsistent with the position generally taken by government.

Hon NICK GOIRAN: I know why the government does not as a matter of course table legal advice. It is because, of course, it would not want to reveal its cards on the gambling table before the High Court in the event of a challenge. But this situation is a little different because there will be no challenge because the government is changing the legislation to ensure that there can be no challenge. This situation might be a little different and the advice may be released. I appreciate that this is not the minister's immediate portfolio. Is this something she could have a conversation with the Attorney General about to see whether we can have the advice tabled, given he has taken the steps to obliterate the possibility of a challenge?

Hon SUE ELLERY: I am happy to have a conversation. Because I would not want to mislead the member, I am fairly confident what the outcome of that conversation will be, and I suspect his response would be, "No; as is the government's wont, we will not release it." But I am happy to raise it with him.

Hon MICHAEL MISCHIN: On that point, I get a little confused about when the Attorney General sees fit to table advice. One of the bills we are yet to deal with on today's notice paper is the Corruption, Crime and Misconduct Amendment Bill 2017. In respect of that, the Attorney General was quite happy to table legal advice from the Solicitor-General to reinforce his submission that the legislation he had drafted would preserve parliamentary prerogatives and privileges. He was content to table that in the other place and have it inform the basis of a second reading speech on that bill. On other occasions, he has been quite happy to come out in front of the media and rubbish ideas put forward by the opposition on the basis he has received legal advice one way or another. However, in this case, when a potential problem has been identified and this legislation will fix the problem, whether it exists or not, it seems that he does not want to table the advice. It would be helpful if it was not merely arbitrary and whimsical or politically advantageous, but was truly a principle of the Attorney General to be transparent, open and cooperative to assist Parliament and at least tell us what criteria he uses in deciding these things. I accept that each one has to be dealt with on a case-by-case basis but, surely, he must adopt some touchstone in making these decisions. It would be helpful if in conversation he is prepared to reveal it to the minister and hence to the house so we know what to expect. There have been a number of cases in which a number of quite important issues could have been resolved if the propositions put forward by the Attorney General and the government could have been supported by legal opinion, legal advice or some other corroboration of that point of view. It seems to me that he likes to hide behind legal professional privilege from time to time more generally, but then is prepared to trot things out when it suits his political purposes. If the minister would be good enough, as part of that conversation, to have him identify just how his mind works on these areas and if it does—I presume it does—in a rational way, it would be helpful to know so we can predict when it is worthwhile our asking these questions or not.

[Interruption from the gallery.]

Hon SUE ELLERY: I think there were fairies at the bottom of the garden or something!

In my conversation with the Attorney General, I am happy to draw to his attention the comments the member has made.

Hon NICK GOIRAN: We know that the government has consulted with the State Solicitor's Office on this legislation. Did it consult with anyone else; and, if so, who was it?

Hon SUE ELLERY: The Equal Opportunity Commission, the Gender Reassignment Board and the State Solicitor's Office.

Hon NICK GOIRAN: Was the consultation with the Equal Opportunity Commission or the Gender Reassignment Board in writing; and, if so, can that consultation be tabled?

Hon SUE ELLERY: I have the responses of the Equal Opportunity Commission and the Gender Reassignment Board, but they are in a thread of emails that encompass other matters that are before government, so I am not prepared to table the whole thread. I can advise the member that on 18 May 2018 Magistrate Patrick Hogan, president of the Gender Reassignment Board, sent an email to Kathleen Halden, who is at the State Administrative Tribunal and oversees the Gender Reassignment Board, and advised in the following terms —

> Hello Kathy
>
> Yes, I am supportive, and the Board is supportive, of the changes to the Regulations and the Bill
>
> Thanks
>
> Patrick

In respect of the Equal Opportunity Commission, I can refer to an email sent on 9 May 2018 by Allan Macdonald, senior legal officer at the Equal Opportunity Commission, to Daniel Goncalves, who happens to be sitting next to me. That email includes the following —

> Regarding the GRA amendment Bill and proposed changes to the regulations, the A/Commissioner supports the amendments.
>
> Regards
>
> **Allan Macdonald**

Hon NICK GOIRAN: We note that the government has consulted with the State Solicitor's Office, and the minister is going to talk to the Attorney General about that. We know that the government has consulted with the Equal Opportunity Commission and the Gender Reassignment Board, and she has indicated why she cannot table the documents but she has read out the pertinent information. Interestingly, she revealed that the State Administrative Tribunal had been involved in some fashion. Was the State Administrative Tribunal also consulted?

Hon SUE ELLERY: I will explain the relationship. The Gender Reassignment Board is independent of SAT. SAT provides administrative support, not policy support. The response was in the name of the president of the board. It came through SAT as part of the administrative arrangements.

Hon NICK GOIRAN: In effect, in this instance, SAT was like the postman.

Hon Sue Ellery: Correct—or post-person.

Hon NICK GOIRAN: Post-person; sorry. Speaking of the Gender Reassignment Board, which the government has consulted through the post-person, can the minister tell me whether the government asked the Gender Reassignment Board how many more applications it would expect to receive now that the criteria of individuals who can make applications will be broadened? We are giving the Gender Reassignment Board some extra work to do. How much extra work do we expect it to have?

Hon SUE ELLERY: No.

Hon NICK GOIRAN: No—the government did not ask?

Hon Sue Ellery: Correct. Did you think I was saying, "No, I would not answer the question"?

Hon NICK GOIRAN: No; I did not know what that was about. The Gender Reassignment Board will have more work to do. It seems odd that there would be no consultation with it about resources. Perhaps the minister could indicate to the chamber how many applications the board expects to receive on an annual basis—maybe for the current calendar year or financial year.

Hon SUE ELLERY: Some information is published in the annual report. The annual reports for 2013–14, 2014–15, 2015–16, 2016–17 and 2017–18 show that 109 certificates were issued in the last five years. I am also advised that the annual report indicates that for the five-year period between 2013 and the year ending June 2018, the board refused two gender reassignment applications. If two is added to 109, that is the best information I am able to provide the member, and that is published in the respective annual reports.

Hon NICK GOIRAN: I have a copy of the Gender Reassignment Board's 2017–18 annual report, which I hope the minister also has, or someone might be able to bring it to her attention. At page 3 of that report, it states —

> From 1 July 2017 to 30 June 2018 —

That is the most recent financial year —

> the Board received 34 new applications, carried 7 applications over from the previous reporting period and issued 32 recognition certificates, (of which 6 certificates were issued on applications received in the previous reporting period).

Interestingly, if someone has that report and is having a look at it—no-one has it?

Hon Sue Ellery: No, we do not.

Hon NICK GOIRAN: That is unfortunate, because if the minister had it, she would see that there is an error. It says that 34 applications were lodged in 2016–17, but of course that should refer to applications lodged in 2017–18, not the previous year. Maybe somebody—a post-person or other administrative officer—can assist the Gender Reassignment Board by correcting the annual report that was tabled in Parliament last year.

That is not really the most important point at this particular juncture. Right at the bottom of that page is a paragraph headed "Legislative change". I seek the minister's clarification about this for the chamber. It reads —

> During the previous three reporting periods draft amendments to the *Gender Reassignment Act 2000* were before Parliament. The impact of these amendments if proclaimed will be to abolish the Board and have all matters under the Act dealt with by the State Administrative Tribunal in its original jurisdiction. The draft amendments remain before Parliament at the time of preparing this report.

This report was prepared last year, it was signed off by Patrick Hogan, the president of the board, on 11 August 2018, and it is addressed to Hon John Quigley, MLA, in his capacity as the Attorney General. What is the piece of legislation that the board has referred to in its annual report that, if proclaimed, will abolish the board? It is not apparent to me that it is this legislation before us, so what is this legislation that has been referred to?

Hon SUE ELLERY: I suspect it is that 2015 legislation, but I cannot tell the member that. I do not have the annual report here with me and it does not really go to the heart of the legislation before us now. However, the member may have discovered an error in the annual report and I am happy to raise it and see whether it needs to be addressed.

Hon NICK GOIRAN: To be clear, this bill does not abolish the board, so the board will continue to deal with applications and it will not be the State Administrative Tribunal dealing with these applications in its original jurisdiction, notwithstanding what might be in the annual report. The board will receive more applications now as a result of this process but we do not know how many as it is yet to be specified. Will that become apparent through the budget process because the board might need additional staffing? I notice that in the same annual report under "Finance and Administration", it says —

> The board is an autonomous body that is wholly funded …

Committee interrupted, pursuant to standing orders.

[Continued on page 28.]

QUESTIONS WITHOUT NOTICE

DISABILITY SERVICES — FUNDING

1. Hon PETER COLLIER to the Minister for Disability Services:

I refer to the release of the 2019 *Report on Government Services*, which highlights that in 2017–18 total government expenditure on specialist disability services provided under the National Disability Agreement in WA was $840 million—a real decrease of 10.6 per cent from 2016–17.

(1) Footnote (d) of table 15A.3 states —

> In 2017–18, a reduction in total expenditure on services reflects the bilateral agreement to transfer individuals from the WA Government run NDIS to the Commonwealth run scheme.

Can the minister confirm that this is correct and that there has been a $100 million reduction in funding for disability services as a direct result of the McGowan government's decision to join the National Disability Insurance Scheme?

(2) Can the minister confirm that between 2016–17 and 2017–18 funding for accommodation support fell from $521 million to $418 million, community support fell from $147 million to $142 million and community access fell from $148 million to $125 million? Will the minister table a list of all service providers that have had a reduction or cessation in funding; and, if not, why not?

Hon STEPHEN DAWSON replied:

I thank the Leader of the Opposition for some notice of the question.

(1) Services funded through the National Disability Insurance Scheme are not reported through the *Report on Government Services*. The NDIS transition administration transferred to the National Disability Insurance Agency in December 2017 and hence 2017–18 is the first year that the NDIS data is separated from National Disability Agreement data, resulting in a decrease in NDA results and no prior year comparatives. There has been no reduction in WA government funding for disability services; the total annual expense has increased from $933.42 million in 2016–17 to $1.029 billion in 2017–18.

(2) Although the overall expenditure on disability services in WA is increasing as a result of the NDIS, less funding is flowing proportionally through the state; that is, the state's contribution is shifting from payments to service providers to payments to the National Disability Insurance Agency. Between 2016–17 and 2017–18 overall funding for accommodation support, community support and community access has actually increased.

HUAWEI — RADIO SYSTEMS REPLACEMENT CONTRACT

2. Hon PETER COLLIER to the minister representing the Minister for Transport:

I refer to the government's awarding of the radio systems replacement contract to Huawei and the recent claim by the minister that Huawei may not be able to deliver on the contract.

(1) On what date did the minister receive advice that Huawei may not be able to deliver on the contract as a result of charges laid in the United States against Huawei?

(2) Will the minister table a copy of the advice; and, if not, why not?

(3) Is the minister seeking updated advice from the federal government following the announcement of these charges; and, if not, why not?

(4) Will the minister provide a list of the components that are imported from the United States that are required for the radio systems replacement contract; and, if not, why not?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. The following information has been provided by the Minister for Transport.

(1)–(4) The Public Transport Authority became aware from media reports on 28 January 2019 that Huawei was the subject of indictments in the United States that might affect supplies required to complete the radio systems replacement project. The PTA has sought assurances from the project joint venture that the RSR project will not be impacted. The supply of components is not a security issue.

SHOPLIFTING — JUVENILE OFFENDERS

3. Hon MICHAEL MISCHIN to the minister representing the Minister for Police:

I refer to recent reports in the media of endemic shop stealing by juveniles, often blatant and frequently accompanied by violence, experienced by business proprietors.

(1) How many such cases have been reported for each of the years 2017, 2018 and 2019?

(2) What steps is the government taking to address the issue?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of this question. The following information has been provided to me by the Minister for Police. The Western Australia Police Force advises the following.

(1) The number of shoplifting incidents with a juvenile offender by year reported is in tabular form. It has the offence type, the years and numbers. I seek leave to have it incorporated into *Hansard*.

Leave granted.

The following material was incorporated —

Offence Type	**2017** **(7 June to 31 Dec)***	**2018**	**2019** **YTD**
Stealing from Retail Premises (Shoplift)	488	967	63

The offence type "Stealing from Retail Premises (Shoplift)" was not recorded distinctly from other types of stealing in the Western Australia Police Force's incident management system prior to 7 June 2017. Therefore, the 2017 figure spans incidents reported only from 7 June to 31 December 2017 inclusive. Statistics are provisional and subject to revision. The 2019 year to date is from 1 January to 31 January 2019 inclusive. A juvenile offender is aged 17 or younger at the time the incident occurred. Incidents have been excluded if the offender, and therefore offender age, is unknown. Statistics are of a distinct count of incidents. It should be noted that more than one offence may be recorded against an incident. The number of incidents for a period comprises all incidents reported during that period and may include incidents committed during earlier periods. Figures are of incidents reported or becoming known to police between 7 June 2017 and 31 January 2019 inclusive.

(2) Target 120 is a state government commitment to work with the families of the state's highest priority young people in contact with the youth justice system. This is a coordinated, across-government response to improve young people's lives and reduce offending. The Department of Communities is the coordinating agency for T120.

SCHOOL VIOLENCE

4. Hon DONNA FARAGHER to the Minister for Education and Training:

I refer to the minister's statement on school violence released in December 2018 and specifically "Action 3: New alternative learning settings for the most violent students".

(1) Have the pilot program trials commenced; and, if not, why not?

(2) If yes to (1), what is the location of each trial site and what is the expected duration of each trial?

(3) If no to (1), when are the trials expected to commence?

(4) What is the proposed trial structure?

(5) Who will be undertaking an evaluation of the pilot programs and will these reports be made publicly available?

Hon SUE ELLERY replied:

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

(1) Yes.

(2) The trial sites are in the north metropolitan area and the south metropolitan area, and there is one in the south west. Initially, the trial is for the 2019 school year.

(3) Not applicable.

(4) Each site will be staffed with three FTE teaching and two FTE support staff, who will provide the students with an intensive support program aimed at restoring positive behaviour.

(5) A procurement process is in place. The findings will be made publicly available to the extent that they do not compromise the privacy of individuals supported through the programs.

CHILD PROTECTION — CHILD SEXUAL ABUSE — ROEBOURNE

5. Hon NICK GOIRAN to the Leader of the House representing the Minister for Child Protection:

I refer to the revelations during annual report hearings on 14 November 2018 that it was the expectation of the Department of Communities that some of the six known perpetrators identified in Operation Fledermaus were attending the same school as their victims.

(1) Are any of the perpetrators still attending the same school as their victims?

(2) Are all of the victims still alive?

Hon SUE ELLERY replied:

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

(1) The matter referred to during the annual report hearing on 14 November 2018 relates to Department of Education information. As the member was advised last year, in instances when a young person charged or convicted with a sexual offence attends a public school, every case is monitored, assessed and managed between the Department of Education, the WA Police Force and the Department of Communities. These assessments are based on what is best for the school community and the individual young people. This responsibility is not taken lightly.

As previously advised, the number of young people with charges attending school is very small, which significantly increases the risk that providing detailed comment about individual cases could lead to them being identified. The important response is to create a safe environment by developing trust, increasing the networks around the child and protective behaviours education.

(2) Yes.

BHP — IRON ORE ROYALTY PAYMENTS

6. Hon JACQUI BOYDELL to the minister representing the Minister for Mines and Petroleum:

I refer to the article by Gareth Parker in *The Sunday Times* of 27 January 2019 about the audit of BHP, and I quote —

There was a specific, though so-far undisclosed, reason those public servants went over the books again.

(1) What was the reason for the audit that found the alleged discrepancy?

(2) On what date was the discrepancy first raised with the minister?

(3) On what date was the discrepancy first raised with BHP, and how was it communicated to the company?

(4) What was the length of time between the audit finishing and the discrepancy being raised with the minister and BHP?

(5) On what date did BHP stop claiming the deduction?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

I have a related question here, but not that particular one. What number is it?

Hon Jacqui Boydell: It is C045.

Hon ALANNAH MacTIERNAN: I have C038. I am happy to give the member C038.

Hon Jacqui Boydell: I think there was a bit of confusion on our end of questions this morning, so it might have been that. There was a number —

The PRESIDENT: Minister, if you do not have the answer to the question that has been asked, perhaps you might seek that response and provide it at a later stage.

TAB — PRIVATISATION

7. Hon COLIN HOLT to the minister representing the Treasurer:

I refer to the process for the sale of the WA TAB.

(1) Will a representative or representatives from Racing and Wagering Western Australia play a role in the sales process?

(2) If yes to (1), who will be the representatives and what role will they play?

(3) Given that RWWA is a direct competitor of any domestic wagering operator that may submit a bid for the WA TAB, does the government acknowledge a real or perceived conflict of interest?

(4) If yes to (3), how will this conflict of interest be managed?

Hon STEPHEN DAWSON replied:

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

(1) Yes, representatives from Racing and Wagering Western Australia will play a role in the sales process, both in assisting with the current sales preparation phase and as a party to the agreement with the incoming operator to provide ongoing funding to the Western Australian racing industry.

(2) The board chairman and the chief executive officer of RWWA are members of the steering committee overseeing the project.

(3)–(4) The state is cognisant of the potential for perceived conflicts of interest arising from the competitive nature of the wagering sector. These concerns are a common feature in complex commercial transactions and these concerns will be addressed by a number of mechanisms. The state will design the sale process to encourage an open and competitive field of potential bidders.

ELECTRICITY SUPPLY — MULLEWA

8. Hon RICK MAZZA to the minister representing the Minister for Energy:

I refer to ongoing power outages in Mullewa, a town without an alternative supply of backup power, which jeopardises the town's vaccines, medications, food and mobile telecommunications.

(1) Is the minister aware of the ongoing power outages in Mullewa that force the dumping of vaccines, medicines and food?

(2) If yes to (1), why has this problem persisted for so long?

(3) How many power outages have there been in Mullewa over the past five years?

(4) What is being done to address Mullewa's ongoing power outage problem to ensure that it does not keep happening?

(5) When can Mullewa residents expect to have their ongoing power outage problem solved?

Hon STEPHEN DAWSON replied:

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

(1) The minister is aware of outages in Mullewa.

(2) The causes of outages in Mullewa can be attributed largely to lightning, wildlife and vegetation, which are outside Western Power's control. The recent outages can be attributed to strong winds in the area, which are common in the area for this time of year, blowing rubbish and debris into powerlines on the long feeder lines that service the area. Many of these outages were complicated by total fire ban and vehicle movement ban conditions, preventing Western Power from completing repairs and patrols that would have reduced outage times. Although the December period was particularly difficult, it does not reflect the experience throughout the rest of the year in Mullewa. Prior to these outages, only three outages were experienced in 2018, with the longest just over four hours.

(3) Between 1 February 2014 and 31 January 2019, there were 414 outages in the Mullewa area. It is important to note that not every customer experiences every power outage. Each customer has experienced on average 9.5 interruptions a year.

(4) Western Power is making a significant $7 million investment in the Mullewa region between 2017 and 2022, with approximately 500 pole replacements and 800 pole reinforcements, as well as siliconing 2 300 poles. This is expected to reduce the risk of faults and improve reliability. Western Power is also reviewing the location of generators to help reduce the length of outages. Western Power also met with stakeholders, including the City of Greater Geraldton, on 7 February to discuss reliability in the region.

(5) Mullewa's reliability will continue to be monitored and Western Power will continue to evaluate further investment options in this region, including potential opportunities for standalone power systems.

PARLIAMENT–CORRUPTION AND CRIME COMMISSION — MEMORANDUM OF UNDERSTANDING

9. Hon ALISON XAMON to the Leader of the House representing the Attorney General:

I refer to the Corruption, Crime and Misconduct Amendment Bill 2017.

(1) Has a draft memorandum of understanding between the houses of Parliament and the Corruption and Crime Commission been finalised?

(2) If no to (1), when will it be finalised?

(3) If yes to (1), please table the proposed draft memorandum of understanding.

Hon SUE ELLERY replied:

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

(1) No.

(2)–(3) I am advised by the Corruption and Crime Commission that the Speaker of the Legislative Assembly and the President of the Legislative Council are yet to finalise the draft memorandum of understanding for the commission's consideration. The last update received by the CCC in February 2018 was that it was awaiting the outcome of the Australian Senate Standing Committee of Privileges inquiry into the execution of search warrants on senators.

