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LEGISLATIVE ASSEMBLY

Tuesday, 18 August 2020

Legislative Assembly

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THE SPEAKER (Mr P.B. Watson) took the chair at 2.00 pm, acknowledged country and read prayers.

CORONAVIRUS — RESTRICTIONS

Statement by Premier

MR M. McGOWAN (Rockingham — Premier) [2.01 pm]: I rise to update the house on the time line for the planned easing of COVID-19 restrictions in Western Australia. As members would be aware, in June the government announced an updated roadmap for WA, which included details about phase 5 and phase 6. Phase 5 would result in the removal of the two-square-metre rule and the 50 per cent capacity limit for major venues such as Optus Stadium. The two-square-metre rule is a nation-first rule that was designed to ease the burden on businesses compared with the more problematic four-square-metre rule being used in other parts of the country.

Phase 5 was set to be introduced on 17 July. This was a tentative date, subject to health advice from our Chief Health Officer, Dr Andrew Robertson. There have already been three two-week delays to the introduction of phase 5, due to the health risk presented by the situation on the east coast. This morning, however, on the advice of the Chief Health Officer, I announced a further extension of phase 4 by two months. This means that the new, tentative start date for phase 5 will be Saturday, 24 October. Proceeding to phase 5 is just not appropriate right now. This will cause frustration and problems for some sections of the community.

One consequence of this decision surrounds the 2020 Perth Royal Show. This morning, I informed the Royal Agricultural Society that due to health advice and the unique challenges the event presents, the Royal Show cannot go ahead this year. I also informed the Royal Agricultural Society that we will work closely with it to make sure that it can deliver a vibrant Perth Royal Show in future years. I thank the Royal Agricultural Society for its understanding.

Obviously, this news will be disappointing for many families, businesses and, of course, our regional farming communities. However, it is important that we do not take unnecessary risks when it comes to this pandemic and the health of Western Australians. As always, we are trying to strike the right balance between protecting our community and keeping our economy as open as possible.

Although we have had no community transmission in Western Australia, we simply cannot afford to get complacent, because the virus could sneak back into WA and spread like wildfire. If we can learn anything from over east and overseas—including New Zealand recently—it is that this virus can spread extremely fast. Other jurisdictions have introduced or strengthened restrictions recently; WA has been fortunate enough to remain in phase 4. The government expects to make a further update or confirmation of this new time line in October, ahead of Saturday, 24 October, in order to provide as much certainty and clarity to the public as possible. As always, we thank the people of Western Australia for their patience and understanding.

DOMESTIC GAS RESERVATION POLICY

Statement by Minister for State Development, Jobs and Trade

MR M. McGOWAN (Rockingham — Minister for State Development, Jobs and Trade) [2.04 pm]: I stand today to announce changes to the WA domestic gas policy that will ensure security of gas supply for the state. Western Australia's industrial development and economic growth has been underpinned by an abundance of locally available natural gas, delivered by local gas producers and by liquefied natural gas exporters meeting their WA domestic gas policy commitments. However, structural changes to Western Australia's gas market mean that our future domestic gas supply could be at risk unless we bolster our policy. Local gas producers are considering exports using spare LNG processing capacity and pipeline options to the east coast. We have all seen the gas crisis on the east coast impact domestic power bills and damage manufacturing industries. We will not allow that to happen here.

WA's domestic gas policy is the envy of the nation. Our updated policy will ensure Western Australia will continue to have access to reliable and affordable gas that will support local jobs and economic growth. Key elements of the updated policy are as follows. The government will not support the export of gas via the WA pipeline network, other than in exceptional circumstances. This means that we will not support the export of WA domestically allocated gas to the eastern states or overseas. Further, LNG exported to the east coast or used internationally as shipping fuel cannot be used to acquit domestic gas obligations. We will also improve compliance reporting and transparency in the market about the gas that is supplied and the gas that is available. There will be no change to traditional LNG projects like Browse and Scarborough, which must reserve 15 per cent of exported gas volumes for domestic use. As per the exceptional circumstances mentioned above, the government will allow stage 2 of the Waitsia gas project to export around half its current reserves to ensure the project proceeds and provides 200 construction jobs in the midwest. All remaining reserves will be made available in the local market.

My government continues to support the growth of the WA gas industry, with a clear focus on the benefits that the industry brings as both an exporter and as the bedrock of our state's domestic economy. Securing the state's energy supplies is an important part of my COVID-19 economic recovery plan and a foundation for new jobs and economic growth in the state. This updated policy will ensure these benefits continue to flow for the people of Western Australia.

POLICE — DRONES

Statement by Minister for Police

MRS M.H. ROBERTS (Midland — Minister for Police) [2.07 pm]: I wish to update the house on the latest expansion of our police force's aerial capacity in the form of new drones. The Western Australia Police Force has begun the rollout of 40 new drones and is training 60 officers to be their pilots. Each regional police district will have two drones at their disposal, with the remainder based in the metropolitan area. The drones will add significantly to the toolkit available to police in several, different ways. They provide a safe and certain way to track offenders fleeing a crime scene. They enable police to monitor and trace hoon drivers without hazardous and potentially fatal physical intervention. They are also equipped with thermal imaging equipment, which will provide emergency response teams with an important capacity in the conduct of land and sea search operations. These drones enhance the air support available to the police, and their rollout is supported by extra theoretical and practical training, which will satisfy Civil Aviation Safety Authority requirements, provided to our police drone pilots.

Some of the first officers to complete this training are major crash investigators. It provides them with a great tool for complex mapping of the site of a serious or fatal crash. These officers have now been deployed, together with their drones, to undertake this important work. Last week, Kalgoorlie police used drones in an operation aimed at getting hoon motorcycle riders off the streets of Kalgoorlie–Boulder, with reports that 10 off-road bikes had been removed from the streets and seven people charged with 15 offences.

This investment of $1.2 million is the latest in a series of commitments by this government in new technology and equipment for our police force. Since 2017, the McGowan government has overseen, amongst other initiatives, the $18 million rollout of body cameras, the development and issue of OneForce mobile phones, additional automatic numberplate recognition capability, which was first introduced by the Gallop government, and a $26.9 million investment in a new-generation police helicopter. This government understands that a contemporary police force needs contemporary technology. Drone technology will assist both the police and the community they serve. It does not just make the work of police easier; it will save lives.

DEPARTMENT OF CORRECTIVE SERVICES — SUICIDE PREVENTION TASK FORCE

Statement by Minister for Corrective Services

MR F.M. LOGAN (Cockburn — Minister for Corrective Services) [2.09 pm]: I rise to inform the house that the Department of Justice is establishing a suicide prevention task force to oversee the Department of Corrective Services' response to significant incidents of self-harm and suicide. The goal of the task force is to strengthen a suicide and self-harm prevention approach. This will include a review of incidents across the prison estate with the aim to reduce deaths in custody by suicide. The committee will be chaired by the Commissioner of Corrective Services and representation will include key internal staff—the deputy commissioner offender services and the director mental health and alcohol and other drugs—specialist services from the community when required, as well as external stakeholders.

The committee will review all significant incidents of suicide, attempted suicide and serious self-harm. When the department identifies any common themes that are emerging and posing a risk to safety and wellbeing of prisoners, the department will seek to implement system-wide interventions to address these. System-wide responses to these indicators will consider further training that may be required and will draw on best practice standards that are available in the wider community when appropriate. The department will ensure that cultural responsivity and appropriateness is at the forefront of any practical change and that prison superintendents are provided with the support required to ensure compliance with the healthy prison framework.

VIETNAM VETERANS' DAY

Statement by Minister for Veterans Issues

MR P.C. TINLEY (Willagee — Minister for Veterans Issues) [2.11 pm]: Today we commemorate Vietnam Veterans' Day on the anniversary of the Battle of Long Tan in 1966. We remember the sacrifices of those who died and say thank you to the many young Australians who served during the 10 years of our involvement in the Vietnam War. The Vietnam War was Australia's longest military engagement of the twentieth century, from 1962 until 1972. The arrival of the Australian Army Training Team Vietnam in South Vietnam during July and August 1962 marked the start of Australia's involvement in that war. By war's end, almost 60 000 Australians served, 521 died and 3 000 were wounded.

Whereas veterans of World Wars were welcomed home, those returning from Vietnam were occasionally accosted, spat at and insulted by protesters. Many branches of the Returned and Services League of Australia, though not

all, refused to accept them as members. In 1987, Vietnam veterans received a welcome home parade. Around 22 000 veterans marched through Sydney in front of a crowd of 100 000. Prime Minister Bob Hawke announced that Long Tan Day would be known as Vietnam Veterans' Day. Although 2020 has brought us many challenges, it is important to also remember those who have faced challenges and adversity before us, and to pause and reflect on the bravery, teamwork and endurance that Australians displayed throughout the war.