PLANNING — BUSHFIRE MANAGEMENT — MT HELENA

10. Hon TIM CLIFFORD to the minister representing the Minister for Planning:

The Western Australian Planning Commission recommended against a subdivision in Mt Helena based on the Department of Fire and Emergency Services' advice that bushfires could not be adequately managed and the development would pose a risk to lives and homes. The Minister for Planning has overridden this advice, saying in an article published by *The West Australian* —

> The approval is a commonsense approach that balanced the needs of the community with the management of fire risk.

(1) Will the minister please elaborate on how commonsense will be applied by residents of this subdivision in the event of a bushfire?

(2) Will the minister clarify whether there are any streets that pose an entrapment risk in or around this subdivision; and, if so, how will the minister ensure that residents on these streets are able to evacuate in the event of a bushfire?

(3) Will the minister please table any reports or advice received from the government's climate change department on this matter?

Hon STEPHEN DAWSON replied:

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

(1)–(2) Appropriate planning requires that technical concerns are balanced with ensuring the ongoing viability of hills communities. The minister noted that the Shire of Mundaring supported the bushfire management plan prepared for the metropolitan region scheme amendment 1277/57, Mt Helena urban precinct, which includes an area incorporating 20 existing houses on the landholdings that were rezoned, and it is adjacent to an existing subdivision.

An updated and refined bushfire management plan was submitted to the Shire of Mundaring as part of the local structure plan for the site, and sets out the site requirements to be addressed, including access arrangements and lot configuration. The local structure plan, including the bushfire management plan, was advertised by the shire for public comment from 16 November to 14 December 2018 and will provide a recommendation to the WAPC.

(3) The "Report on Submissions" for metropolitan region scheme amendment 1277/57, Mt Helena urban precinct, was finalised in October 2017, and contains the advice received from government agencies, including the former Departments of Parks and Wildlife and Environment Regulation. I table a copy of the submissions.

[See paper 2378.]

PLANNING — BUSHFIRE MANAGEMENT — MT HELENA

11. Hon COLIN TINCKNELL to the minister representing the Minister for Planning:

I refer to the subdivision in Mt Helena.

(1) In choosing to move forward with the proposal, can the minister outline what considerations were so convincing as to outweigh the expert opinion of the Department of Fire and Emergency Services?

(2) What factors have persuaded the minister to overlook the expert advice of DFES and move forward with the proposal?

(3) What factors did the Minister for Planning take into account when choosing to go ahead with the proposal and ignore DFES expert advice?

(4) Have any government departments flagged concern over the proposed subdivision; and, if so, which ones and what are their concerns?

Hon STEPHEN DAWSON replied:

I thank the honourable member for the question.

There is a preamble in the question that I have that the member did not read out, so I presume it is the answer to the same question.

(1)–(3) The Western Australian Planning Commission metropolitan region scheme amendment 1277/57 "Report on Submissions" states, and I quote —

> 12 submissions were of support, 2 submissions were of objection and 14 submissions contained neutral comments, non-objections or general comments on the amendment (primarily from government agencies).

Overall, there is a need to balance technical concerns with ensuring the ongoing viability of hills communities. In making the decision, the minister outlined the requirement for the preparation of an updated and refined bushfire management plan to address the concerns raised by DFES, including the extension of water infrastructure and bushfire attack level ratings on new houses, which impose far stricter requirements than those that are applicable to the existing and adjacent property owners. There are also 20 existing houses on the landholdings that were rezoned, and it is adjacent to an existing subdivision.

(4) No.

CITY OF MELVILLE — INQUIRY

12. Hon SIMON O'BRIEN to the Leader of the House representing the Minister for Local Government:

Further to my questions in June, August, September and November, I again refer to the Department of Local Government, Sport and Cultural Industries-authorised inquiry into the City of Melville.

(1) What stage has the inquiry reached, and what stages of the process remain to be completed?

(2) What time frame has the minister set for finalising the necessary processes for tabling the report and for giving a government response?

Hon SUE ELLERY replied:

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

(1)–(2) The draft report has been provided to the City of Melville, and copies of relevant sections of the report have also been provided to the complainants involved for their comment. Submissions and any feedback are due by 28 February 2019. Following this, the Department of Local Government, Sport and Cultural Industries will consider any responses and finalise the report as expeditiously as possible.

GST DISTRIBUTION — IRON ORE PRICE

13. Hon Dr STEVE THOMAS to the minister representing the Treasurer:

(1) In light of the globally significant and ongoing problems experienced by Vale, Brazil, in the production of its iron ore, which has resulted in a local price of $US90 a tonne for iron ore being realised, what would be the predicted impact on the state's iron ore royalty income over the next four years should the average iron ore price remain at $US90 a tonne?

(2) What would be the impact on WA's GST distribution if the iron ore price remained at an average of $US90 a tonne over the next four years?

(3) Since 5 July 2018, what modelling has Treasury undertaken on the impacts of state iron ore price variations on royalty revenue and subsequent GST returns to WA, and will the minister table the modelling; and, if not, why not?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. The following information has been provided to me by the Treasurer.

(1)–(2) A scenario where the average price of iron ore remains at $90 a tonne has not been modelled, as this assumption is highly unrealistic. The current government has learnt from the mistakes of the previous government, and accordingly does not assume that temporary windfall gains will continue into the future.

(3) Updated modelling was undertaken for, and the results incorporated in, the revenue estimates of the 2018–19 *Government Mid-year Financial Projections Statement*, which was published on 20 December 2018.

Hon Dr Steve Thomas: If it wants to avoid issues —

Hon STEPHEN DAWSON: Member, I was going to say that I do not have that midyear review with me. I am very happy to provide it to him outside the debate, if he needs one.

AGRICULTURE — DOPPLER RADAR

14. Hon MARTIN ALDRIDGE to the Minister for Regional Development:

I refer to the minister's media statement of 25 January 2019, titled "Coastal radar upgrade to make WA's weather service nation's best".

(1) With reference to the minister's comments on 15 March 2018, when she described it as a "disgrace" that the former Liberal–National government had invested in Doppler technology at Newdegate, South Doodlakine and Watheroo as this was a federal government responsibility, why has she now changed her tune as she heralds from the rooftops her investment in Geraldton and Albany?

(2) How much of this $4.6 million investment will be procured locally in the great southern and midwest regions?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

(1)–(2) I think the member has not necessarily correctly characterised my past comments. I have recognised the value of the investment in Doppler radar. My comments about the "disgrace" was the fact that it was yet another example of the commonwealth government not investing. At a recent Agriculture Ministers' Forum meeting, I was interested to find that New South Wales is having travails with the Bureau of Meteorology, which I understand has had its funds cut, and is looking at doing the same thing. I would characterise my comments on that as saying that we must continue to press the commonwealth government to pay us its fair share. It is very interesting to note that the cut by the federal government to the allocation for the Bureau of Meteorology has really been quite disastrous for the agriculture sector. Perhaps we can work together to get that turned around.

STATE AGREEMENTS — CONCESSIONS

15. Hon ROBIN SCOTT to the minister representing the Minister for State Development, Jobs and Trade:

(1) Will the minister confirm that in an article published in the *Kalgoorlie Miner* of Wednesday, 6 February 2019, Hon Mia Davies, MLA, wrote, in reference to BHP and Rio Tinto: "For decades, the WA Government has provided the companies with long-term leases, tax concessions and specific measures to cut through normal planning and environmental processes"?

(2) What access to long-term leases not available to other companies has been provided to BHP and Rio Tinto?

(3) What tax concessions have the WA government provided to BHP and Rio Tinto?

(4) What specific measures to cut through normal planning and environmental processes have the WA government provided to BHP and Rio Tinto?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The Minister for State Development, Jobs and Trade has kindly provided the following answers, even though the first question clearly is not within the purview of the government.

(1) Yes.

(2) Long-term leases are available to all companies, including state agreement companies, based on the legislation of the day and specified operational requirements. The 1963 and 1964 state agreements provided for the principal mining lease to be continually renewed if it was required for mining under the relevant state agreement.

(3) The 1963 and 1964 state agreements did not provide tax concessions. The state agreements historically provided concessions in relation to stamp duty for a limited period of time.

(4) Companies operating under state agreements are required to comply with the provisions of the state agreements, which are subject to the Environmental Protection Act 1986.

LOCAL GOVERNMENT — COMMON-USE SERVICES

16. Hon CHARLES SMITH to the Leader of the House representing the Minister for Local Government:

I refer to the Western Australian Local Government Association providing common-use services to local governments.

(1) Why does the minister allow WALGA to provide common-use services and receive a commission when common-use contracts might be better provided by the Department of Finance?

(2) Considering the financial pressure on ratepayers, why is the state government allowing local governments to opt to pay for a service from WALGA that could be better provided at little or no cost by the existing institutions of the state?

(3) Does the minister support this blatant rent-seeking by WALGA at the expense of the ratepayers?

Hon SUE ELLERY replied:

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

(1)–(3) The Local Government Act 1995 establishes local governments as independent bodies with the legislative authority to make decisions believed to be in the best interests of the local government's community, including ratepayers. WALGA's services are one option available for local governments. The Local Government Act 1995 is also currently under review and procurement is included in the review. Submissions are due by 31 March 2019.

FRACKING OPERATIONS — SITE REHABILITATION

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

I refer to the Premier's announcement last year that current petroleum leases in WA will be allowed to be fracked.

(1) How will the government guarantee that funds are appropriated from industry to facilitate site rehabilitation specifically for sites that have been fracked, including exploratory fracks?

(2) Considering that the total rehabilitation liability estimate for mining in WA was $2.6 billion as of 2015 and that the mining rehabilitation fund had a balance of only $149 million as of December 2018, will the minister institute an environmental bonds system for fracking operations, including exploratory fracks?

(3) What mechanisms will allow farmers to veto fracking exploration and production on their land?

(4) What mechanisms will allow traditional owners to veto fracking exploration and production on their land?

(5) Will the minister guarantee that any and all rehabilitation of frack sites will be paid for by the tenement holder of that site?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The Minister for Mines and Petroleum has provided the following answers.

(1)–(4) The state government has accepted all the recommendations of the report of the Independent Scientific Panel Inquiry into Hydraulic Fracture Stimulation in Western Australia 2018. An implementation plan is being developed, including those relating to site rehabilitation and land access.

(5) Site rehabilitation is the responsibility of the tenement holder. Any legacy issues will be addressed by (1).

DEPARTMENT OF COMMUNITIES — THE PEOPLE PLACE, BUSSELTON

18. Hon DIANE EVERS to the Leader of the House representing the Minister for Community Services:

I refer to the empowering communities program and the Department of Communities' competitive tender process.

(1) Is the minister aware that the People Place in Busselton, which provides vital community services and programs and was previously funded under the former supporting communities program, was considered ineligible for funding through the competitive tender process?

(2) If yes, can the minister advise what criteria was not met?

(3) In December last year, the assistant director general, Brad Jolly, stated in the media that "the department will work with them to enhance their service model in line with the CNDS program to ensure they provide the best service to children, families and communities in the Busselton area". What has the department done so far to achieve this?

(4) Will the minister confirm the commitment of the department to work with the People Place to secure long-term funding beyond 2020; and, if not, why not?

Hon SUE ELLERY replied:

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

(1) Yes.

(2) The Department of Communities completed an open tender process for the empowering communities program. Although the People Place, Busselton, tender offer is confidential, and, as such, cannot be disclosed, I can advise that the Department of Communities has provided it with feedback on its offer on 16 January 2019.

(3) Communities has communicated to the People Place, Busselton, that it will have its service agreement extended to 30 June 2020. During the provision of feedback, preliminary discussions were held regarding ways to strengthen the service model, staff skills and governance practices so that the organisation is better placed for future opportunities. Senior officers from the Department of Communities will meet again with the People Place, Busselton, in the near future to discuss potential enhancements to the service model.

(4) During the next 18 months, the Department of Communities will work with the People Place, Busselton, to develop a service model to align with the requirements of the empowering communities program. Further to this, communities is commencing discussions with the People Place, Busselton, to have its deed of licence for the centre extended to 2024. This will ensure there is an ongoing, affordable asset in Busselton that can be used by community groups.

PREMIER — INTERSTATE TRAVEL — NOVEMBER 2018

19. Hon TJORN SIBMA to the Leader of the House representing the Premier:

I refer to interstate travel undertaken by the Premier in late November 2018.

Can the Premier please provide the details of any and all interstate travel he undertook between Wednesday, 20 November and Monday, 26 November 2018 inclusive, including —

(a) destination or destinations;

(b) reasons for travel;

(c) mode of air transport taken;

(d) names of accompanying companions; and

(e) accommodation used?

Hon SUE ELLERY replied:

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

(a) The Premier travelled to Sydney in November 2018.

(b) The primary purpose of the visit was to meet with Hon Andrew Constance, New South Wales Minister for Transport and Infrastructure, and departmental officials to discuss their major infrastructure projects; meet with Hon Bob Hawke; meet with Hon Geoff Gallop; meet with Hon Bob Carr; and meet with Michael Daley, NSW Leader of the Opposition.

(c) The Premier flew on a Qantas domestic flight.

(d) The Premier was accompanied by Jo Gaines, his deputy chief of staff.

(e) The Premier stayed at the Grace Hotel.

ANIMAL WELFARE — CATTLE DEATHS —
NOONKANBAH STATION AND YANDEYARRA RESERVE

20. Hon JIM CHOWN to the Minister for Agriculture and Food:

A massive and incomprehensible animal cruelty episode has unfolded in the Kimberley and Pilbara over the last few months. Thousands of cattle have suffered or perished due to lack of water.

(1) Who are the responsible leaseholders on Noonkanbah station and Yandeyarra reserve?

(2) On what date was the Department of Primary Industries and Regional Development first made aware of the situation on both Noonkanbah station and Yandeyarra reserve?

(3) What has been the combined number of cattle deaths? I note in the minister's statement at the beginning of today's proceedings that she mentioned only those cattle that had been destroyed and not those who died from thirst prior to that event.

(4) Were either of these stations under DPIRD management prior to these catastrophic events taking place?

The PRESIDENT: Member, I note that you wandered off your set question. The minister might only respond to the questions that you put to her.

Hon ALANNAH MacTIERNAN replied:

I would be very tempted to allude to a lot more—but I will start by saying that I am very heartened to learn that the member is concerned about episodes of massive incomprehensible animal cruelty, and I am sure this extends to sheep as well as cattle.

(1) The Yungngora Association is the leaseholder for Noonkanbah station and the Mugarinya Community Association is the leaseholder of Yandeyarra reserve.

(2) DPIRD was first made aware of the situation on Noonkanbah on 24 December 2018, and of Yandeyarra on 17 January 2019.

(3) Approximately 85 cattle were destroyed by DPIRD officers at Noonkanbah and approximately 760 cattle at Yandeyarra. The latest estimate is that total deaths could exceed 2 000.

(4) Neither station was under DPIRD management. DPIRD does not manage pastoral leases.

ANIMAL WELFARE — CATTLE DEATHS — YANDEYARRA RESERVE

21. Hon KEN BASTON to the Minister for Agriculture and Food:

Some of my questions have been answered. I refer to the recent cattle deaths reported to have occurred at Yandeyarra reserve.

(1) On what date did the Department of Primary Industries and Regional Development become aware that significant animal welfare issues were arising at Yandeyarra?

(2) On what date was the minister informed of these issues?

(3) What direct actions were taken by DPIRD in response to learning of the issues arising at Yandeyarra?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. As he rightly observed, in both my ministerial statement and in answers to questions, I have canvassed these issues—but let us go again.

(1) Departmental officers received an animal welfare report late afternoon on 17 January 2019. On 18 and 19 January, investigation staff were mobilised. Department of Planning, Lands and Heritage and Department of Primary Industries and Regional Development livestock compliance unit officers flew to Port Hedland on 20 January. A livestock compliance unit officer was on site to commence investigation on 21 January 2019.

(2) My office was advised on 21 January 2019.

(3) Departmental staff undertook an aerial assessment of Yandeyarra to assess the welfare of cattle on the property and supplies of food and water, undertook destruction of cattle where needed and commenced emergency management activities to improve access to water for cattle where practical.

QUALITY SCHOOLS REFORM — BILATERAL AGREEMENT

Question without Notice 1327 — Correction of Answer

HON SUE ELLERY (South Metropolitan — Minister for Education and Training) [5.08 pm]: I would like to provide a correction to Hon Donna Faragher's question without notice 1327 asked on 6 December 2018. The correct response to parts (1) to (3) of the question is as follows.

(1)–(3) The bilateral agreement sets out the minimum funding contributions from both the commonwealth and state governments over the life of the agreement. The minimum funding contributions are expressed as a percentage of the schooling resource standard—75 per cent for the government and 20 per cent for the non-government sector. The full bilateral agreement, including funding contributions, is publicly available.

I apologise to the house for the error.

QUESTIONS ON NOTICE 1782, 1784, 1788, 1789, 1792, 1794 AND 1795

Papers Tabled

Papers relating to answers to questions on notice were tabled by **Hon Sue Ellery (Leader of the House)**, **Hon Stephen Dawson (Minister for Environment)** and **Hon Alannah MacTiernan (Minister for Regional Development)**.

REGIONAL DEVELOPMENT — ALBANY WAVE ENERGY PROJECT

Question on Notice 1407 — Supplementary Information

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development) [5.10 pm]: In August 2018, in response to question on notice 1407 asked by Hon Martin Aldridge, I tabled a redacted copy of the financial assistance agreement between the Department of Primary Industries and Regional Development and Carnegie regarding the Albany wave energy technology development project. In response to a finding by the Office of the Auditor General, released on 23 January 2019, I asked the department to work with Carnegie to review schedule 7 of the FAA and prepare a version that I could consider for tabling in Parliament. That work has been completed and I now seek to table the document.

[See paper 2386.]

GENDER REASSIGNMENT AMENDMENT BILL 2018

Committee

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Dr Steve Thomas) in the chair; Hon Sue Ellery (Leader of the House) in charge of the bill.

Clause 1: Short title —

Committee was interrupted after the clause had been partly considered.

Hon NICK GOIRAN: Prior to the interruption of the committee to take questions without notice, I was asking the minister some questions about the Gender Reassignment Board's resourcing. The board is established under section 5

of the Gender Reassignment Act 2000, and that is the act that this bill seeks to amend. I was drawing to the minister's attention at least one error in the Gender Reassignment Board of Western Australia's annual report of 2017–18, which the minister indicated she can draw to its attention, and if there needs to be a correction, it will be dealt with in the fullness of time. At page 2 of the annual report, under the heading "Finance and Administration", it states —

> The Board is an autonomous body that is wholly funded through the Department of Justice.
>
> The Department receives all fees in respect of Board matters.
>
> The Board does not directly employ its own staff. Staff are provided by the Department.

My question is about the resourcing implications of this legislation for the board. I understand that the minister is not in a position to indicate how many additional applications the board might expect to receive. However, I was about to ask whether the upcoming budget process will deal with how many additional resources the board will need and how many additional applications the board can expect?

Hon SUE ELLERY: I am advised that the board has not asked for any additional resources. I could not possibly comment on what is going to be considered as part of the upcoming budget process, but I can advise that we will have a watching brief, and if additional resources are required, I am sure we can deal with that in future budgets.

Hon NICK GOIRAN: The minister's response was to simply say that the government has not been asked for any additional resources by the Gender Reassignment Board. The problem with her response is that, of course, as we know from earlier questions and answers on this bill, the government has not asked the Gender Reassignment Board whether it needs any additional resources. Although what the minister said is true—the board has not asked for any additional resources—the problem is that the consultation has been so modest, concise and brief that these types of basic questions have not been put to the Gender Reassignment Board. That is troubling. Of course, now we do not know exactly what the process will be moving forward because the minister said that she cannot discuss the budgetary processes, so we will be left in the dark about the resource implications of this legislation, which is most unsatisfactory for the house of review.

As the minister is unable to assist further in that line of inquiry, I would like to ask her to indicate why the Registrar of Births, Deaths and Marriages was not consulted on this legislation. My understanding is that the registrar's office will now receive certificates from the Gender Reassignment Board that it would not ordinarily receive. It seems curious that the Registrar of Births, Deaths and Marriages has not been consulted about that, given that he or she will be required to amend the sex recorded on a person's birth certificate to reflect their assumed gender. That is the language used in the explanatory memorandum. Is there an explanation why the registrar was not consulted about this bill?

Hon SUE ELLERY: It was not deemed necessary to consult with that registrar because, in terms of the policy of the bill before us and what was required to be changed to give effect to and to move forward from the changes that were made at a commonwealth level, that technical policy matter has nothing to do with the Registrar of Births, Deaths and Marriages.

To follow the member's previous line of questioning about whether it would have been appropriate to perhaps consult the Gender Reassignment Board about resources, its budget sits within the Department of Justice's budget, so if changes were required, they could be considered in due course.

Hon NICK GOIRAN: We might follow that up during the budget process because it does not satisfy me to say only that the Department of Justice is going to handle the budget and the like, because there is such a thing as opportunity cost. If resources have to be directed to the Gender Reassignment Board to deal with more applications and to the Registrar of Births, Deaths and Marriages to deal with the receipt of additional certificates and the like, that will come at the expense of something else. That must be the case because one presumes that the people who will be doing these things and entering this information are not doing nothing during the course of their day, so to attend to these matters, they will be taken away from what they would ordinarily do. If there is one ad hoc application once in a blue moon, perhaps that can be addressed by existing resources, but the problem is that the government cannot tell me how many of these applications will be made. We do not know whether there will be five, 10, 15, 20 or 100. As I said in my contribution to the second reading debate, we would be battling to find a more concise or straightforward bill than this. I find it baffling that something as basic as the number of applications that will result from this legislation is unable to be provided to the chamber. As members, we are very keen apparently to ensure that this legislation passes but we do not know how many applications will result because of it. We do not know how many people will apply for these certificates. I find that peculiar, to say the least.

Be that as it may, I have two further lines of inquiry for the minister. I am happy to ask them at clauses 2 or 3 but I can ask them now for the sake of expediency. The first is about the 28-day period. The minister mentioned that that is the default position taken by Parliamentary Counsel for the drafting of regulations. Has that drafting commenced?

Hon SUE ELLERY: I am advised no.

Hon NICK GOIRAN: The minister also mentioned that some forms need to be amended. Has the process of amending them commenced?

Hon SUE ELLERY: That is what needs to be amended, so it is the same issue. The answer to that is no.

Hon NICK GOIRAN: What does the current form look like? Ideally, can the minister table the form? What changes are needed to the current form that require this 28-day period?

Hon SUE ELLERY: I am happy to table the forms, which are in schedule 1 of the Gender Reassignment Regulations 2001. I can table them now if that is of some assistance.

[See paper 2387.]

Hon SUE ELLERY: The forms currently state that a recognition certificate cannot be issued to a person who is married. I am advised that Parliamentary Counsel has said that they will commence the drafting when the legislation has been completed through the Parliament.

Hon NICK GOIRAN: I would like to ask a couple more questions about these forms but I do not have them in my possession, so if we can wait a moment for the Clerk to provide them, that would be helpful.

The minister has kindly tabled for us the forms, which are found in schedule 1 of the Gender Reassignment Regulations 2001. I understand there are two forms, which total some nine pages. Form 1 is the "Application for Recognition Certificate for an Adult" and form 2 is the "Application for Recognition Certificate for a Child". Given that we are opening the door for these recognition certificates to be provided to a person who is married, is it only form 1 that needs addressing and not form 2?

Hon Sue Ellery: Form 2 refers to page 8. If the member wants to look at that —

The DEPUTY CHAIR: Sorry, minister, if you are responding—I apologise, but I will give you the call.

Hon SUE ELLERY: Thank you.

The DEPUTY CHAIR: Someone has to be on their feet.

Hon SUE ELLERY: Do they?

On my document, form 2 is on page 8 and at the bottom of that table, there is a reference to —

> The child is married.
>
> The child is not married.

Because a person under 18 could be married.

Hon NICK GOIRAN: When I look at the two forms, I see a similar provision in form 1, where it states —

> I am married.
>
> I am not married.
>
> *Tick the appropriate box.*
>
> *A recognition certificate cannot be issued to a person who is married*.

Is it not the case that all that needs to be done is to delete "I am married", "I am not married", the two tick boxes, the words "Tick the appropriate box" and "A recognition certificate cannot be issued to a person who is married"? Does it really take 28 days to do that twice?

Hon SUE ELLERY: All references to "married" have to be taken out. Although I appreciate the point the member is making, the advice from Parliamentary Counsel is that the drafting will start once the legislation is through the parliamentary process. I can appreciate the member's keenness to see the legislation enacted and in place, but that is the advice from Parliamentary Counsel.

Hon NICK GOIRAN: That is an excellent segue to my final round of questions, because when the minister says that I am so keen to see the legislation enacted, I am. However, I am troubled that the Law Reform Commission, which has been commissioned by the government to do a task, says that we should repeal the Gender Reassignment Act. Although she and I might be keen to see this happen, I am not helped by the government's inability or unwillingness to indicate its position about recommendation 10 of the Law Reform Commission. She made some remarks in reply indicating that it is currently before the government for consideration. Surely the government must know whether or not it will repeal this very legislation we are discussing today. It is not clear to me why the government needed two months over the summer recess to decide that what we are doing right now is a complete waste of time. There must be some indication by government to say that there is a general lack of enthusiasm for recommendation 10 or there is a general enthusiasm for it but we want to consider it a bit further. It sounds implausible that there could be no position whatsoever, unless nobody has looked at it at this point.

Hon SUE ELLERY: I appreciate that the honourable member might think it is implausible but, in fact, as I said in my second reading reply, government is still considering the matters within Project 108. When we have given due consideration to all those recommendations, except recommendations 5 and 6 but including recommendation 10,

we will make a statement to that effect. I would be speculating and I do not want to do that. I do not think that is helpful to anyone. I am not going to speculate. I cannot tell the member any more than I told him in my second reading reply, which is that the matter is still being considered by government.

Hon NICK GOIRAN: Have there been any meetings within government to consider recommendation 10 since Parliament last sat?

Hon SUE ELLERY: I appreciate the member's interest in this matter. I do not have the answer to that question. I do not know how it gets us any further in dealing with the detail of the bill before us. The government is still considering the recommendations of Project 108. When that process is completed, the government will in due course make a statement.

Hon NICK GOIRAN: Perhaps I can help the minister. Just to clarify, the reason this is important is that it indicates whether this is a waste of time. The minister is the Leader of the House. She decided to make the Gender Reassignment Amendment Bill the number one priority on our first day back for 2019. There is a massive amount of legislation on the notice paper, but because she is the most senior member opposite in government, she decided that this would be the number one priority. She is quite entitled to do that. I do not have a problem with that. The opposition is not opposing the bill.

Hon Sue Ellery: It's supporting the bill.

Hon NICK GOIRAN: There you go.

Hon Sue Ellery: It's more than not opposing it.

Hon NICK GOIRAN: The problem is: are we doing all this for no particular purpose if the government is going to proceed with recommendation 10 and obliterate the legislation anyway by repealing it? That is what the Law Reform Commission has said. According to this government, the Law Reform Commission has already got a couple of things wrong, because the minister has said that recommendations 5 and 6 are not worthy of support. As it happens, I agree with her. I want to know where recommendation 10 sits in that; otherwise, all this exercise today has been for nothing. The minister has indicated that she cannot tell us what is going on there; she does not know how many meetings have happened, so we are not able to make any further progress on that.

I once again underscore the problems with a bill of this simplicity. I would battle to find a more simple bill than this. We cannot be told by government what are the resource implications. In fact, it has not even asked the people who will have the resourcing problem. We cannot be told whether it is the government's intention to repeal the very legislation that we are going to pass presumably in a few moments. That makes a mockery of the Legislative Council. Why make this legislation the number one priority? That is for the government to explain; it is not for the rest of the members. We can deal only with the matters on the agenda that are brought before us. The minister has decided that this is the top priority. I hope that it is not a complete waste of everyone's time, but we will not know that until such time as a ministerial statement is made, which the minister tells us will be in the fullness of time when the government has finished its consideration of Project 108. It is odd that something this simple could be dealt with in this fashion, but that is where we are at. The minister will be pleased to know that I have no further questions.

Clause put and passed.

Clauses 2 to 4 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by **Hon Sue Ellery (Leader of the House)**, and passed.

RESIDENTIAL PARKS (LONG-STAY TENANTS) AMENDMENT BILL 2018

Discharge of Order and Referral to Standing Committee on Legislation — Motion

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.35 pm] — without notice: I move —

(1) That the Residential Parks (Long-stay Tenants) Amendment Bill 2018 be discharged and referred to the Standing Committee on Legislation for consideration and report by no later than 21 March 2019; and

(2) that the committee has the power to inquire into and report on the policy of the bill.

I advise that this reflects discussion behind the Chair between the opposition and the government. I have also advised the other parties of the house. I understand that there will be support for this motion.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [5.36 pm]: I commend the government for taking this course and indicate the opposition's support for this course of action. The Residential Parks (Long-stay Tenants) Amendment Bill 2018 has had quite a history and I think it proper that I outline some of the reasons that we support this course of action. The genesis of this legislation was in August 2007. The legislation commenced in August 2007. After five years, there was a requirement for the legislation to be reviewed, and that commenced in August 2012 with the release of a discussion paper. Following that, a consultation regulatory impact statement was released in June 2014, with information received from not only government departments, but also various interest groups after canvassing individuals and representative bodies. The report was completed in December 2015 and tabled in February 2016. Following that, a decision regulatory impact statement was completed in March 2017, which coincided with the state election, so no further action could be taken at that time. Since then, the government has prepared this legislation. It has taken a significant amount of time to act on the review and to strike a bill that will meet the expectations of not only tenants, but also park operators and owners.

This bill was dealt with in a very short space of time in the other place and has come here for consideration. Now that it is here, it has become apparent that there are still concerns about elements of the bill by various interest groups, including tenants of residential parks and also owners and operators. It would be unfortunate, having had regard to the sorts of concerns that have been expressed, if we turmoiled through this bill by way of debate and Committee of the Whole House without some assessment of the merits of, in some instances, the competing points of view. The time of this house would be better and more fruitfully occupied were a committee to assess the various submissions that have been received by both members of this place and members representing electorates in the other house. If amendments are proposed, it would assist this house and, indeed, ultimately, the Parliament on where the balance ought to be struck in a significant piece of legislation that will probably not be reviewed as comprehensively as this for at least another five or more years. The opposition supports this course of action. We think it will save considerable time and debate down the track. We hope that the committee will have sufficient time to deal with it. I think 21 March is achievable. I do not think there will be a vast number of submissions that will need to be dealt with. There are a number of narrow points that are of concern and we wish the committee well in that regard.

HON SIMON O'BRIEN (South Metropolitan) [5.40 pm]: As usual, I shall be brief. This bill has been a very long time in the making. As Hon Michael Mischin has just indicated, there have been a number of representations made to members. I have certainly received a few and had a few meetings. In each of those cases, there has been a follow-up of further documentation. To get to the bottom of the considerations raised by those various interested parties, there will need to be some exploration of this bill and perhaps a committee inquiry is the most expeditious way to do it. I think a committee stage done on the floor of the house would be not only protracted, but ultimately unsatisfactory. Clearly, there are some matters that need to be worked through with interested parties that have not been worked through at this stage, which is a little disappointing given the gestation period this bill has had. I understand a reporting date of 37 days is proposed—I think that is right. The Standing Committee on Uniform Legislation and Statutes Review gets 45 days as a matter of course, so I am not sure why we have been given a relatively tight time frame to bring the bill to this stage, given the gestation period, which has been very, very protracted indeed. Nonetheless, the Standing Committee on Legislation is the appropriate body to deal with this matter, and, as a member of that committee, I look forward to getting the answers to some questions that have been raised with me by constituents and the wider industry.

HON NICK GOIRAN (South Metropolitan) [5.43 pm]: I rise following the remarks by Hon Simon O'Brien to indicate my concurrence with what he has just said. In particular, I think this is a useful opportunity for us to reconsider how we send bills to the Standing Committee on Legislation. As Hon Simon O'Brien has said, there is no question that the choice of the committee is the right one. There is no problem with the process that has been outlined by the Leader of the House. There has been consultation and the like. I do not dispute or complain about any of that. However, I think there would be merit for members in the future when they are looking to refer a bill to the legislation committee to use the Standing Committee on Uniform Legislation and Statutes Review's 45-day reporting period as a useful default position. We just had a debate on a bill moments ago in which I was told by the minister when asking about the significance of the science behind 28 days that that is a default position of Parliamentary Counsel. Perhaps the default position for the Legislative Council should be 45 days when sending matters to the legislation committee, because if 45 days is deemed the necessary period for the Standing Committee on Uniform Legislation and Statutes Review, which I note has very, very narrow terms of reference that are nowhere near the scope that the legislation committee has to look at bills, I would have thought that would be the starting point. That would be merely a starting point, a default position, and it would always be open to the government of the day or any member of the chamber to argue for a shorter time, but cogent, persuasive reasons would need to be provided to other members for why the legislation committee would need to act in a shorter time. That is not apparent to me in this particular instance. It is not apparent to me what the science is behind 37 days rather than 45 days. Nevertheless, that is obviously what has been agreed to and I do not dispute that. I simply take this opportunity to ask members to contemplate that with regard to any future bills that are referred to the legislation committee. The point might be made that it will always be open to the legislation committee under the

chairmanship of Hon Sally Talbot to report to the house and request an extension of time. That would always be possible, and I know that the Standing Committee on Uniform Legislation and Statutes Review has done that from time to time, even with its 45-day period. I recall a time in a previous Parliament when the uniform legislation committee had only 30 days and it was determined by the house at the request of the committee that that was considered to be an inadequate time. Thank goodness this reporting period is not 30 days or less. It is indeed 37 days, as has been studiously calculated by Hon Simon O'Brien. I do not profess to have a great deal of knowledge on the Residential Parks (Long-stay Tenants) Amendment Bill 2018, but I am sure that, with Hon Sally Talbot, I soon will become quite expert on the bill over the next 37 days, and no doubt the committee will discharge its responsibilities and endeavour to report to the house by no later than 21 March this year.

Question put and passed.

CORRUPTION, CRIME AND MISCONDUCT AMENDMENT BILL 2017

Second Reading

Resumed from 28 November 2017.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [5.48 pm]: I rise to indicate that I am the lead speaker on behalf of the Liberal opposition on the Corruption, Crime and Misconduct Amendment Bill 2017 and that we support the bill. I have some remarks to make about the history of the bill and some of the implications of it. I am aware that there is a supplementary notice paper with an amendment proposed by Hon Alison Xamon to introduce a section 27A into the substantive act, and I will come to that in due course.

By way of introduction, it is unquestionable that Western Australians are entitled to honest government and scrupulous integrity from those in public office. Fortunately, we have a social and political culture that demands that these high standards and any failings and shortcomings are treated seriously by not only our judicial system, but also the court of public opinion.

Parliament always has been jealous of its responsibilities and its authority to deal with members of Parliament being mischievous and departing from those standards. There are limits, of course, to what it can do and what it can achieve, and I will come to some of those in due course. However, Parliament by its very nature is not an investigative or prosecuting body. The chamber debates issues of moment to the community and formulates and passes laws. The Corruption and Crime Commission was established as a means of ensuring that public officers would be held to the high standards that we expect, and significant powers have been conferred on it to enable it to do its job. For some time now, there has been debate on whether its remit should be expanded to the more general investigation of organised crime and the identification and seizure of unexplained wealth. That has been extended to cases in which individuals, not necessarily public officers, who appear to live well beyond their means can be investigated and, if they cannot establish a legitimate source for their wealth, can have that property seized. The government introduced legislation to that effect, reflecting similar work that was proposed and undertaken by the former government several years ago, and the Liberal opposition supported that move.

However, as part of that bill, the government also proposed an amendment that it claimed would subject members of Parliament generally to the scrutiny of the Corruption and Crime Commission. The history of that bill and this one are linked. It is informative, I think, in respect of not only the pretensions of the government and its ministers, but also its arrogance and competence in managing some important legislation of this character. I accept that it was done in the early days of this government, but there was an element of hubris about it in how not to go about legislating. I make no criticism of any of the ministers in this place, but the Attorney General, who has carriage of this bill in the other place, is a classic example of it.

I refer to the starting point in the expectations that were built around this bill and how this important issue is managed. I would be surprised—frankly, I would be appalled—if a single member of this chamber thought that dishonesty and corruption were acceptable modes of behaviour for a member of Parliament. I would be astonished if that were the case. There was probably one exception to the rule in the other chamber, and I will come to that in a moment.

The starting point with this bill was a media release that came out of the government media office about 8.30 in the morning of Wednesday, 16 August, from the Attorney General, Hon John Quigley, MLA, with the bold heading "Bill to target unexplained wealth from organised crime". The teaser at the beginning is —

- Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Bill 2017 introduced into State Parliament

It was not at that stage because it was 8.30 in the morning. Leaving aside that little fudge, it continues —

> The McGowan Labor Government will today introduce new legislation which will provide the Corruption and Crime Commission (CCC) with important powers in the fight against corruption and organised crime in Western Australia.
>
> The Bill also restores the CCC's powers to investigate certain types of misconduct by Members of Parliament, closing a loophole created by the Liberal National Government in 2015.

Then the media release lists comments attributed to the Attorney General. Members will no doubt recall the famous we will "attack the head of the snake" analogy that he used and waxed lyrical on. After several paragraphs referring to his comments, the release concludes with —

> "The second purpose of this Bill is to restore the power of the Corruption and Crime Commission to investigate certain types of misconduct by Members of Parliament.
>
> "This will close a loophole created by the Liberal National Government which protects backbenchers from investigation."

Quite apart from the fact that much of this statement is repetitious, the implication by the Attorney General, for public consumption, is that the previous government created an anomaly or a loophole, calculated to protect backbenchers from investigation. There are a couple of argumentative things about the nature of that media release and although one does not read a media release like a statute, it is informative to see the tack that the government was taking in that regard. It would be the champion of probity and investigating members of Parliament who were up to no good, by closing off a loophole that had been created apparently to protect backbenchers, for reasons best explained by the Attorney General, by the previous government for some nefarious purpose. The bill was introduced later that afternoon. The media release referred to how the government had introduced the bill, but we will leave aside the reliability of the Attorney General in his media releases. The bill was introduced later that afternoon at 12.18 and was titled the Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Bill 2017. The second reading speech repeated the refrain of the media statement, although somewhat more temperately, but went further in some respects. I quote —

> The second purpose of this bill is to restore the power and jurisdiction of other authorities, —

It refers to "other authorities" and not only the Corruption and Crime Commission. The Attorney General had already started to depart from the media release and attempted to confuse the issue. He continued —

> particularly the Corruption and Crime Commission, into misconduct by members of Parliament, which could constitute a breach of section 8 of the Parliamentary Privileges Act 1891 and a breach of the Criminal Code. The jurisdiction of the Corruption and Crime Commission to investigate members of Parliament for such breaches was removed by the Corruption and Crime Commission Amendment (Misconduct) Act 2014. The restoration of this power will be achieved by a minor amendment to the Corruption, Crime and Misconduct Act.

I take it that this "minor amendment" is not simply to correct a typographical error. It is characterised as a minor amendment, yet it is of some importance. It may be only the insertion of a word, but it seems odd to me to describe something that allows the restoration of powers and the investigation of members of Parliament as a minor amendment, but there we go. Presumably, the message that is to come across is that it is only a little bit of a tweak, but it is really important. Again, they are mixed messages. The second reading concludes —

> The proposed amendment leaves the powers and privileges of Parliament unaffected.

When this came out, I was far from convinced, and that was for a variety of reasons. Firstly, for such an important issue, albeit characterised as a minor amendment, it is curious that the closure of a loophole calculated to protect corrupt MPs was added as though it was an afterthought at the end of a long and relatively detailed second reading speech. What I have quoted is all that was said about it. There had been a page or so about the importance of conferring on the CCC the power to investigate and chase unexplained wealth and the like and organised crime, but this important, albeit minor, amendment occupied a paragraph. That was all that was explained about it. The explanatory memorandum did not have much detail either. I might come to that in a moment.

It is also curious that the long title of the bill neglected to mention this aspect of what the bill proposed. The long title of the bill referred to unexplained wealth and criminal property confiscation and things of that nature, but it made no mention of this. It is almost as though this was tacked on as an afterthought and a makeweight. The relevant amendment appeared as clause 5(3) of the bill and it involved inserting the word "exclusively" in section 3(2) of the act after the word "determinable". The explanatory memorandum did not say any more regarding this than the second reading speech did. It was utterly unhelpful for something that was very important for parliamentary sovereignty. We will see the significance of that when I come to a bit of the history of why it was removed in the first place, along with some other words in that particular section, back in 2014.