Lest we forget.

QUESTIONS WITHOUT NOTICE

DOMESTIC GAS POLICY — EXCEPTIONS

556. Mrs L.M. HARVEY to the Premier:

Will the Premier explain to the house the decision-making process that he undertook to allow an exception for Mitsui E&P Australia and Beach Energy from his changes to the government's domestic gas policy?

Mr M. McGOWAN replied:

As members know, we have had a domestic gas policy in place in Western Australia going back 14 years. Premier Alan Carpenter introduced it in 2006. It was put in place to require a contribution towards domestic gas from major projects across Western Australia. Before that we did not have a domestic gas policy. It was hotly contested at the time. It has been a success, and we have seen that other states have not had a model that has worked particularly well, particularly in Queensland. But we have identified that there are some issues with it. There have been some problems, particularly about a potential loophole whereby gas exported from Western Australia to the eastern states could be counted as domestic gas. We did not want to see that happen, so we had to deal with that.

The Waitsia project has been around for a considerable period, and we know that it has the capacity to deliver jobs. If we did not provide for it to be exempted, the project might not happen. It is also shovel-ready. It is ready to go and a final investment decision will be made very shortly. There will be 200 jobs in the midwest and 50 per cent of the gas produced will come into Western Australia, so we decided to allow that project to happen.

DOMESTIC GAS POLICY — EXCEPTIONS

557. Mrs L.M. HARVEY to the Premier:

I have a supplementary question. Can the Premier outline who he consulted with and explain all the factors that led to the change in domestic gas policy?

Mr M. McGOWAN replied:

I consulted with the agency and the industry. I do it all the time. I work very hard. That was ongoing, but the decision-making on this project has been going on now over some years to get to this point. But I just remind the Leader of the Opposition that half the gas out of Waitsia will go into the domestic market. It will start work soon. When we start to suffer shortfalls, which we expect later this decade, all the gas from Waitsia will be available for the domestic market, and we have taken the decision that allows that to occur.

MINERALOGY PTY LTD AND INTERNATIONAL MINERALS — CLIVE PALMER

558. Ms J.J. SHAW to the Attorney General:

I refer to the urgent legislation that passed through this Parliament last week aimed at protecting Western Australians from claims made against the state by Clive Palmer, Mineralogy and International Minerals, and Mr Palmer's assertion in the media that it is not true that he is seeking almost $30 billion in damages from the state. Can the Attorney General outline to the house whether Mr Palmer's assertion is correct?

Mr J.R. QUIGLEY replied:

I thank the member for Swan Hills for the question. I summarised Mr Palmer's claims in the second reading speech and said that the first damages claim amounted to almost $30 billion and the second damages claim was unquantified. The Premier, of course, repeated that outside the chamber on several occasions. I nearly cut myself shaving when I was listening to the ABC news last week and heard Mr Palmer describe this assertion as bull excrement—to use a more refined term than he used on the radio in relation to those claims. I challenged Mr Palmer, or invited Mr Palmer, to release the arbitration papers, but he has declined to do so. He just repeated his assertion that it is bull excrement that there is a claim in for almost $30 billion. I have here the apposite papers from his claim, "Applicant's Amended Statement of Issues, Facts and Contentions", which is on the cover sheet of his claim. Pages 89 to 93 of the claim is where he particularises his claim for damages. Most significantly, on page 93, it is signed in person by "Clive F. Palmer". I table that document from the statement.

[See paper 3576.]

Mr J.R. QUIGLEY: I also seek to table a summary that I have made for the ease of all members in which I list the seven claims. Claims 1 to 6 total $27.75 billion. Claims 6 and 7, being the second damages event, are unquantified. They have to be added to the $27.75 billion; he has not quantified those yet. Interest is running at the rate of

six per cent, so every day that passes, it goes up by $1.83 million—that is, $56.7 million a month. By the time the arbitration was scheduled to be heard, that would be a further $226 million, and by the time it was concluded, that would be a further half a billion on top of that.

[See paper 3577.]

Mr J.R. QUIGLEY: Mr Palmer has sought to deceive the public. In fact, by his own signature, Mr Palmer has marked himself beyond reasonable doubt as a liar—telling lies to the Western Australian public and the nation. Beyond reasonable doubt, he is a liar and he will always carry that reputation in Western Australia. He signed the document himself. This is not a document signed by a solicitor or someone acting on his behalf. He proudly signed it on 28 May 2020 under the name Clive F. Palmer. His signature is on the document. Beyond reasonable doubt, he is a liar. Not only is he trying to lift nearly $30 billion—it might be over $30 billion when that second claim is quantified—but he is also telling bald-faced lies to the Western Australian public and to the Australian public. He will go down in history as one of the rankest liars in litigation we have had in this state. We have proof beyond reasonable doubt now laying on the table of the Legislative Assembly.