The government brought in to Parliament legislation that had ramifications on parliamentary sovereignty, with the worthy assertion that it would restore that power, but we can argue whether the CCC had that power in the first place in the way that the original section 3(2) was framed.

Sitting suspended from 6.00 to 7.30 pm

Hon MICHAEL MISCHIN: Before the dinner adjournment, I was commenting on what the amendment proposes and the lack of information provided by the government, through the Attorney General, about what was being proposed at the time that the original bill, of which this is a part, was introduced in the other place. By way of background, the Corruption and Crime Commission Bill 2003, the foundation to the current act, was introduced

by then Attorney General Hon Jim McGinty. At one point it was split into two bills. One part, the Corruption and Crime Commission Act 2003, was passed in mid-2003. The second part, the Corruption and Crime Commission Amendment and Repeal Bill 2003, was the subject of a report by the Standing Committee on Legislation that was tabled on 9 December 2003, just before Parliament rose. The bill was passed by the Legislative Council on 12 December 2003 and by the Legislative Assembly on 16 December of that year. In the course of Committee of the Whole, a raft of amendments proposed by the standing committee was passed. One was the provision that was the original section 3(2), which is the subject of current debate. That was drafted by that standing committee. Prior to the 2014 amendments that removed that particular wording, some of which is now being ought to be restored, section 3(2) of the act read —

> Nothing in this Act affects, or is intended to affect, the operation of the *Parliamentary Privileges Act 1891* or the *Parliamentary Papers Act 1891* and a power, right or function conferred under this Act is not to be exercised if, or to the extent, that the exercise would relate to a matter determinable exclusively by a House of Parliament, unless that House so resolves.

It was a conditional empowerment. The words "exclusively by a House of Parliament, unless that House so resolves" were deleted by section 6(5) of the 2014 act and replaced with the words "by a house of Parliament". That wording is being addressed by this bill.

The 2014 bill was introduced into the Legislative Assembly on 2 April 2014. It was debated on 25 September and 14 October, when it was second read. Consideration in detail in the Assembly occurred on 14 October. On that occasion, clauses 1 to 11 of that bill were put and passed without debate. However, after the clauses were put and passed, the then Premier, Hon Colin Barnett, MLA, who was managing the bill, delivered a statement concerning clause 6(5) explaining the rationale for its passage. It was a lengthy statement and I will not repeat all of it. It touched on the argument of implicit waiver of parliamentary privilege by the provisions of the Criminal Code and concluded with the following passages. I quote —

> The "implicit waiver" interpretation of section 57 —

That is of the Criminal Code and relates to giving false evidence to Parliament —

> leaves it open for the police to make inquiries if a charge were being considered. However, it is not a matter for inquiry by any other body, such as the CCC. Its jurisdiction is confined to that provided for in the principal act. The act makes no express or implied waiver of parliamentary privilege. Indeed, the contrary intention is expressed in section 3(2), which provides that —
>
> > Nothing in this Act affects, or is intended to affect, the operation of the *Parliamentary Privileges Act 1891* or the *Parliamentary Papers Act 1891* …
>
> The amendments proposed by clause 6 to section 3(2) have two legal consequences. First, they further clarify and ensure that in relation to matters over which the Parliament has authority pursuant to its privileges, the CCC has no jurisdiction. Second, as a more general principle of statutory interpretation, they clearly place on the public record that this Parliament intends that its privileges are not to be affected by its legislation unless the Parliament itself decides to do so by express words or necessary implication.

There was no demur from any member. No-one criticised that, no-one complained, no-one asked for any further advice and no-one cavilled at it, so to claim that a loophole was created in order to protect members of Parliament and that it was created by the government towards that end, and to suggest that it was being done to protect backbench MPs, is the grubbiest of versions and something we have come to learn to expect from certain ministers, but is wholly unjustified and wholly mischievous. On the contrary, the then Premier was making it quite plain that we were clarifying the effect of a provision that, on the advice available, was not working effectively anyway and was ensuring that the Corruption and Crime Commission did not have concurrent jurisdiction with Parliament. The Premier did not have to draw attention to the issue after the clause had already been put and passed with the concurrence of the then shadow Attorney General and all the members of the then opposition. He did not have to draw attention to it and he did not have to make his statement at that point. Nevertheless, he did, and he did it out of respect for, and to assist, the Parliament—something the current Attorney General may one day be inspired to emulate. It was done openly before Parliament, and the then shadow Attorney General did not complain or even query it. That can be contrasted with the Attorney General's media statements and the nonsense he has put about in the other place about the then government's motives. Maybe he was complicit in the creation of the loophole, or maybe he—as did everyone else—considered the measure a reasonable one at the time. During the course of debate on this bill in the other place, he suggested that it had slipped by him because the word "exclusively" was not used. I will come to that argument in a moment. Nevertheless, the bill passed through and the amendments were made, without any complaint.

On 16 October 2014, when I introduced the 2014 bill in this chamber in my capacity as Attorney General and minister representing the Premier on this matter, I said in my second reading speech, and I quote —

> The CCC's jurisdiction with respect to serious misconduct remains unchanged with respect to public officers other than members of Parliament.

I made it quite plain what would happen. I did not have to use the word "exclusively". It was quite plain to everyone what I was talking about. I said also —

> The role of the CCC in relation to members of Parliament has been clarified to avoid any concurrent role for the CCC over matters in which the Parliament is able to exercise its authority pursuant to parliamentary privilege.

The explanatory memorandum that accompanied the bill went on to say —

> Subsection (2) is amended by deleting the words "exclusively" and "unless that House so resolves".

So much for the argument that the word "exclusively" could have turned up anywhere and confused, defeated and confounded the then shadow Attorney General. It continues —

> The existing provisions of subsection 3(2) of the Act have been virtually ineffectual in defining the scope of the CCC's jurisdiction with respect to allegations of misconduct against Members of Parliament. This is because, despite the *Parliamentary Privileges Act 1891* and the *Parliamentary Papers Act 1891*, there currently exists overlapping regulation of unacceptable activities in Parliament through various offences under the *Criminal Code*. The current provisions also wrongly imply that Parliament can waive all privileges by resolution.

On 2 December 2014, in my second reading response, I repeated the Premier's statement and explanation. Hon Lynn MacLaren, MLC, a former member of this place, and Hon Adele Farina, also expressed support for preserving the privileges of Parliament.

I do not have access to the advice upon which my statement was based. It might have been prepared by Mr Jim Thomson, SC, a senior legal officer in the State Solicitor's Office who was attached to my office at the time. He would be well known to many longstanding members of this place and in government. He has served under several governments and over many decades has had the confidence of successive Attorneys General and other ministers. However, I have a sense that it had its origins in Parliament. I know that I settled and refined the statement. The idea that it was some cunningly crafted loophole to protect members of Parliament is simply grotesque.

What has changed? All the available information supports this proposed amendment as having emerged from the Attorney General's office, not the CCC, and there having been no consultation wider than with the Solicitor-General of the time. The Attorney General contended that it was prompted by a speech delivered by Commissioner McKechnie. That might be right. However, unlike the unexplained wealth provisions that we have already dealt with, I do not understand it to specifically have been requested by Commissioner McKechnie. Anyway, since that time, we have received a copy of the advice from the then Solicitor-General, Mr Peter Quinlan, SC, to the Attorney General, dated 25 August 2017. It claims that reinserting the word "exclusively" will allow the CCC to exercise concurrent jurisdiction with the courts, the police and the Parliament.

Before I move on to that particular issue, earlier today, in the course of proceedings before the Committee of the Whole, I raised the inconsistent and rather arbitrary, it appears, approach that was taken by the Attorney General in the tabling of legal advice. Certainly, the advice of the Solicitor-General would ordinarily be regarded as having legal professional privilege. Nevertheless, the Attorney General chose to table that advice, and it has subsequently been incorporated into the second reading speeches in both this and the other place for this particularity iteration of the legislation. It appears that no hard and fast rule has been adopted by the government with regard to when it will present legal advice. As I have mentioned, it seems to be based on what is politically expedient at the time, rather than any particular principle. If the Attorney General thinks he can get away with saying, "I have legal advice on this, and I say X", that seems to suggest that the legal advice supports his opinions, conclusions and submissions. However, we never know whether that is in fact the case, because he refuses to table that advice. That is a cunning ploy and one that I am sure has been used on other occasions when a minister says, "I have taken legal advice on the subject, but, no, I will not present it."

Hon Nick Goiran: It may say the opposite.

Hon MICHAEL MISCHIN: Yes; it may in fact say the opposite. I suspect that is the case with much of what our Attorney General does. The Attorney General is very eager to table advice and refer to conclusions when it suits some of his purposes but then refuses to say what the effect of that advice was in others. However, that is for another day.

I now come back to concurrency of jurisdiction. That is a complex issue. The report of the Select Committee into the Appropriateness of Powers and Penalties for Breaches of Parliamentary Privilege and Contempts of Parliament, which was tabled in 2009, seemed to accept that there was concurrent jurisdiction between the Parliament and the courts in respect of Criminal Code offences, but that to the extent that they conflict with the privileges of Parliament, they should be repealed. Many other reports over the years—albeit they did not consider the issue directly—have firmly espoused that parliamentary privilege should be jealously protected and not circumscribed or qualified.

As I recall, the most recent consideration of the question of parliamentary privilege—up until the forty-eighth report of the current Standing Committee on Procedure and Privileges, which I will come to—was the privileges committee's forty-fourth report, dated November 2016, which was regarding "A Matter of Privilege Raised by

Hon Sue Ellery MLC". Members might recall that that report concerned whether a Ms Rachael Turnseck and a Mr Stephen Home had been guilty of contempt of Parliament in supplying incorrect information that founded answers to questions from the then Leader of the Opposition in this place, Hon Sue Ellery, about an incident that led to the resignation of the then Treasurer, Hon Troy Buswell. The CCC had investigated the matter and discovered all sorts of information but for its troubles was admonished for having trespassed on the privileges of Parliament. That report of the Standing Committee on Procedure and Privileges gave rise to Commissioner McKechnie's speech in March 2017 to Curtin University upon which the Attorney General, Mr Quigley, relies. The speech indicates that there is a legislative gap that cannot be filled other than by legislation on this subject. I mention also that Commissioner McKechnie notes that the problem of trespassing on Parliament's privileges is something to which even the courts may not be immune. In due course, that is one of the questions that I would like to explore with the government. It is all very well if we confer on the Corruption and Crime Commission an investigative role and the like, and it is all very well if the police can investigate. However, if the laying of charges and the presentation of an indictment in due course may trespass on Parliament's privileges, this amendment may not solve that problem. As I say, it is a complex area and I do not pretend to know the answer, but I would hope that the government does know the answer, because it has implications down the track as to whether this much-vaunted reform, which will fix all sorts of problems and expose corrupt members of Parliament to the full weight of the law, is going to make any difference. I would hope that it does, but I think we need to be reassured that this is not an exercise in publicity and futility.

I would suggest that we have not been assisted by the looseness of the language that Attorney General Quigley has employed in his pronouncements and his second reading speeches. That language has not been helpful in giving us an understanding of what this bill was meant to do and achieve. I have already illustrated the shortcomings of the first attempt to get it through. The fact that it was slipped in, without a reference even in the long title of that bill, is odd. It was not explained in what way the CCC was prohibited from investigating backbenchers as opposed to frontbenchers. For the purpose of legislative interpretation, what are "backbenchers"? Does it mean non-ministers? From the point of view of legislation, it is hardly a term of art. What is the type of misconduct investigation against which these backbenchers are allegedly protected? A lot of the rhetoric was imprecise, and inaccurate and concealed more than it revealed. The second reading speech was replete with similar vagaries, such as what particular privileges he was talking about and how the bill would restore the powers that Parliament arguably considered the CCC never had.

Two things became patently obvious. The first was that the subject of providing the CCC with power to investigate was a matter that called out for scrutiny by a parliamentary committee. The purpose of that would have been to ensure that the proposed solution was a proper one—that is, a workable solution that would achieve the end being claimed for it.

The second was that the bill should have been two bills—one discretely dealing with the area of confiscation of proceeds of crime and of unexplained wealth, and expanding the CCC's powers into areas other than the policing and investigation of corruption by officials and into dealing with crime on a broader level and by non–public officers—private citizens. The other bill would deal with this particular important and separate issue. It was only after some considerable time was spent in the consideration in detail stage in the other place that the Attorney General conceded that that should occur. He moved amendments to achieve that end by deleting the clause dealing with reinserting words into section 3(2) and proceeding with the unexplained wealth element of the bill—the bulk of the bill—and proposing that a separate bill be prepared to deal with this discrete area. A fresh and discrete bill—this one—was introduced on 18 October 2017. It is notable for a number of things. One of them is that the second reading speech that accompanied its introduction into the Assembly was far more comprehensive and informative than the original single paragraph that members of that place had been favoured with. In fact, it was based on the advice of Solicitor-General Quinlan of 23 August 2017 and covered some one and a half pages of *Hansard* rather than a single paragraph. By way of a curiosity, if members get a copy of his original advice, they will see that it is in a particular font that is the same font used in drafts of the second reading speech that were provided to Parliament and also the explanatory memorandum. I cannot think of the name of the font. I think it could be Garamond or something, but it is quite a distinct font.

Hon Alannah MacTiernan: What are you claiming there?

Hon MICHAEL MISCHIN: I am not claiming anything. I am just pointing out that the Solicitor-General seems to have written the second reading speech and the explanatory memorandum. There is nothing wrong with that. As I said, it was far more informative and comprehensive than the original offering to Parliament. There is nothing sinister about it. The minister can go back to sleep!

I had some doubts about the premises upon which that advice was based. I confess that I questioned whether, by passing certain provisions in the Criminal Code, Parliament had necessarily and sufficiently explicitly conceded its authority to deal with conduct of the character that would otherwise fall within Parliament's prerogatives, or there is concurrent jurisdiction. That is the effect of the advice. I do not pretend and have never pretended to have the level of learning on constitutional issues that our successive Solicitors-General have. That is why we hire them.

Fortunately, by having this matter referred to the Standing Committee on Procedure and Privileges, we now have the benefit of a comprehensive report that was carefully prepared and relies on not only the advice of the Solicitor-General of the time, but also the advice of another constitutional expert—one Bret Walker, SC. It is something that I suggest could and should have been done right from the beginning. It could have been done by the Legislative Assembly's Procedure and Privileges Committee. That might have saved a considerable amount of time.

Hon Martin Aldridge: They tried. There was a referral motion.

Hon MICHAEL MISCHIN: There was a referral motion, I am told by Hon Martin Aldridge. It did not seem to get anywhere, did it?

Hon Martin Aldridge: It was opposed by the government.

Hon MICHAEL MISCHIN: It was opposed by the government! Well, there we are—I cannot imagine why! It is presumably because it was really urgent to get this reform through to deal with corrupt MPs!

On 18 October we ended up with another bill being introduced—2017! I suppose that if it had simply been referred, the Attorney General would have been denied the opportunity to posture about it. Some of the commentary that then came out was not only false, but also quite offensive. A report in *The West Australian* implied that this initiative was opposed by the Liberal opposition. Of course, nothing could be further from the truth. It is true that in the course of the debate on the government's bill opposition members outlined several issues with the proposed legislation that needed to be addressed in order to make the legislation achieve its intended aims. It was the sort of exercise that we are going through now and the sort of exercise that the Standing Committee on Procedure and Privileges in this place has done in order to inform us rather than simply show off to us. It is the sort of thing that could have been done back in October 2017 if the government had been less bull-headed and stubborn and had been trying to assist the process. It was not the opposition that blocked passage of that amendment, something impossible for it to achieve, I should add, even with the support of the evil Nationals WA, which seems to be in combination with its masters, the Liberal Party, blocking pieces of legislation, using our immense numbers in this place and in the other place to stifle the government's mandate. After all, the 18 members of the combined parties against 41 members in the other place sounds like a pretty formidable number! We could not have blocked the legislation even if we wanted to, but this government likes playing the victim. The government removed that particular provision on the basis that it would reintroduce it in a separate bill, as it should have done in the first place.

I will give members an idea of the manner of the distortion that we had to deal with. It is regrettable that it took place, because this is doing a disservice to the public. There are two extracts from *The West Australian* of 12 September 2017. I will start with one on page 4 in a paid advertisement from no less a personage as Councillor Lynne Craigie, the president of the Western Australian Local Government Association, who tends to write columns—paid advertisements—putting the point of view of WALGA. This is what she had to say in a column entitled, "Fair for all not free for all rules for all State MPs". I do not understand what that means, but it seemed to have inspired her. She says —

> Tightening controls to combat corruption in public office should be demanded by politicians from all sectors of government.

By "politicians from all sectors of government", I presume she means Parliament. She continues —

> But as it turns out the majority of our State politicians are not subjected to the same scrutiny as even your local Councillor.
>
> In 2015 the Corruption and Crime Commission lost its jurisdiction over non-Cabinet members of State Parliament while Local Government Elected Members continue to be investigated.
>
> And alarmingly while the current State Government wants to close the loophole for backbenchers, the Opposition wants to drag out any change to legislation.

That is the level of insight and information from the president of the WA Local Government Association.

Hon Nick Goiran: We cannot debate the bill if they don't bring it on for debate.

Hon MICHAEL MISCHIN: No, but that does not seem to matter, it appears.

She goes on to applaud the Attorney General for wanting to legislate all state members of Parliament back under the jurisdiction of the Corruption and Crime Commission—and there we are. It seems as though the opposition is trying to stand in the way of the investigation of MPs, using our vast numbers in the Assembly, 18 to 41. Another article, on page 11, headlined "MPs extend immunity to CCC probes", states —

> MPs have voted to extend their immunity —

I do not know quite how that worked. It shows a profound misunderstanding of parliamentary process. "MPs have voted to extend their immunity"—all 18 Liberals and Nationals against 41 Labor people.

Hon Simon O'Brien: Isn't it 40 now?

Hon MICHAEL MISCHIN: It was 18 to 41 back then. Yes, there has been a change—a sea change. The article continues —

> from the Corruption and Crime Commission after Liberal and Nationals MPs rejected Government attempts to make them as accountable as other public officers.

I will get back to it. We are talking about informing the public, and *The West Australian* has told people that our then 18 members, and I am counting the Nationals as part of this criminal conspiracy, "extended immunity and rejected government attempts". I still do not understand how the numbers stack up, but I suppose each one of those 18 was worth something like three Labor members. The article continues —

> In farcical scenes played out in State Parliament as political journalists were locked up scrutinising last Thursday's Budget, Opposition MPs lined up to argue against measures designed by WA's top legal minds to keep politicians honest.
>
> CCC Commissioner John McKechnie has asked Attorney-General John Quigley for the power to pursue organised crime targets over unexplained wealth.

That is right. It was not opposed and it got through. The article continues —

> He has also pointed out that a word deleted from the CCC Act under Barnett government reforms in 2015 removed the watchdog's jurisdiction over MPs other than ministers.

It was a 2014 bill, but let us leave that bit aside. It was more than one word and I have already gone through the history of it. The article continues —

> Mr Quigley introduced legislation to the Lower House last month which dealt with both issues in the same Bill.
>
> But while Liberal and Nationals MPs agreed with the unexplained wealth powers, they baulked at an amendment returning the word "exclusively" to the CCC's jurisdiction.

That is right. But if the government wanted to barge it through, there was not much that could be done about it. As it happens, the government saw reason, and, for a change, acted on it. The article continues —

> Before 2015 the only restriction on the CCC investigating MPs was if their alleged transgression was a matter that was exclusively the jurisdiction of Parliament—such as giving incorrect responses to questions on notice or verbally abusing the Speaker.

I am not sure whether that is right —

> In those cases the procedure and privileges committee of either House would investigate.
>
> But by removing the word "exclusively", the CCC was blocked from pursuing non-Cabinet MPs for anything that Parliament could investigate under the Parliamentary Privileges Act 1891, which specifically includes bribery and corruption.

That is where that ended. Apart from not informing the public of anything, and the editorial comment in it, much of that is wrong. The journalist concerned, some might remember him, is one Daniel Emerson. I wonder where he is now. Is he not a government adviser? In fairness to Mr Emerson, after a complaint he alleged that the story had been somehow trimmed and that he was upset with it, but it was never corrected. Anyway, I mention this because it is the sort of ignorant nonsense promulgated by those who should know better. It is not only unfair, but also damaging to the body politic. People rely on people in authority such as the president of WALGA and our newspapers for information. Often they cannot help themselves and they want to offer opinions as information as well. That is regrettable. It does nothing to assist the public in understanding what is going on and it is regrettable that some in government like to jump on the bandwagon and exploit that. They should have known better. One expects better from the president of WALGA and from our daily newspaper. I hope that those pieces of misinformation will not be repeated. I hope and I have every confidence that *The West Australian* is now being far more careful and factual in its reporting and that that was simply a regrettable lapse.

The bill passed the Assembly and it was accompanied by the usual squeaks from the Attorney General about the importance of it becoming law at the earliest opportunity and it being held up by the Liberal and National Parties to ensure that that did not happen. The bill, in fact, was introduced to this place on 28 November 2017. There it rested until 20 March 2018, when it was referred on the government's motion—I congratulate the government for having taken that course—to the Standing Committee on Procedure and Privileges for consideration and report by 10 April. That reporting time was subsequently extended to 10 May. The forty-seventh report, as I recall, was the extension of time report; the forty-eighth report was duly tabled on 10 May.

The sad thing about all that is that for all the posturing about the urgency of this measure, it could have been done in November 2017. The Standing Committee on Procedure and Privileges could have dealt with it over the Christmas break and we could have been ready to deal with it when Parliament resumed in March. If the Assembly committee had been considering it, it would have been all solved down there, one would hope, but it was not. One can only wonder why the great corruption fighter went cold on the urgency of the legislation. Maybe another shiny new reform had attracted his attention and distracted him, or maybe it had something to do with the

usefulness of this particular alleged loophole. As I recall, it was around November 2017 that one Barry Urban, MLA, a backbencher, ended up in a bit of trouble that embarrassed the government. Of course, the CCC could not investigate him using the powers proposed by the government—I may be wrong about that; no doubt we will hear about it—or maybe it was just a coincidence. But that is the last time we had any involvement with the bill. After the report was tabled, we did not hear anything about it, until now. What are we looking at more than a year after it came to this place?

We support the bill but we have a few questions about it and we need to satisfy ourselves that it will achieve the ends proposed. The privileges of Parliament have been developed over the whole of its history. Their purpose is not to ensure the immunity of MPs from being held accountable for crime and corruption, but to protect them so that they can do their job of representing their constituents without fear of persecution by governments that may be so minded as to stifle debate, and governments that may not agree with their views or find those MPs to be a nuisance. Numerous parliamentary reports have emphasised the importance of preserving such privileges; they have also emphasised that there is no clear line between what may fall within and outside Parliament's privileges. That some MPs are from time to time corrupt is an unfortunate fact. That is something we saw far too much of during some previous governments in this jurisdiction. It is that corruption, dishonesty and misbehaviour that prompted the creation of anti-corruption bodies in this country.

The Liberals are committed to ensuring that if an MP is investigated and a case of corruption is made, prosecuting that case should not be frustrated by a poorly considered, quick-fix amendment that is calculated to grab a headline but ultimately turns out to be flawed. Our concerns in the other place and in this place have always been to ensure that if we are going to tamper with it, it be done on the best advice available. It may be that back in 2014 an error was made based on the advice available. We are anxious that that not be repeated. That is why questions were asked to the inconvenience of the Attorney General in the other place and why it was very important that the bill be split and that this element of the reforms that are planned be considered by a parliamentary committee.

The government claims that what it proposes will fix the problem but history suggests otherwise. The government has the numbers to barge through this and almost everything in the lower house, and it has done so. However, we here are a house of review and non-government members take that function seriously. I am sure that some government members take that function seriously. We have a responsibility to alert the government and the public to deficiencies in proposed laws and suggest their improvement. The government can take or leave that advice. Often it is reluctant to accept it. To date we have not blocked any government bill, although we have on numerous occasions, I think, fixed them.

It is worth noting also that if the prospect of scrutiny by an upper house parliamentary committee comprised of all sides of politics was enough to cause the government to withdraw its proposed amendment, as was done in the Assembly, then the government itself was not confident that the amendment was going to do the job. Rather than ministers blaming others for their incompetence, the government should be welcoming the assistance that is available to ensure the quality of its legislation is maintained or improved. As it happens, we have been valuably assisted by the Standing Committee on Procedure and Privileges of this house. Although the report on the bill itself is a rather short one, the committee took the time to comprehensively set out the relevant law and practice of privilege. I think that will be a very valuable reference in the future. It consolidated the experiences of this house over a number of reports, collected the law, and it is an exemplary report. Many of the things I have mentioned are set out in one or other parts of the report. Some of what I have mentioned is not because it would not have been available to the committee at the time. It is probably not particularly important to the work that the committee was doing, although it may add colour and texture to the history of this matter. However, I commend, if I may, the members of that committee and the work that it has done. It has gone beyond the reliance on one legal officer of the Crown and has obtained other advice. All that advice points in one direction. I am reassured that what is proposed is as sound as it can be and preserves parliamentary privilege appropriately, but I do have a couple of questions of the government. Behind the Chair, I have already indicated one of those issues to the Leader of the House, who no doubt will respond in due course. One of them, as I have already mentioned, concerns the ability of the courts to prosecute matters in due course.

I have a copy of the speech that Hon John McKechnie, QC, gave to Curtin University as part of the Curtin Law School's Eminent Speaker Series, delivered on 7 March 2017. It canvasses the history and role of corruption commissions. On page 24 he raises the question about whether judicial power invoked by the presentation of an indictment is also constrained by article 9 of the United Kingdom Bill of Rights. He seems to think that it is. I would like to know the implications of that and the ability to enforce, prosecute and punish any matters that the CCC might investigate or that the police might investigate in due course. The other is the issue of exclusivity. We are told that that will be the touchstone for the operation of section 3(2) of the Corruption, Crime and Misconduct Act. Who determines that? How is it to be determined? Will it be determined by a parliamentary committee or by the presiding officer of the house? Is the question justiciable at some point? I would like to know more about the practicalities of how the line is drawn and whether something falls within or falls without. It is very easy for us to pick a simple formula; however, one of the problems with the original provision was the workability of the formula in place at that time. I would like some further information about that.

I also note that Hon Alison Xamon proposes to move some amendments to control the Corruption and Crime Commission in a sense, or to at least guide or hold it accountable. It is one thing to have a body such as the CCC investigating and addressing corruption. There are checks and balances over the CCC's operations, and some are rather blunt ex post facto instruments. We have a parliamentary inspector and a committee of this Parliament, but those are for after the event. If something goes awry, the idea is that it can be corrected and the CCC held to account. But potential interference with parliamentary prerogatives has significant and immediate consequences. If used irresponsibly, investigative powers such as those vested in the CCC can compromise the workings of Parliament and the ability of members to do their job, and can interrupt, if not ruin, reputations and careers. We have had some unfortunate experiences of the effect on government and the operations of Parliament demonstrated by bodies such as the Independent Commission Against Corruption in New South Wales. It is something that I believe, with the current talk about setting up a national anti-corruption body, is exercising the mind of the commonwealth Attorney-General, Hon Christian Porter.

There is always a tension between public and private hearings. The media particularly likes public hearings because it is cheap copy, apart from anything else, and it is a legitimate right of the public to know what is going on. But that can involve—we have seen evidence of this in some of the matters this house has debated—the CCC getting it wrong. It can be too heavy-handed; it may do its job too zealously or not zealously enough. It is appropriate that there be checks on its performance. But if that investigation may involve the stifling of the ability of MPs to do their job on behalf of the community, it is particularly serious because there is no redress down the track. Certain initiatives were used some decades ago by a government to stifle criticism of that government; I am talking about the use of defamation proceedings by the then Burke government, threatening to sue MPs for comments and the like and using the weight of the law against them to stifle criticism and conceal its own misbehaviour.

Hon Alison Xamon will move amendments—there may be other reasons for it and underlying it, but those ones spring to mind for me—as a worthy means of keeping a check on the CCC. These are not perfect by any means and there may be a lot of reasons why they are unworkable, but I can understand where Hon Alison Xamon is coming from on this. With respect, we agree that there should be someone—hopefully, disinterested—who can at least know what is going on and hopefully be a brake on misconduct by the CCC itself; that is, to have the Parliamentary Inspector of the Corruption and Crime Commission informed of investigations.

Hon Alison Xamon also proposes a requirement that there be a memorandum of understanding and any other guidelines formulated and that those be adhered to in the way the CCC does its job. On the subject of the memorandum of understanding, I recall that as a consequence of the 2016 report into the matter that had been initiated by Hon Sue Ellery, there was a recommendation that a memorandum of understanding be crafted. I do not know whether one has; it appears not from a question asked earlier by Hon Alison Xamon. I do not know how far advanced it is yet. If one is being contemplated, there seems to have been an extraordinary delay in dealing with it—about two years. In any event, that does not offer much comfort.

That is broadly what Hon Alison Xamon proposes, and I understand that the government may not be enamoured of the proposals. In that case, I invite the government to give consideration to those issues and to take the opportunity, with the advice and resources available to it, to craft something more appropriate and acceptable that will achieve the same ends. I hope the government pursues that suggestion. It would be unfortunate if we had to thrash out this sort of thing on the floor of the house or take up the time of the Committee of the Whole House when some refined mechanism could be prepared by the government that we could consider.

On that note, I once again indicate our support for the bill. Some issues need to be explored, and I have posed some questions that I would like answered. In due course we will need to consider amendments, and I hope the government takes the opportunity to improve the legislation and satisfy the concerns of members on something that is of particular importance to not only eliminating and controlling corruption, should that arise, but also preserving the very important privileges of Parliament that have been developed and evolved over generations and ought not to be set aside lightly.

HON SIMON O'BRIEN (South Metropolitan) [8.27 pm]: This is a very serious matter, as reflected in the house's decision to refer it to the Standing Committee on Procedure and Privileges. I will refer to the forty-eighth report of that standing committee, of which I am the deputy chair, and commend it to the attention of all members.

The forty-eighth report deals with the referral of the Corruption, Crime and Misconduct Amendment Bill 2017. In so doing, members examining this report will note that it goes considerably beyond what they might have expected to receive. The procedure and privileges committee includes in its forty-eighth report a very detailed discussion of the nature and history of parliamentary privilege not only in this state but also throughout all jurisdictions in which we have antecedents. Therefore the report is a valuable guide for current and future members to the nature of parliamentary privilege, particularly on how some crimes should be dealt with. Examination of the report will help any member, whether they have been here for five minutes or substantially longer, to contemplate all range of matters of privilege and where the jurisdiction exists to contemplate infringements of privilege. I particularly bring this to the attention of all members by way of an opening remark.

The report goes way back into history, to contemplate the origins of privilege, so that we might understand it better. It also does so to enable us to understand the development of the whole question of privilege. Members

would be interested to find that the laws relating to privilege have, because of the circumstances of the day, varied and, in effect, evolved. Privilege is sometimes interpreted by the general public as some sort of protection for members to enable them to say what they like without fear of defamation proceedings, for example. Indeed, within certain parameters, that is the case, and there is a great deal of discussion in the report about that. From where did this protection initially derive? It is not, in its genesis, a protection from someone down the road who wants to launch defamation proceedings against a member because of something they said in the house. Rather, it is a protection for members of Parliament who might be victimised by the Crown. When we review the history—there is reference in the report to some very old examples—we see that indeed in medieval times such a protection was not to be taken lightly, and was acquired through very hard, ruthless experience, when a king, for example, might seek to limit what a Parliament might do by taking action against certain of its members. It is about a monarch who might, from time to time, seek to take arbitrary action to arrest and imprison members who, in the king's mind, were speaking out against the king or defying the king's authority. A number of examples are given in the report about such incidents, particularly during the Tudor and Stuart periods. Charles I is one of the more well-known offenders and remains the only monarch in the English-speaking world who has been dealt with by having his head chopped off. That is the nature of the history of struggles between Parliament and the Crown.

We have moved a fair bit beyond that, of course, in this day and age, but does that mean that we do not require all the protections that have evolved over the years? In fact, we do not require all of them. Many of them have, again through evolution, fallen away, or been legislated out of existence and so on, as circumstances have changed. However, there still remains an inviolate principle that an essential part of our political landscape is parliamentary privilege. Therefore, my attention was aroused, as a private member, when I first became aware of the bill preceding the one that we are contemplating now. The issue now at stake was part of a larger bill introduced into another place and then divided into two bills, and we are dealing now with the second of those bills. As Hon Michael Mischin has pointed out, this matter could have been brought on earlier, but it is being brought on now, and we also have the benefit of the forty-eighth report of the Standing Committee on Procedure and Privileges to help guide our contemplation.

I have learnt to always be very circumspect when I hear the words "parliamentary privilege" being used by anybody outside of this place. No doubt some learned people in the legal profession understand the implications of parliamentary privilege, but a heck of a lot do not, and we have seen examples of that in the circumstances around this very Parliament over the years. A few examples of those incidents have been given in this report. Similarly, I do not think that people in government—that is, the Crown and its agents—have a particular affection for parliamentary privilege, and I think they are all too willing to wave it aside if it is inconvenient. When I see the Crown—the government, supported by its agents and bureaucrats—put up bills that refer specifically to parliamentary privilege, I become very interested and, as I indicated, I find it necessary to examine those proposals in a very circumspect and thorough way. I want to get over to all members the message that that particularly needs to be done. Again, the forty-eighth report gives a great deal of information about why that is necessarily so.

The specific matter that is the subject of this bill hinges on one word—"exclusively"—and a great deal of discussion is contained in the report on this very subject. As members go through the recent history of select and standing committees examining the questions related to parliamentary privilege, just in this Parliament, they will see that views have ebbed and flowed and sometimes varied with experience, and that is probably to be expected when we are dealing with something that is as hard to define as some of the concepts that are part and parcel of parliamentary privilege. The question that was put to the Standing Committee on Procedure and Privileges was, in effect, to examine this bill, which seeks to restore the term "exclusively" to section 3(2) of the Corruption, Crime and Misconduct Act 2003. Members might ask how much weight can be placed on one single word. The answer to that is a great deal, potentially. The word is used in the context of concurrent jurisdictions that exist in the legislation of this Parliament, whether it be the Parliamentary Privileges Act or the Criminal Code. The questions surrounding it are quite interesting, and, in essence, boil down to who is responsible for investigating and prosecuting offences contained within either of those statutes, particularly when they are similar offences. In the case of the Parliamentary Privileges Act, there are behaviours that are also proscribed in the Criminal Code.

There is some contemplation in the report of whether these two sets of near identical offences can coexist. In the past, questions have been raised about whether some of these provisions should be deleted from the Parliamentary Privileges Act or, on another occasion, from the Criminal Code. The history of that debate is contained in the report. Where we have arrived at the current time is that there is a body of evidence and experience, which is relevant today, to indicate that matters that can be contemplated and adjudicated by the Parliament alone are rightfully placed in the Parliamentary Privileges Act, and they are there to be exercised at the discretion of the house. Similarly, like provisions and defences contained in the Criminal Code are rightfully the province of the police to examine and, when necessary, launch prosecutions.

It then comes down to the Corruption and Crime Commission's capacity to investigate. A number of changes were made to the act in 2014. One of the changes was to delete the word "exclusively" from the act, and because that is the focus of the current bill before us, members might be inclined to forget that there were other significant changes

made in 2014. Those changes are very relevant to what we are contemplating now. One of the changes was that the CCC would no longer be the investigator of public officials in matters relating to what is defined as minor misconduct. However, the CCC retains a focus on and a relevance to investigating more serious matters. Should public officials who happen to be members of Parliament be exempt from being investigated by the CCC for bribery, for example, in relation to parliamentary matters? Should there be some special element in law that would quarantine them—us—from investigation for serious offences under the Criminal Code? I do not think so, and I do not think anyone would have that particular view. If any of those investigations compromised parliamentary privilege, it would become another matter, and that is where the matters that concern me have always resided.

In relation to the current question about this word "exclusively", the committee's finding is quite clear—that is, that it will not affect parliamentary privilege as it currently exists. The finding on page 7 states that the bill —

> … will not result in a diminution in the scope or operation of parliamentary privilege.

That finding is on an area that is hard to define. The Standing Committee on Procedure and Privileges wanted to provide a comprehensive report, with background information dating back 900 years, so it is quite some achievement to come up with that simple one-line finding, because that is what we needed to do. I am satisfied that that finding is correct, but it was not easy to arrive at and, as I have already indicated, it was the sort of thing that I particularly wanted to apply myself to. Indeed, if I were not already a member of the Standing Committee on Procedure and Privileges, I would have been watching even more closely than normal. I am a member of that committee and I want to vouch for the thoroughness of the committee's examination that went into producing this report.

In conclusion, I want to do a couple of things. Firstly, I want to again commend the forty-eighth report and bring it to the attention of members. I suggest members retain a copy of the report, and as the need arises, when matters of privilege are raised, they should get it out. Members will find it a very important resource that is easy to read. Most importantly, it is relevant to this Parliament, because it is a creation of this Parliament and, indeed, members will even recognise a number of the historical incidents used to give examples of the issues we are talking about. I thank the rest of the committee and commend the forty-eighth report to the house.

The second and final issue I want to emphasise is my commitment to the upholding of parliamentary privilege. It is something that I have always espoused, but the more I go through life and am exposed to the many and varied activities of Parliament, the more I see that parliamentary privilege is necessary. It is an absolute foundation stone for the type of parliamentary democracy that is to the community's benefit here in Western Australia, and the members of this place of the day have a very serious responsibility to ensure that on their watch parliamentary privilege is not diminished. We have seen lawyers, police investigators and even courts invite members to say that they will waive parliamentary privilege on a matter because they have said they have nothing to hide. No interrogator is entitled to ask that question and, more importantly, no member of Parliament can accede to that invitation. You have parliamentary privilege, as have I, whether you want it or not! It is not yours to waive or give away—ever! Members of Parliament simply cannot do that. Members could stand up in court, hand on a Bible or under affirmation—whatever they want to do—and say, "I waive parliamentary privilege." If that were to happen—it has happened before, and I am pretty sure it will happen again—that is when our Presiding Officer, with the Clerk, has to make sure that either they or someone acting on their behalf goes into that courtroom and says, "No, I am putting a stop to this part of those proceedings." That is what has to happen. Whenever members see a bill come before this place that contains advice by way of a second reading speech that touches on parliamentary privilege and states it will vary it or that it will not harm anything, they must look at it very, very carefully to make sure that they uphold the basic principles that we have inherited that have been carved out over hundreds of years of experience. I do not ever want to see members of Parliament being intimidated in the course of their responsibilities or being threatened with some sanction by the Crown because they chose to follow a particular course of action that the Crown does not like. That is the one thing that separates the people from tyranny. Their one guarantee is that their members, or their representatives, can come into this place and say what must be said, ask the questions that must be asked, hold the government of the day to account, and pass, amend or repeal the statutes that must be so dealt with. If ever it gets to a stage where parliamentary privilege is ignored or is done away with, we are right back to the stage where members are being arrested and thrown in prison or made bankrupt by capricious representatives of the Crown at their convenience. That would be a very bad thing. I do not want to overcook it but —

Hon Alison Xamon: I thought that was excellent.

Hon SIMON O'BRIEN: Thank you. I hope that interjection was recorded for posterity!

Although this subject matter is very serious, in our times and in our healthy Parliament—we do have a healthy Parliament and a healthy system here in Western Australia—it is easy I suppose for people's eyes to glaze over when talking about this or when listening to someone else talk about it. But it was with all of those matters being contemplated and in that spirit that the Standing Committee on Procedure and Privileges on this occasion arrived at its finding. Again I commend the report to the house. I stand by the findings and I hope members are reassured that they too can do so with confidence.

HON ALISON XAMON (North Metropolitan) [8.52 pm]: I rise as the lead speaker on behalf of the Greens. I have quite a bit to say about the Corruption, Crime and Misconduct Amendment Bill 2017. As has already been alluded to by previous speakers, I do of course have an amendment on the notice paper as well. This bill is a pretty simple bill on the face of it. It inserts one word—"exclusively". It is intended that the act, when amended, will state —

> Nothing in this Act affects, or is intended to affect, the operation of the *Parliamentary Privileges Act 1891* or the *Parliamentary Papers Act 1891* and a power, right or function conferred under this Act is not to be exercised if, or to the extent, that the exercise would relate to a matter determinable exclusively by a House of Parliament.

Members would think that would make it a fairly innocuous change but I would maintain that it is quite significant. This bill is highlighting the tension between the expectation—I think a fair expectation—that crime and corruption can be investigated and, where appropriate, prosecuted, but also parliamentary privilege.

I listened intently to the comments of the previous speaker who I think well enunciated how important the principle of parliamentary privilege is. It aims to ensure that the representatives of the people—us—are not impeded in carrying out their duties. Much reference has been made to this excellent report, the forty-eight report of the Standing Committee on Procedure and Privileges, into the Corruption, Crime and Misconduct Amendment Bill 2017. I agree with the previous speaker that this report is well worth keeping on the shelf as a reference point to come back to over and over. The work that has been put into it is excellent. It does actually make for a very interesting read. One of the quotes that came out of the report that I was particularly enamoured with was the description by the Speaker in 1642 when talking about parliamentary privilege. I refer to what the Speaker told King Charles I in 1642, when the King and his soldiers came to Parliament to arrest five members for treason. He said, "I have neither eyes to see, nor tongue to speak but as this House is pleased to direct me." I do not know why but I really loved that! I thought that was most eloquent. I think we should be speaking like that more often in this place. But I digress.

Hon Michael Mischin: I will do my best!

Hon ALISON XAMON: In any event, going back to the inherent tension in this bill, we need to ensure we are uncovering corruption where it occurs at the same time as ensuring we are not inadvertently doing anything to lessen the importance of democracy. As it says in the report, there is no answer and no answer is perfect.

Quite a lot has been said about how we got to this point. Referring to the 2014 version of the bill, I was not in the Parliament in 2014 so I was not part of that debate but I have looked at what was said at the time. I note that the Corruption and Crime Commission Amendment (Misconduct) Act 2014 removed the word "exclusively" from section 3(2), thus ousting the CCC's jurisdiction where parliamentary privilege applied. There has been some suggestion that this ousting was inadvertent, but going by *Hansard* this is clearly incorrect. That was made clear in the speeches by then Attorney General Hon Michael Mischin as well as the speeches of Hon Adele Farina and my former colleague Hon Lynn MacLaren, who had carriage of the bill on behalf of the Greens. I note that the 2014 amendments also transferred minor misconduct away from the CCC, so consequently sections 27A and 27B were repealed because they were now redundant.

I want to make some comments about what has happened in at least one other state. It is pertinent in terms of learning the lessons of how things can get quite complicated in this space. I specifically note section 122(1) of New South Wales' Independent Commission Against Corruption Act, which states —

> Nothing in this Act shall be taken to affect the rights and privileges of Parliament in relation to the freedom of speech, and debates and proceedings, in Parliament.

Yet in 2003 there was a dispute between Parliament and ICAC, after ICAC seized documents under a search warrant from an MP's office at Parliament House. The privileges committee confirmed that ICAC could investigate MPs but noted that was subject to section 122, which is also derived from article 9 of the Bill of Rights 1689, which is exactly what we are using. The committee resolved that article 9 is based on the need for Parliament to function effectively, otherwise MPs would be severely hampered in their ability to carry out their parliamentary duties, and the houses would be unable to properly scrutinise the actions of the executive. The committee at that point also resolved that representative democracy can flourish only when citizens can feel confident that they can communicate freely with a member of Parliament and in the knowledge that the actions of members in the conduct of their proceedings in Parliament will go unchallenged by outside interference or intimidation. The committee further went on to resolve that proceedings in Parliament will inevitably be hindered, impaired or impeded if documents forming part of the proceedings in Parliament are going to be vulnerable to compulsory seizure. Such documents were considered to be immune. The next step was to identify which of the seized documents related to the proceedings in Parliament because they needed to identify which documents were immune and which were not. In this instance, the procedure that was adopted was that the seized material had to be returned to the President and put into the Clerk's custody. The member of Parliament, the Clerk and an ICAC representative then went through those documents together. The documents that the member of Parliament and the Clerk identified as not privileged were returned to ICAC, and the documents that the member of Parliament and the Clerk identified as privileged were retained. ICAC was given the opportunity to dispute that privilege claim, but it had to do that in

writing. ICAC disputed the status of some of the documents, and the house considered the views of both ICAC and the member of Parliament before determining whether the disputed documents were within the scope of proceedings in Parliament and therefore immune. This is a fraught space to try to legislate around and find a balance between these inherent tensions.

I now want to make some comments about this bill. I note in particular the Solicitor-General's briefing note dated 25 August 2017. The Attorney General in the other place took the unusual step of tabling the Solicitor-General's briefing note. That note advised that prior to removal of the word "exclusively", both the Corruption and Crime Commission and the house has jurisdiction over a member of Parliament's misconduct that was both a breach of privilege and a criminal offence. It advised also that removal of the word "exclusively" potentially ousted the CCC's jurisdiction, and that reinsertion of the word "exclusively" would restore the CCC's jurisdiction without ousting Parliament's jurisdiction, because the two jurisdictions would be operating concurrently. The briefing note advised also that the privileges committee can still investigate and determine any matter within its jurisdiction. It advised that parliamentary privilege will still play a role in the investigation and prosecution of criminal offences—for example, in relation to obtaining and adducing evidence. It advised that any parliamentary immunity will continue to apply, such as freedom of speech, and that debates and proceedings in Parliament will continue to not be able to be impeached or questioned in any court or place outside of Parliament. It advised also that how the CCC should investigate in these circumstances has not been resolved—for example, whether that needs to be done via a memorandum of understanding between the CCC and the privileges committee. I note that this question is still separate from the bill.

I now come back to the excellent report on the bill by the Standing Committee on Procedure and Privileges. The report mentions my proposed amendment but not the submission that I made to the initial inquiry. That submission is publicly available and I encourage members to look at ; it is an excellent submission and I am sure it will inform members greatly. Two legal opinions form the appendices to the report. The first is the opinion of the Solicitor-General that I referred to. The second is an opinion from Senior Counsel Mr Bret Walker that is dated 6 December 2017 and constitutes the summary of advice that he had given by telephone seven months prior. I mention that because the issues that were raised in my submission, and the issues that were raised in the other place, therefore were not considered by either of those senior counsel because they predate the raising of those matters. It would have been useful to have had a response to that, but we have not had that advantage. Nonetheless, the report confirms the validity of my concern that there is no procedure about how parliamentary privilege, the powers and functions of the CCC and any ensuing court proceedings will interact.

The committee found that the bill will not result in a diminution in the scope or operation of parliamentary privilege. However, the report also states, in what I think is a magnificent understatement, that the bill does not address the lack of clarity about the extent to which evidence arising from parliamentary proceedings may be used in prosecutions. The report also confirms that the bill does not address the timing of CCC notifications to Parliament when it starts to examine evidence that may be privileged. The committee noted that an MOU between the CCC and Parliament may go some way towards addressing evidence sharing and notifying Parliament, but it will not address broader issues such as the execution of CCC search warrants on parliamentary or electorate officers, or the use of proceedings in Parliament as evidence.

Unfortunately, the CCC habitually refuses to notify Parliament of its investigations, unless it needs something. Paragraph 6.19 of the report states that in 2007 and 2008, the CCC informed Parliament only when it needed Parliament's help to identify and obtain relevant evidence. It states in chapter 8 that in 2016, the CCC investigated, formed an opinion and gave information to the then Premier without informing Parliament at all. It was only via the Premier, not via the CCC, that Parliament learnt of a possible contempt against it. That is outlined in the report if members have not had the opportunity to read it.

My proposed amendment would at least require the CCC to act in accordance with an MOU or other agreement with Parliament, and also to inform the Parliamentary Inspector of the Corruption and Crime Commission, which is a statutory position, of any investigation involving a member of Parliament. It is useful to talk about the most recent case that has occurred within the life of the fortieth Parliament. That is, of course, the evidence given to the committee inquiring into the matters pertaining to Barry Urban. The other place recently considered a request by the Commissioner of Police for evidence to be provided to its Procedure and Privileges Committee in the Barry Urban inquiry so that the police could determine whether a criminal act had taken place. The evidence in the committee's possession included evidence that had been provided by Mr Urban, evidence from witnesses, and documents, including the one that the committee had described as necessarily a forgery. Mr Urban had also requested that the committee return his purported academic qualifications, and his medals, photographs and other documents. Therefore, the house had to deal with competing claims regarding that evidence. That was followed by duelling opinions between the Clerk and George Tannin, SC, the state counsel who was advising the police commissioner. The Clerk's opinion was that the house should ascertain which offences were being investigated. If it was an offence under sections 57 to 61 of the Criminal Code, parliamentary privilege was abrogated and the house could, if it saw fit, direct the committee to provide to the commissioner all of Mr Urban's evidence that was relevant to that particular offence. If the offence was a different offence, such as forgery or fraud, the house could,

if it saw fit, direct the committee to provide Mr Urban's non-privileged evidence, such as his purported academic qualifications, medals and photographs that had come into existence independent of parliamentary proceedings. The opinion was also that whatever the offence, parliamentary privilege was not abrogated with regard to the evidence of other witnesses. In addition, standing order 308 obliged the house to protect its witnesses. The Clerk's opinion also noted—I will make a few comments about this in future remarks—that providing the oral evidence of witnesses could have the effect of "chilling" cooperation from future potential witnesses with Parliament, who would not trust Parliament to keep their evidence secure. The opinion said also, most importantly, that Parliament cannot waive privilege.

Mr Tannin's opinion was that police should not disclose in advance what offences were being investigated because of concern that that could jeopardise the independence and integrity of the investigation, and that by generating publicity and speculation against Mr Urban, it could prejudice any future prosecution such that it might be permanently stayed. Two types of parliamentary privilege were involved. They were the privilege of the nondisclosure of documentary evidence that is compellable and discretionary, and the privilege of freedom of speech, which is an immunity from civil or criminal liability. The evidence and the materials were subject to the nondisclosure privilege; therefore, Mr Tannin's opinion was that disclosing them was within the house's discretion. As to whether it should disclose them, if the committee provided police with the actual transcripts and the exhibits of witness evidence—not reproductions, summaries or extractions—the privilege of free speech would apply to those documents and committee witnesses would continue to have immunity from civil or criminal liability and standing order 308 would not be contravened. He believed that chilling was unlikely and that witnesses who testify under oath are obliged to tell the whole truth anyway. The Legislative Assembly ended up resolving—I note that this was supported by all three parties as opposed to the glorious seven that are in this house—to direct the Procedure and Privileges Committee to confer with the Commissioner of Police and provide him with the evidence and documentation from the inquiry that the committee considered was relevant to the commissioner's investigations, did not breach parliamentary privilege and was consistent with the house's obligation to protect witnesses.

This differs from the procedure used in New South Wales that I described earlier. The decision was made on factors apart from parliamentary privilege, the member of Parliament was not involved, the decision was made by the committee and not by the Clerk, and there was no process for the police commissioner to dispute the decision and have the house make a determination.

The following views were expressed during the debate on that motion. One view was that the outcome of the inquiry and the request by the Commissioner of Police were unprecedented. I note that members of the other place were of the view that the motion was a sensible compromise and balanced the need to maintain parliamentary privilege, give the Commissioner of Police access to information to do his task, and protect committee witnesses. The comment was made that committee witnesses do not have the benefit of legal counsel to advise them not to answer questions that may incriminate them. In the other place the Attorney General warned against conflating privilege with confidentiality. It was also noted that committees can and do waive confidentiality and publish evidence from time to time and that the house can also direct a committee to waive confidentiality. It was also stated that privilege is about immunity from being held to account in any other forum unless abrogated by legislation. These are some of the most recent and pertinent examples of the ways in which the tensions inherent in this bill have played out in other jurisdictions and this Parliament itself.

I turn to the crux of the effect of the change before us. The CCC is currently able to exercise its powers, rights and functions against MPs, officers of Parliament and others involved in Parliament, but currently under section 3(2), not in relation to a matter that is determinable by Parliament. The bill will change that so that the CCC will be able to exercise its powers, rights and functions in those matters too, if the matter is determinable by another forum as well as by Parliament—in other words, when Parliament has concurrent jurisdiction and not exclusive jurisdiction. The committee report identifies those matters as criminal offences determinable in a court that corresponds to the contempt powers of Parliament contained in the Parliamentary Privileges Act. Matters within the contempt powers of Parliament under that act include the matters listed in section 8—such as assaulting a member coming to or going from the house or offering a bribe to a member—and the matters covered by section 1, which are those of the United Kingdom House of Commons as at 1 January 1989 which are not inconsistent with the act, such as an MP receiving a bribe or giving false evidence to Parliament. The committee report identifies some examples of criminal offences that correspond to those contempt powers.

At paragraph 2.57 the committee report states that double jeopardy does not apply and a person can be tried and punished both by Parliament for contempt and a court for an offence in respect of the same matter. This bill will not change that. I will say more about that in a moment.

There is a lack of clarity around the circumstances in which the bill will permit the CCC to exercise its powers, rights and functions in matters that are not criminal offences but are misconduct as defined in the Corruption, Crime and Misconduct Act that correspond to the contempt powers of Parliament. Example 3 in chapter 5 of the committee report seems to suggest that it may be possible. That is the example of providing false and misleading information in an answer to a parliamentary question. However, as I read the bill, if the matter is determinable exclusively by

a house of Parliament, the CCC will be ousted from exercising its rights, powers and functions. For the CCC to have a role, it seems that the matter needs to be determinable by another forum as well as by Parliament. I note that the CCC forms opinions and not determinations. If the matter does not correspond to a criminal offence, it will not be determinable by a criminal court. Depending on the forum and the nature of the matter, this may be further complicated by the parliamentary privilege of exclusive cognisance, which will continue to apply.

I ask the minister to clarify for the record in what circumstances the bill will permit the CCC to exercise its powers, rights and functions in matters that are not criminal offences but are misconduct as defined in the Corruption, Crime and Misconduct Act 2003 that correspond to the contempt powers of Parliament.

The committee report found that the bill does not diminish the scope or operation of parliamentary privilege; therefore, parliamentary privilege will continue to apply. That means that the freedom of speech and debates or proceedings in Parliament cannot be impeached or questioned in court or any place outside of Parliament. My understanding, and I seek confirmation of this, is that this cannot be waived except via legislation. I understand that to be the case, but I want to have that confirmed. Unless abrogated by legislation, this imposes restrictions on the evidence that can be adduced in courts or forums other than Parliament. I noted intently the comments of Hon Simon O'Brien—that it is the responsibility of this Parliament to remain vigilant about any legislative changes that come to this place that may attempt to limit the scope of parliamentary privilege. I could not agree more!

There are some Criminal Code offences in relation to which it is arguable that parliamentary privilege has already been abrogated, but the committee report indicates that to date this has not been judicially determined. Aside from legislative abrogation, the committee report identifies one way to get the evidence into court, which is by Parliament directing the Attorney General under section 14 or section 15 of the Parliamentary Privileges Act to prosecute in court a contempt of Parliament that is also a criminal offence. However, the Attorney General has indicated in the other place that he believes that to do so would put him in disobedience with the Director of Public Prosecutions Act 1991. It would be good to hear whether there is an opinion that will clarify the matter.

At pages 20 and 21, the committee report also refers to another kind of parliamentary privilege, exclusive cognisance, which is the right of Parliament to regulate its own affairs. The report indicates that this privilege is not asserted in relation to criminal conduct and it is unlikely to be accepted by courts in contract or tort, and it also notes that it has already been eroded by statutes such as the Parliamentary and Electorate Staff (Employment) Act. As the committee noted again, in yet another magnificent understatement, the impact of the bill is not straightforward. This is one problem with the bill. Another issue with the bill is that no clear process has been prescribed to manage the relationship between the Corruption and Crime Commission and Parliament. As the committee report has made clear, there needs to be an effective relationship between the CCC and Parliament, and I would also add the Director of Public Prosecutions and Parliament, if a matter is referred by the CCC to the DPP for prosecution. This is because we need to ensure that parliamentary privilege is not breached. We need to ensure that evidence is shared with Parliament so that Parliament can respond to any contempt against it, or breach of privilege as appropriate, and it is Parliament's place to do that, to ensure that the business of Parliament is never impeded—for example, by requiring a member of Parliament to attend a court hearing when Parliament is sitting or seizing material that is needed for parliamentary proceedings—or, I would also add, to manage double jeopardy or double jeopardy–like issues. Again, I ask the minister to clarify, because I am not certain whether it is double jeopardy when one of the forums trying the person is executive and the other is Parliament. Even if it is not technically double jeopardy, it is a matter that needs to be managed, because the penalties that Parliament can impose are very different from those that can be imposed by other workplaces. If a person does the wrong thing in another workplace, the penalty is that they will just lose their job. In this place, not only can a person lose their job, but also a penalty imposed by Parliament can be the sorts of penalties that are normally imposed only by the criminal courts—for example, imprisonment and fines. Conversely, for justice to be seen to be done, it is important that penalties are commensurate with the behaviour, and issues arising from the possibility of punishment by two forums need to be properly managed. The issue then is not that double jeopardy will ensure that nothing happens, but I think perversely it may result in people being doubly penalised, sometimes with quite serious penalties.

As is noted in chapters 6 and 8 of the committee report, the CCC has a history of leaving Parliament out of the loop to the extent that the CCC itself breaches parliamentary privilege. This should be setting off some alarm bells, because the bill in its current form does not address these issues. Previously, the now repealed sections 27A and 27B aimed to resolve the issue by enabling Parliament to use the CCC as its instrument to carry out investigations on Parliament's behalf. The committee report indicates this process was used twice in the other place, although I note it was never used in this place—probably because we have a higher standard of politician in the Legislative Council! The bill does not resurrect this process. Indeed, it reverses it, starting with the CCC and leaving it for the CCC to decide when to notify Parliament. That is notwithstanding the CCC's pretty poor history in this regard. One of the amendments that I will move aims to ameliorate this. I asked a question today about the status of the purported memorandum of understanding between the CCC and Parliament. It is clear that no draft MOU exists and I am not feeling particularly confident that one will occur any time soon, at least not in the form in which it was originally envisaged. I have an amendment on the supplementary notice paper that would seek to ameliorate this by requiring the CCC to act in accordance with any MOU or agreement that is developed between

the CCC and the Standing Committee on Procedure and Privileges, but I also note from discussions behind the Chair that there are some suggestions of an amendment to my amendment that might alter the scope of what I have proposed somewhat, but does not undermine the intent of what I had hoped to achieve, which is to ensure that how it is intended to operate between Parliament and the CCC is crystal clear. In the absence of an explicit alternative amendment on the supplementary notice paper at this point, my amendment is still there. I note that even if we were to get an MOU finalised, and in my view I do not think the legislation should even commence operation until it has, this will not resolve the entire issue. The committee report states that the anticipated MOU will cover earlier notification of investigations and evidence sharing, but it will not cover wider issues relating to the execution of a CCC search warrant on parliamentary electorate offices, or the CCC's ability to use proceedings in Parliament as evidence.

I want to make some comments about the oversight of the CCC in relation to the proposed new function. There will be a special need for oversight of how the CCC conducts itself in matters involving Parliament, given that Parliament's proper functions include functions specifically related to the CCC. I understand that the comment that has been made, a little cavalierly, is: what is so different about members of Parliament? Funny they should ask. We are in a very different situation with our responsibilities in this place in oversighting the exceptional powers that exist within the CCC. We have a joint standing committee that oversights the CCC and its reports are sometimes very critical of the actions of the CCC. I remind members in this place of the ongoing discussion that will probably continue tomorrow about the CCC's appalling handling of the Cunningham and Atoms matter and its failure to appropriately investigate what happened to that couple and ensure that justice had been done. This is our role; this is our responsibility. Like other committees, the joint standing committee can also take evidence. I am particularly concerned that the CCC might be able to prematurely access the investigations, deliberations, documents, communications and witness evidence taken by that committee—the very committee that is charged with the oversight of the CCC. Maintaining the line between the CCC's powers, rights, functions and parliamentary privileges, immunities and powers, particularly by the clerks and the privileges committees in both houses, is absolutely essential. We pass laws that grant or remove the CCC's functions and we direct how it must exercise those functions through those legislative reforms. We inquire into the CCC's budget via estimates. The government determines the budget of the CCC. We inquire into the CCC's annual report via estimates. We have a very clear role and obligation to oversight the very agency that would then have the capacity to effectively investigate us. The act currently recognises the need to protect those who oversight the CCC. For example, the CCC cannot receive allegations against its own commissioner. The CCC cannot receive or initiate allegations against the parliamentary inspector in their capacity as the parliamentary inspector or their officers, nor exercise its powers against the parliamentary inspector. The CCC cannot receive or initiate allegations against a judicial office holder except in certain circumstances, and, if it does proceed, it must have proper regard for preserving the independence of judicial officers and also act in accordance with conditions and procedures formulated in continuing consultation with the Chief Justice.

The act itself has foreseen the need to afford some degree of accountability to those entities charged with the responsibility of being able to oversight the activities of this body with extraordinary power. Therefore, I will move an amendment that facilitates the proposed new function of the CCC—it enables that to occur—but will at least be capable of shining a light should there be any overstepping on behalf of the CCC. We have already seen, and it is in the report, that this has occurred. We do not need to worry about this being mere speculation—it happens. Parliament has always striven for a system of checks and balances in the exercise of the CCC's extraordinary powers, and my proposed amendment will propose nothing different. It is an important safeguard for an important public interest. Importantly, that oversight could include monitoring of whether the CCC has complied with any process that has been set out in any memorandum of understanding or any other instrument that may be appropriately established—any other agreement between it and the privileges committee. I note that the amendment will not alert the Parliament or any MP under investigation that they are currently being investigated. It simply ensures that one entity is able to keep checks and balances on the way the CCC is undertaking that investigation to ensure that, firstly, it is not being exercised inappropriately or contrary to any agreements that may be made; and, secondly, it is not being used for political purposes, because, frankly, that is exactly what has happened in some of the deep, dark history of the CCC.

I also want to comment on my concerns about the redirection of resources. I am concerned that the bill redirects the CCC's finite time and resources from what I believe are its core business and other activities, bearing in mind that the police already have the capacity to investigate members of Parliament. The police can investigate criminal offences. Using the CCC, with its extraordinary powers, for exactly the same matters potentially circumvents the constraints that apply to those police investigations—those constraints being the rule of law. Those constraints have been developed over a long time and are there for good reason. Frankly, we need to stop trying to make the CCC the replacement for the police. Parliament, also, already has power to investigate matters. In fact, Parliament has very wide investigative powers. In addition, and unlike the CCC, it can make findings—noting that the CCC can only form opinions and not make findings—and it can impose penalties, and, although we need to get confirmation of this, perhaps it can direct the Attorney General to prosecute contempts that are punishable by law in court.

Under the standing orders, at paragraph (b) of schedule 4, before deciding to refer a possible contempt to its privileges committee, this house must consider the availability of other remedies. If the house refers a matter to the privileges committee, that committee in the course of its inquiry must consider alternatives to the house's contempt power. I note that Parliament has been criticised by former Chief Justice Wayne Martin for being procedurally unfair. I also note that the CCC has received similar criticism—in fact, it has been called a Star Chamber. The bill does not address this issue for either the Parliament or the CCC, but in light of the criticism of Parliament, it would be appropriate for this house, probably in the fullness of time, to review the fairness of its own procedures. I suggest that this issue is not unable to be resolved. In the meantime, if Parliament is able to direct the Attorney General to prosecute in a court contempts that are punishable by law, that might be one way that that could be addressed.

The other problem with redirecting the CCC's resources is that it takes away from the CCC's core function, which I believe is to oversight the police and to focus on fighting organised crime. I remind members again of the CCC's refusal to investigate the outrageous treatment of Dr Cunningham and Ms Atoms, which was reported to this house. The Parliamentary Inspector of the Corruption and Crime Commission's 2016–17 annual report said that during his term, noting that he was appointed in January 2013, he had become concerned about the commission's response to complaints of the use of excessive force by police officers. During the reporting period, a particular complaint had been made to him about an issue and that had increased his concern. His concern was that the CCC was simply not doing it properly. The CCC's annual report of that same year said that of the 2 636 allegations received about the police, 1 444 had resulted in no further action by the CCC; 1 126 were referred to the police, with the CCC to be advised of the outcome; 54 were referred to the police, with the CCC to monitor and review police handling of it; and nine were investigated by the CCC cooperatively. Only three were investigated independently by the CCC. I suggest that the CCC is already struggling to meet what should be its primary mandate, which is to make sure that it is oversighting the police.

I also remind members of a matter that the CCC subsequently investigated, and that is the very recent report I read on Friday regarding excessive police force, again used in Fremantle, in September 2017. I am going to suggest that the need for the CCC to be oversighting the police continues to be a very high priority. I am concerned that the bill will redirect the CCC's resources from oversighting police to investigating MPs, when both police and Parliament already have the power to do exactly that.

I am also concerned about this bill's inadvertent impact on whistleblowers. MPs are very often the recipients of public interest disclosures by whistleblowers. I think whistleblowers perform a very valuable public service, directly by revealing wrongdoing or wastage that is occurring or that information has been given to Parliament that is misleading, or indirectly if people refrain from wrongdoing for fear that there might be a whistleblower around. I seek confirmation that disclosure by a whistleblower to an MP, apart from the President if the disclosure is about an MLC or the Speaker of the other place if the disclosure is about an MLA, falls outside the Public Interest Disclosure Act 2003. I understand that it does. If that is correct, the whistleblower will not have that act's protections and they will make disclosures at their peril. Disclosures by whistleblowers to MPs need to be encouraged. They lead to useful outcomes that serve the public interest. They lead to parliamentary inquiries, to better legislation and to tabled documents. The concern that the CCC, even if it is just having a bit of a forage around, may be listening in as part of an investigation may discourage whistleblowers from making disclosures to MPs or to their electorate office staff. This will become a more significant issue the more the CCC is able to clandestinely investigate MPs, particularly if no-one is oversighting them to ensure that it is not being done perhaps vexatiously or without proper foundation. That would be counterproductive, given that whistleblowers are one of our protections against crime and corruption. I say in conclusion to that point that I think the Public Interest Disclosure Act 2003 needs to be amended more broadly to ensure that whistleblowers are protected, not silenced.

In conclusion, I think that this bill raises a number of issues. I again commend the Standing Committee on Procedure and Privileges for a really interesting and excellent report. It is essential that if this bill proceeds—I have every reason to believe that it will—any MOUs or even decisions by this Parliament about how its proceedings will be impacted need to be absolutely prioritised.

I urge members to give due consideration to the substance of the effect of the two amendments that I have on the notice paper to ensure that we have appropriate oversight of the Corruption and Crime Commission to ensure that if it is exercising its powers, it does so appropriately, and also to ensure that it must be mindful of and have regard to any agreements made with the Parliament because parliamentary privilege is absolutely critical. We are in a different position from other people because we are given the onerous and I think incredibly important responsibility to make sure that we are keeping the extraordinary powers of the CCC under check. I do not for one second think that any member of Parliament should ever be above the law, but we have to ensure that should we decide to use these exceptional powers, instead of the police or the Parliament itself ensuring that members of Parliament are doing the right thing, that we do not effectively lose all control over an entity that has such extraordinary power over its citizens.

HON MARTIN ALDRIDGE (Agricultural) [9.40 pm]: I rise as the lead speaker on behalf of the Leader of the Nationals WA in this place on the Corruption, Crime and Misconduct Amendment Bill 2017. From the outset, I indicate that the National Party will in principle be supporting the bill before us.

Quite a lot has been said so far in the second reading debate. It was interesting to look at some of the history since the 2014 amendment to the act that gave rise to this issue of the word "exclusively". It is interesting to look back on a couple of the speeches that ignited the public debate on this matter, such as that by the then Corruption and Crime Commissioner, Hon John McKechnie, QC, initially when he delivered a speech to some 300 Western Australian public servants at a function on 9 December 2016 to mark International Anti-Corruption Day. A very small part of that speech, which I think went unnoticed at the time, reads —

> In Western Australia, amendments last year quietly removed jurisdiction over misconduct for Members of Parliament, though jurisdiction for serious misconduct by Ministers is retained.

That language was obviously strengthened when the commissioner, during the caretaker period—in fact only a few days out from the 2017 general election—on 7 March delivered an address to Curtin Law School. That address has been mentioned in some of the debate that has occurred tonight, but I want to quote from one section on page 23 of the speech that I found on the CCC's website. The speech states —

> The Commission was recently taken to task by a select committee for reporting on answers prepared by staff for the Minister to respond to a parliamentary question. Parliamentary privilege was held to extend to the preparation of those answers by public officers. The privilege was thus extended beyond members. There is no bright line limit to parliamentary privilege. In a particular case, the limit will not be known until a Privileges Committee declares it. The extension of parliamentary privilege to cover these answers, did not however in the committee's view extend to the drafting and preparation of the Commission's report to parliament, even though it exposed a matter about which parliament was hitherto unaware.

That is an extract from a quite lengthy speech, and a reasonable section in relation to Parliament. But I take interest in the view of the commissioner in this speech, in which he said that the parliamentary committee did not take exception to the report. I am not sure that is correct. I think the parliamentary committee made quite clear references in its forty-fourth report to the Parliament, with respect to the matter of privilege raised by Hon Sue Ellery, that these matters would not have been uncovered but for the fact that the report was provided to government by the commissioner of the CCC.

Earlier on in that speech, the commissioner said —

> In one sense, the Commission is parliament's agent in that the Commission might investigate a matter and is permitted to report directly to parliament, unlike a royal commission whose report is to the executive, formally to the governor. In the event of serious misconduct within the executive, the Commission's ability to report directly to parliament is an important aspect of its independence.

It is interesting to note with respect to the matter of privilege raised by Hon Sue Ellery that led to the forty-fourth report that the CCC report was not tabled in Parliament by the commissioner; in fact, it was provided to the then Premier of the state, Hon Colin Barnett, who tabled that report in Parliament. If I am not mistaken, the now Leader of the Opposition, who was the then Leader of the House, similarly and concurrently tabled that report in the Legislative Council. It was interesting that, in his speech on 7 March 2017, the commissioner spoke about how important it is that his role is to report to Parliament, investigate these matters and report directly, yet, regarding this matter, he actually reported to the executive, not directly to Parliament.

The PRESIDENT: As you draw breath, member, I will interrupt the debate to take members' statements.

Debate adjourned, pursuant to standing orders.

JACK GARBER

Statement

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development) [9.46 pm]: In *The West Australian* last Saturday, 9 February, "The Ferret" threatened to do some unspeakable things to various politicians, lawyers, accountants and others once he found out their identities. I grew up in an area where ferrets were widely kept and I know what nasty, vicious creatures they are. I am quite prepared to acknowledge that, in 2016, I was one of 21 people who provided a reference for Jack Garber. I was aware that there is always a risk as a politician in giving a reference. If I had just focused on my own interest, I would not have done it. However, I believe it is possible for people who have done wrong in the past to have contrition and they need to be given a chance to rebuild their lives. My reference was very measured. It set out that I had known Mr Garber for three years through his work in the Morley Senior High School community and at the Western Australian Council of State School Organisations. I described his dedication to that role. I acknowledged that Mr Garber had set out to me the extent of his deeds that had led to his disbarment as a lawyer 25 years before, and the remorse and

contrition that he displayed about that conduct. I was not aware of the other matters to which "The Ferret" referred. The various tribunals that examined the matter would have access to a much more extensive history than what was available to me. My role was to set out my experience with Mr Garber and his community work over that time to help them get a full picture of this man. I do not expect this statement will deter "The Ferret" from attempting to munch my guts but I am happy to explain what I did and why I did it. Perhaps this will give "The Ferret" the courage to out it or their self.

SHENTON PARK REHABILITATION HOSPITAL REDEVELOPMENT SITE — BUSHLAND CLEARING

Statement

HON ALISON XAMON (North Metropolitan) [9.48 pm]: I rise because I want to bring the attention of this house, yet again, to what has happened with the ecological linkage between the Underwood Avenue and Shenton Park Bush Forever sites, which I have spoken about several times in this place. I refer to the Shenton Park Rehabilitation Hospital site redevelopment, which is also known as the Montario Quarter. The last time I raised this issue, the statutory planning committee had resolved to investigate the matter more thoroughly and to defer making a decision on LandCorp's plan. It should be of no surprise to anyone that, after investigating the matter thoroughly, just as the community and the City of Nedlands have done, the statutory planning committee removed the building envelopes from the linkage bushland and required the fire plan to be redone so we could keep all the bushland. It also resolved that the design of the subdivision could and should be reconsidered to maintain and enhance the bushland, which is exactly what the council and the community have been saying all along. This is the position that the statutory planning committee came to after doing that additional research, and not simply relying on what was presented to it by LandCorp. Not only was that the right decision, it is also what the community wanted and needed, what the City of Nedlands has repeatedly been asking for, and what the Department of Planning's own research has shown was needed. It was an absolute no-brainer. However, LandCorp requested that the decision be reviewed by the full Western Australian Planning Commission, and its amended plan included two building envelopes surrounded by bushland. That was accepted as part of the amended plan. This highlights one of the great flaws in our planning system, because this is now the end of the process—although not the end of you lot having to hear me talk about this in Parliament! The problem is that once the developer is satisfied with the decision, there is no right of appeal for the community or the council affected by the development. The Greens have long been advocating for third party rights of appeal in planning decisions and will continue to bring up the lack of options for the community that is genuinely impacted adversely by planning and development decisions.

Our banksia woodlands are precious, so much so that they are now being recognised as an endangered ecological community in their own right, and not only as a food source for black cockatoos. It is also acknowledged that losing large chunks of this woodlands' ecological linkage to fire management techniques, instead of simply not building in the woodlands, is a reckless disregard for the future. This chipping away at our urban bushland just cannot continue, because if we are not careful there will be none of it left. We are really lucky to live in one of the few urban environments that still contains a lot of this remnant urban bushland. We live in a unique and special part of the world. We talk about saying we are going to honour it, and we write it into our planning strategies, and then we let a government body fall so far short of best practice that it is not funny. The gap between what will be built and what should be built is so large that it is almost surprising, in this instance, that we are not talking about a private developer. Instead, we are seeing, effectively, greed winning out over bushland and over approved planning schemes. It is happening on a regular basis; it is happening over and over again. The community is appealing yet again to the Minister for Planning to step in and do the right thing, which has been clearly identified over and over again. I cannot believe we are back where we started.

Many members may have attended the Perth Festival opening event, *Boorna Waanginy: The Trees Speak*, which happened over the past weekend, and ended last night, just around the corner from this place. It was a very compelling and immersive experience. One section was people speaking directly of the environmental and habitat losses that we have already experienced on the Swan coastal plain. The final section highlighted the efforts that individuals are making to repair the damage that we have already done. These are really great stories, but an even better story would be how we are protecting and enhancing what we still have, rather than attempting to replace what we have already destroyed. It is really great that we are teaching our kids to plant trees. We need to do that, but it is ironic that this is happening at the same time as some of those kids' parents have to lie down in front of bulldozers. We cannot build a sustainable and future-proof Perth if we are unable to enforce the rules that give us a chance to keep functioning bushland and ecological linkages that will ensure that our remaining wildlife has somewhere to live and is able to move appropriately between habitats, and also to provide just so much benefit to our community on so many fronts. It is beyond time that we actually put into practice our words about recognising that we are living within a unique environmental heritage area. This whole saga has been extraordinarily disappointing and has absolutely highlighted just how problematic our planning processes are. We need urgent reform in this space.

CARNARVON LOCK HOSPITALS — COMMEMORATION

Statement

HON ROBIN SCOTT (Mining and Pastoral) [9.54 pm]: On 9 January this year, I had the privilege of attending Carnarvon to recognise the lock hospital tragedy. The invitation to this ceremony arrived in November. I had never heard of the lock hospitals before, so I started asking whether anyone could give me some information but nobody seemed to know anything about the lock hospital. Thanks to Google, I was able to find out quite a lot about it. It surprised me because at school, growing up in the 1960s, we were taught a lot about Western Australia—about the whaling industry in Albany and Carnarvon; the wonder of Wave Rock at Hyden; the Kalgoorlie School of Mines; and the explorer, Surveyor Austin, who opened up the midwest. We were even taught about Mt Augustus, which is twice as high as Uluru and has a footprint five times bigger, and, of course, the Bungle Bungles, but absolutely nothing about the lock hospital. What I found out really surprised me. The first lock hospital started in 1748, 22 years before Captain Cook arrived on the east coast. This was started in England. As the British Empire expanded, the lock hospitals followed close behind. There were lock hospitals in India, New Zealand and Australia. Unfortunately, the lock hospital in Carnarvon was slightly different. The original lock hospitals were for lepers and people with venereal diseases. Unfortunately in India, due to boredom, many of the British soldiers ended up being alcoholics with venereal diseases.

The lock hospitals were built on Bernier and Dorre Islands, which were 57 miles off the coast of Carnarvon, or 96 kilometres, if you like. This was purely for Aboriginal people. More than 800 people were transported to these islands in neck chains because, at the time, an official decided that that was the most humane way to move them. They were all suspected of having venereal diseases but, unfortunately, 200 of these people never returned to the mainland. Experiments were carried out on them with different medications trying to find a cure for venereal diseases.

A smoking ceremony and a dance of death was performed to release the ancestors and welcome home their spirits. They played a healing song by Mr Archie Roach and Ashley Penny. Many fine speeches were made during this ceremony by Dr Melissa Sweet, who spoke about the history of the lock hospitals; Dr Jade Pervin, who explained the archaeological life on the island during the hospital's regime; and Dr Robin Barrington, who researched the role of the lock hospital. There was also a speech by Mr Richard Weston, the CEO of the Healing Foundation, who spoke about reconciliation and healing. There were also representatives from the Palm Islands in Queensland—Mrs Magdalena Blackley, and Lawrence and Veronica Coutts, who spoke of the lock hospital on the Palm Islands.

This could have been a ceremony for hate, racism, sadness, horror or people seeking revenge. I believe this is a generation of reconciliation and healing. It was about remembering what happened, showing respect for the victims, honouring their memory and, most importantly, educating the young and getting them to understand the many mistakes made in the beginning, while also acknowledging the past so that we do not allow it to ever happen again. The driving force for this project was Mr Bob Dorey and Kathleen Musulin. It was their efforts and determination to acknowledge what happened. They also explained their own journey to get this tragedy recognised. The Shire of Carnarvon should also be very proud of the help and contribution it put into this event. Councillor and president, Karl Brandenburg, spoke very highly of the Labor government because it has commissioned and paid for a statue to be unveiled at One Mile Jetty.

On the second day, everyone was invited to go to the new library in the town centre. Everybody sat in a circle and many people told many stories about their past experiences of the stolen generation. The best thing of the whole meeting on the second day was that everybody was pushing for reconciliation and healing. Later in the year when this statue is being revealed, I suggest that if anybody is in the Carnarvon neighbourhood, they should attend. Thank you.

House adjourned at 10.00 pm

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QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

DEPARTMENT OF JOBS, TOURISM, SCIENCE AND INNOVATION — FOSSIL FUELS

1772. Hon Robin Chapple to the minister representing the Minister for State Development, Jobs and Trade:

(1) What is the department's total amount of spend on fossil fuels research?

(2) What is the department's total amount of spend on fossil fuels exploration?

(3) What is the department's total amount of spend on fossil fuels subsidies?

Hon Alannah MacTiernan replied:

The Department of Jobs, Tourism, Science and Innovation advises:

Since 1 July 2017

(1) Nil.

(2) Nil.

(3) Nil.

DEPARTMENT OF PRIMARY INDUSTRIES AND REGIONAL DEVELOPMENT — FOSSIL FUELS

1773. Hon Robin Chapple to the Minister for Regional Development:

(1) What is the department's total amount of spend on fossil fuels research?

(2) What is the department's total amount of spend on fossil fuels exploration?

(3) What is the department's total amount of spend on fossil fuels subsidies?

Hon Alannah MacTiernan replied:

(1) Nil.

(2) Nil. The Department of Primary Industries and Regional Development (DPIRD) administers the Royalties for Regions Fund, which provides funds to the Department of Mines, Industry Regulation and Safety to deliver the Exploration Incentives Scheme. No spending on fossil fuel exploration is expected in 2018–19.

(3) Nil direct spend. DPIRD funds a number of programs through other Government agencies that may be considered fossil fuel subsidies. For 2018–19, these include:

> $34.1 million to the Department of Transport for administration of the Country Age Pension Fuel Card which provides a subsidy to eligible seniors for fuel and/or Taxi usage.
>
> $1 million to the Department of Fire and Emergency Services for administration of the Volunteer Fuel Card Scheme to support its volunteer network with fuel costs associated with their related travel.

DEPARTMENT OF TREASURY — FOSSIL FUELS

1774. Hon Robin Chapple to the minister representing the Treasurer:

(1) What is the department's total amount of spend on fossil fuels research?

(2) What is the department's total amount of spend on fossil fuels exploration?

(3) What is the department's total amount of spend on fossil fuels subsidies?

Hon Stephen Dawson replied:

(1) Nil.

(2) Nil.

(3) Nil.

DEPARTMENT OF FINANCE — FOSSIL FUELS

1775. Hon Robin Chapple to the minister representing the Minister for Finance:

(1) What is the department's total amount of spend on fossil fuels research?

(2) What is the department's total amount of spend on fossil fuels exploration?

(3) What is the department's total amount of spend on fossil fuels subsidies?

Hon Stephen Dawson replied:

(1)–(3) Nil.

ENERGY — DEPARTMENT — FOSSIL FUELS

1776. Hon Robin Chapple to the minister representing the Minister for Energy:

(1) What is the department's total amount of spend on fossil fuels research?

(2) What is the department's total amount of spend on fossil fuels exploration?

(3) What is the department's total amount of spend on fossil fuels subsidies?

Hon Stephen Dawson replied:

(1) The Department of Treasury does not undertake dedicated fossil fuels research. The Public Utilities Office, located within the Department of Treasury, undertakes analysis of the cost-competitiveness and demand for electricity generation supplies produced from renewable and non-renewable fuel sources.

(2) Nil.

(3) Nil.

DEPARTMENT OF MINES, INDUSTRY REGULATION AND SAFETY — FOSSIL FUELS

1777. Hon Robin Chapple to the minister representing the Minister for Mines and Petroleum:

(1) What is the department's total amount of spend on fossil fuels research?

(2) What is the department's total amount of spend on fossil fuels exploration?

(3) What is the department's total amount of spend on fossil fuels subsidies?

Hon Alannah MacTiernan replied:

Department of Mines, Industry Regulation and Safety:

(1) Nil.

(2) The only direct cost associated with exploration for fossil fuels is the Exploration Incentive Scheme co-funded drilling. Within EIS 3, petroleum companies that were offered grants have withdrawn from the funding. The one remaining company that has been offered a grant in the recently announced round 18, is likely to drill after the end of the 2018–19 financial year. Thus direct costs are $0 as of 09/01/2018.

(3) Nil.

Mineral Research Institute of Western Australia:

(1) Investment of $166,120 in the following Research project:

M495 – A Study of Nano Diesel Particulate Matter (nDPM) Behaviour and Physico-chemical Changes in Underground Hard Rock Mines of Western Australia.

This project aims to study the effects of nDPM on health of workers in Underground Mines.

(2)–(3) Nil.

ASIAN ENGAGEMENT — DEPARTMENT — FOSSIL FUELS

1778. Hon Robin Chapple to the minister representing the Minister for Asian Engagement:

(1) What is the department's total amount of spend on fossil fuels research?

(2) What is the department's total amount of spend on fossil fuels exploration?

(3) What is the department's total amount of spend on fossil fuels subsidies?

Hon Stephen Dawson replied:

(1)–(3) Not applicable. The Asian Engagement Portfolio does not undertake work with regard to fossil fuels research, exploration and subsidies.

DEPARTMENT OF JOBS, TOURISM, SCIENCE AND INNOVATION — FOSSIL FUELS

1780. Hon Robin Chapple to the minister representing the Minister for Science:

(1) What is the department's total amount of spend on fossil fuels research?

(2) What is the department's total amount of spend on fossil fuels exploration?

(3) What is the department's total amount of spend on fossil fuels subsidies?

Hon Alannah MacTiernan replied:

Department of Jobs, Tourism, Science and Innovation

Please refer to Legislative Council Question on Notice 1772.

ChemCentre

(1) Nil.

(2) Nil.

(3) Nil.

PREMIER — OPTUS STADIUM VISITS

1781. Hon Martin Aldridge to the Leader of the House representing the Premier; Minister for Public Sector Management; Federal–State Relations:

I refer to Legislative Council questions on notice No's 1044, 1409, 1596 and 1691 and the Premier's consistent refusal to answer my question, and I ask:

(a) has the Minister visited the Perth Stadium, if so on what dates and for what purpose;

(b) was the Minister attending Perth Stadium as a guest of another person, organisation or entity, if so whom;

(c) for each occasion identified in (a), with respect to travel to and from the Perth Stadium please identify:

(i) the extent to which a motor vehicle was used in relation to travel;

(ii) the extent to which public transport was used in relation to travel; and

(iii) if a motor vehicle was used was the vehicle:

(A) owned and maintained by the Department of the Premier and Cabinet; and

(B) driven by an employee of the Department of the Premier and Cabinet; and

(d) if any part of the Premier's travel was funded by the Department of the Premier and Cabinet, how does he explain his refusal to lodge a Section 82 notification arguing that the information sought does not relate to the conduct or operation of an agency?

Hon Sue Ellery replied:

(a)–(c) Please refer to LC QON 1044.

(d) Please refer to LC QON 1691.

DEPARTMENT OF TRANSPORT — ADVERTISING

1782. Hon Martin Aldridge to the minister representing the Minister for Transport; Planning; Lands:

I refer to your answer to Legislative Council question on notice No. 1665 in relation to the contract between the Department of Transport and To The Point, and I ask:

(a) in part (c), of the previous question I sought the contract between the above mentioned parties however the document tabled (Tabled Paper No. 2160) appears not to be the contract but a tender request document, is that correct; and

(b) will the Minister now table the contract as requested on Tuesday, 9 October 2018?

Hon Stephen Dawson replied:

(a)–(b) The document tabled is the Request Conditions and General Conditions of Contract document which provides the general conditions and terms of the contract. The Request Driver & Vehicle Services Advertising Inserts document may be of further assistance to the member. [See tabled paper no 2381.]

MINISTER FOR LOCAL GOVERNMENT — TRAVEL

1783. Hon Martin Aldridge to the Leader of the House representing the Minister for Local Government; Heritage; Culture and the Arts:

I refer to Legislative Council questions on notice No. 1432 and 1668 in relation to the Minister for Local Government; Heritage; Culture and the Arts diary including all appointments and travel arrangements and noting a summary was provided in answer to question on notice No. 1668, and I ask again, please table an unredacted copy of the Minister's diary and travel arrangements as outlined above between 23 and 25 August 2017 inclusive?

Hon Sue Ellery replied:

The answer to Legislative Council question on notice 1668 outlines the Minister's appointments and travel arrangements in respect his Ministerial duties between 23 and 25 August 2017.

If the Member has a specific question about the Ministers activities during this period it is requested that it be put on notice and it will be considered.

ENVIRONMENT — COCKBURN CEMENT — ODOUR NEUTRALISING TRIAL

1784. Hon Robin Chapple to the Minister for Environment:

(1) Has Cockburn Cement Limited (CCL) applied to the department to conduct an "odour neutralisation trial" at its Munster premises licensed under Part V of the *Environmental Protection Act 1986*?

(2) Has the application been approved?

(3) If yes to (2), when was it approved and under what conditions was approval granted?

(4) If no to (2), when will the Department make a decision on the application?

(5) Does the application state that CCL intends to inject a fine mist of water into the gas stream from one or both of the lime kilns at its Munster premises?

(6) Does the gas stream from the kilns contain sulphur dioxide, nitrogen dioxide, hydrogen chloride, carbon dioxide (acid gases) and other toxic gases and particulates?

(7) Will the injection of a fine mist of water into a stream of acid gases create sulphuric acid, nitric acid, hydrochloric acid and/or carbonic acid (Acid Rain)?

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

(9) If yes to (7), what measures does CCL propose to prevent acid rain being emitted from the chimney stacks of the kilns?

(10) If yes to (7), what conditions does the Department propose to impose on CCL to prevent acid rain being emitted from each kiln stack?

(11) If CCL was permitted to burn only natural gas in the kilns instead of coal, would the quantity of acid gases emitted from the kilns be reduced, based on the known compounds in the natural gas already being used by CCL in the kilns and the scientific evidence available to the department?

Hon Stephen Dawson replied:

(1)–(11) Yes. Works Approval W6167/2018/1 was granted on 25 January 2019. [See tabled paper no 2383.]

An appeal has been lodged against the conditions of the Works Approval and will be investigated by the Appeals Convenor, who will subsequently report to me. As the matter is under appeal and I will be the decision maker, it is not appropriate that I make further comment at this time.

JANGARDUP MINERAL SANDS MINE — ACID SULPHATE GROUNDWATER PLUME

1785. Hon Diane Evers to the Minister for Environment:

I refer to the former Jangardup mineral sands mine, and I ask:

(a) how extensive is the acid sulphate groundwater plume in and around the former site;

(b) what is the maximum level of sulphate (S04) that has been recorded in the groundwater plume;

(c) in what direction is the acid sulphate plume moving and at what speed;

(d) when is the acid sulphate plume expected to reach Lake Quitjup;

(e) what is the conservation status of Lake Quitjup; and

(f) what measures are being taken to protect Lake Quitjup from the acid sulphate groundwater plume?

Hon Stephen Dawson replied:

(a) The plume lies beneath the southern portion of the mine footprint of the former Jangardup Mineral Sands Mine and extends across an area of approximately 3 to 4 hectares. Elevated sulfate and acidity are present only within the superficial aquifer and do not extend to the underlying Yaragadee aquifer. The lateral extent of the plume in the direction of Lake Quitjup has not been precisely determined, but a bore located approximately 500 metres down-gradient of the mine footprint remained unaffected in December 2017 (the latest groundwater sampling results reported in Cristal Mining Australia Limited's 2017–18 Annual Environmental Report). Lake Quitjup is located 3.2 kilometres to the south-west and down-gradient of the mined area.

(b) The highest concentration of sulfate measured in the plume was 770 milligrams per litre and was measured in December 2017.

(c) Groundwater in the superficial aquifer flows in a south-westerly direction. With the data currently available, the rate of movement of the plume cannot be precisely established. However, groundwater monitoring over the period 2015 to 2017 appears to indicate a very slow rate of migration.

(d) The available data indicate that the plume will not reach Lake Quitjup, as dilution and dispersion are likely to reduce sulfate concentrations to background levels within a relatively short distance of the mined area.

(e) Lake Quitjup is located in D'Entrecasteaux National Park and is part of the Gingilup–Jasper wetland system that is listed as a wetland of national significance under the Directory of Important Wetlands in Australia (DIWA –WA105).

(f) Groundwater monitoring bores are installed immediately down-gradient of the plume. In accordance with the conditions of Ministerial Statement 508, Cristal Mining Australia Ltd carries out biannual groundwater monitoring at the rehabilitated mine site and reports results to the Department of Water and Environmental Regulation in its Annual Environmental Report. Should the results indicate any increased risk to Lake Quitjup, the Department may require further action to be taken under the provisions of the *Environmental Protection Act 1986*, and/or the *Contaminated Sites Act 2003*. Cristal Mining's next (2018–19) Annual Environmental Report is due by 1 April 2019.

MINISTER FOR MINES AND PETROLEUM — MEETINGS — SOUTH METROPOLITAN REGION

1787. Hon Nick Goiran to the minister representing the Minister for Mines and Petroleum; Commerce and Industrial Relations; Electoral Affairs; Asian Engagement:

I refer to the email from the Minister's office, dated 8 November 2018 and received at 4:47pm, and I ask:

(a) for what period of time was the Minister in the South Metropolitan Region;

(b) further to (a):

(i) how many meetings, events, functions or similar did the Minister attend;

(ii) who attended each of the meetings, events, functions or similar with the Minister; and

(iii) did the Minister receive or create any documents during or in preparation for the meetings, events, functions or similar;

(c) if yes to (b)(iii), what were those documents;

(d) further to (c), will the Minister table those documents;

(e) if yes to (d), when; and

(f) if no to (d), why not?

Hon Alannah MacTiernan replied:

(a)–(f) While this office sends innumerable emails each day, I assume you are referring to the standard email informing members that the Minister would be in their electorate.

For the member's information, the Minister's only engagement for the 9 November 2018 in the South Metropolitan region was the Industrial Relations Society's State Conference in Fremantle. Excluding transit time, the engagement was for 1.5 hours. The Minister was accompanied by a ministerial adviser.

For the benefit of the honourable member, that email (as do all notification emails of that nature from this office) contained contact details if he required further detail.

PILBARA PORTS AUTHORITY — ENVIRONMENTAL COMPLIANCE REPORT

1788. Hon Robin Chapple to the Minister for Environment:

I refer to the Environmental Compliance Report from the Pilbara Ports Authority for the 12 months ended 2 June 2018, and ask:

(a) is the Minister aware that on 20 September 2018, the Pilbara Ports Authority submitted to your department its Annual Audit Compliance Report Form for the period ended 30 June 2018, in which the Chief Executive Officer of the Pilbara Ports Authority declared that the Authority did not comply with all of its licence conditions during the reporting period;

(b) is the Minister aware that Section E of the Form, which was required to be filled out, listing "Details of Non-Compliance with Licence Condition" was omitted from the form as displayed to the public on the Department of Water and Environmental Regulation website;

(c) is the Minister aware that the measurement of air quality required under the Pilbara Ports Authority's Environmental Licence No. L4432/1989/14 is undertaken at the Taplin Street dust monitor, and that provision of this data to Pilbara Ports Authority is via the Port Hedland Industries Council;

(d) is the Minister aware that the Taplin Street monitor is located 2.6 km away from the Pilbara Ports Authority's port loading facility boundary where emissions may impact on the local residents;

(e) is the Minister aware that, based on the Bureau of Meteorology wind direction diagrams, the Taplin Street dust monitor is located in a position that gets the absolute minimum wind that would carry dust from port operations;

(f) will the Minister now take action to ensure that new dust monitors are placed on the Pilbara Ports Authority boundary and not several kilometres away, so that any dust emissions that may impact local residents can be detected immediately at the boundary; and

(g) if no to (f), why not?

Hon Stephen Dawson replied:

(a) Yes.

(b) The Department of Water and Environmental Regulation has advised me that the omission of non-compliances detailed in 4 pages of the published Annual Audit Compliance Report for Pilbara Ports Authority's (PPA) Eastern Operations was an administrative error. Once the Department became aware of the omission, on 23 November 2018 the Annual Audit Compliance Report for PPA was republished in full on the Department's website. [See tabled paper no 2384.]

(c) Yes.

(d) Yes.

(e) The Department of Water and Environmental Regulation has advised me that this statement is not correct based on its review of meteorological data. The Taplin Street monitor receives a consistent amount of wind from the direction of the Pilbara Port Authority (PPA) when compared to other directions.

(f)–(g) No. Air quality monitors are already located on the boundary of the PPA's Eastern Operations premises at Nelson Point. The Licence (L4432/1989/14) issued by the Department of Water and Environmental Regulation includes conditions requiring PPA to report on measures taken in the event of exceedances to air quality criteria set for these monitors.

There is a large network of strategically located air quality monitors throughout Port Hedland including on the boundaries of all the other main Port Hedland port users.

LIQUOR RESTRICTIONS — FITZROY AND HALLS CREEK

1789. Hon Robin Chapple to the minister representing the Minister for Racing and Gaming:

I refer to the alcohol restriction in Fitzroy and Halls Creek, and I ask:

(a) will the Minister outline the changes since the restrictions were introduced;

(b) will the Minister list the services that have been provided since the restrictions were introduced, and how their effectiveness have been measured; and

(c) will the Minister provide information on the amount of attacks on humans and infrastructure prior to the introduction of restrictions and since the restrictions?

Hon Alannah MacTiernan replied:

It is understood that the Minister for Racing and Gaming's office discussed this matter with the Member's office directly to offer assistance in appropriately directing the Member's questions, given much of the information sought does not fall under the Minister's responsibilities.

(a) The restrictions in Fitzroy and Halls Creek have not been amended since their respective introductions in 2007 and 2009. [See tabled paper no 2385] for 2007 and [see tabled paper no 2385] for 2009.

(b) This question would be better directed to the Minister for Health; Mental Health and the Minister for Community Services who have portfolio responsibilities for providing assistance services in Fitzroy and Halls Creek.

(c) This question would be better directed to the Minister for Police, who may be able to provide the data sought.

REGIONAL DEVELOPMENT — COLLIE FUTURES SMALL GRANTS PROGRAM

1791. Hon Colin Holt to the Minister for Regional Development:

I refer to the Collie Futures small grants program:

(a) please provide details of all applicants, including the name and address of the applicant; the project description; and the funding amount requested; and

(b) please provide a list of all successful applicants and the funding amount for each?

Hon Alannah MacTiernan replied:

The information requested has previously been provided to the Member in answer to question without notice 867 asked on 20 September 2018.

TREASURY AND FINANCE — MASTER MEDIA CONTRACTS

1792. Hon Martin Aldridge to the minister representing the Treasurer; Minister for Finance; Energy; Aboriginal Affairs:

I refer to Legislative Council questions on notice No's. 1612 and 1709 in relation to the State Government Master Media Contract, and I ask for the third time:

(a) please table the contract; and

(b) if the Minister further refuse to comply with (a) when will the Minister comply with Section 82 of the *Financial Management Act 2006*, an Act that you have responsibility for as Treasurer of Western Australia?

Hon Stephen Dawson replied:

(a) The contract consists of the Request, Addenda, General Conditions of Contract, Offers from the successful bidders and the contract award letters to the successful bidders. I table the Request, Addenda and General Conditions of Contract. [See tabled paper no 2382.] In view of the commercially sensitive information in the Offers and award letters, it is preferable that these documents are not released to the Honourable Member. If the Honourable Member was to provide some clarity on the specific information sought, the Minister may be able to assist with relevant documents. If the offers and copies of the award letters are to be released to the Honourable Member approval may need to be sought from the two vendors prior to this occurring.

(b) Not applicable.

PREMIER — AGRICULTURAL REGION — VISIT

1794. Hon Martin Aldridge to the Leader of the House representing the Premier; Minister for Public Sector Management; Federal–State Relations:

I refer to Legislative Council question on notice No. 1671, in relation to the Premier's visit to the Agricultural Region on 3 October 2018, and aspects of the question which were not answered by the Premier, and I ask again:

(a) on what date and at what time were the Hon Darren West MLC and the Hon Laurie Graham MLC notified of the Premier's visit;

(b) please provide an unredacted copy of the Premier's itinerary and travel arrangements for Wednesday 3 October 2018; and

(c) please provide all briefing notes and advice provided to the Premier in relation to meetings, functions and other commitments undertaken by the Premier on 3 October 2018?

Hon Sue Ellery replied:

(a) First contact was made with the Office of the Hon. Darren West MLC on the morning of 29 September 2018 in order to ascertain the availability of both Members for the proposed visit by the Premier to their electorate.

(b) [See tabled paper no 2379.]

(c) At the time of notification of the Premier's visit the Honourable Member was given a contact number if he required subsequent information.

PREMIER — BUSINESS CASE ACCESS

1795. Hon Martin Aldridge to the Leader of the House representing the Premier; Minister for Public Sector Management; Federal–State Relations:

I refer to Legislative Council question on notice No. 1664, in relation to the provision of business cases and the 'Inquiry into Government Programs and Projects,' and I ask:

(a) who notified agencies to provide business cases to the special inquirer;

(b) on what basis or law were agencies directed to comply;

(c) please provide a copy of the 'notification' to agencies directing them to provide business cases;

(d) please provide a list of business cases supplied to the Special Inquirer; and

(e) did all agencies comply with the 'notification'?

Hon Sue Ellery replied:

(a) The A/Director General, Department of the Premier and Cabinet provided advice to all Directors General and Chief Executive Officers via the CEO Gateway in relation to the provision of material to the Special Inquiry.

(b) Under the provisions of the *Public Sector Management Act 1994*.

(c) [See tabled paper no 2380.]

(d)–(e) Please refer to Appendix "K" and "L" in Volume 1 of the Final Report of the Special Inquiry into Government Programs and Projects.

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