That is what I have to say, member for Swan Hills, in relation to Mr Palmer's assertion that it is bull excrement that he is claiming nearly $30 billion. It is just a rank lie.

The SPEAKER: Attorney General, did you want to table any more of those papers?

Mr J.R. QUIGLEY: I have tabled them; they were my copies to read from. I am sure the attendants have the copies already. They are both tabled.

CORONAVIRUS — INTERSTATE TRAVEL RESTRICTIONS — EXEMPTIONS

559. Mr P.A. KATSAMBANIS to the Minister for Police:

I refer to the 6 661 exemptions, or more than 50 exemptions a day, of people entering Western Australia without quarantine. Why has the minister refused to answer questions in the Legislative Council on how many business exemptions have been provided, allowing people to enter Western Australia from Victoria without quarantine?

Mrs M.H. ROBERTS replied:

I thank the member for the question. I endeavour to provide what information I can through the process in the Legislative Council. The member referred to some 6 000 exemptions. I expect the number is probably closer to 7 000 by now. That refers to a long period of time. It certainly refers to a period of time prior to July when further restrictions were put in place. I am advised that the vast majority of those exemptions are for domestic flight crew. I know that the member is trying to beat this up and pretend that 6 000 or 7 000 people are out there who did not quarantine or whatever. Most of them are domestic flight crew and most entered WA when they were not required to quarantine. From a date in July, tougher requirements have been put in place. Many of those exemptions are for the same person, so there are repeat entries, for example, by flight crew. These are only flight crew who reside in Western Australia.

I provide the information that is available to me. Over 400 police are dealing with COVID-19. We are running a very precautionary regime. Those police are flat out doing the job that is required of them and they are doing an excellent job. Our police force has stepped up amazingly. I am not going to tell them that they have to take themselves off that duty to answer upper house questions and do some analysis for the exact time period and the exact classification that the member is requesting. All information comes out in the fullness of time. I provide what information is readily available. The police can give me ready access to that information. I think the member should have some faith that our police are doing an excellent job.

CORONAVIRUS — INTERSTATE TRAVEL RESTRICTIONS — EXEMPTIONS

560. Mr P.A. KATSAMBANIS to the Minister for Police:

I have a supplementary question. Given that the minister cannot tell us how many people from Victoria have been exempt from quarantine and given that she has just told us that more people are coming in since that figure was published, is this not the exact reason we need the COVID-19 review that the opposition has been calling for?

Several members interjected.

The SPEAKER: Members! Is everyone finished? Take a deep breath.

Mrs M.H. ROBERTS replied:

The fact of the matter is that there have been the strictest requirements around people from Victoria ever since that outbreak occurred. The member is plucking a figure that goes over a much broader period when Victorians were able to travel here in a less restricted way than they are now. The toughest restrictions are in place. Very few people get to travel here from Victoria. The vast majority who do have to quarantine. This requires strict hotel quarantine as if they had come from overseas. There are some exempt categories. Being a businessperson is not an exempt category. I would be surprised if any businesspeople were actually coming through from Victoria at the moment. Any who are would surely be required to quarantine.

IRON ORE PROCESSING (MINERALOGY PTY. LTD.) AGREEMENT AMENDMENT BILL 2020

561. Mr C.J. TALLENTIRE to the Premier:

I refer to the urgent legislation that passed through Parliament last week aimed at protecting the state from the unique and unprecedented action being taken by Clive Palmer, Mineralogy and International Minerals.

(1) Can the Premier advise the house whether these laws affect any other companies, projects or state agreement acts in WA?

(2) Can the Premier outline to the house why WA remains a safe and stable place to invest?

Mr M. McGOWAN replied:

(1)–(2) I thank the member for Thornlie for the question. The legislation we passed last week was extraordinary. It was the right thing to do. I want to reassure everyone that this is a targeted law specific to an unprecedented set of circumstances. The law is focused on resolving an isolated dispute. Western Australia will continue to be a safe and stable place to invest. The law that we passed does not apply to any other project, any other state agreement or any other company other than Mineralogy and International Minerals. The law does not take away Mr Palmer's right to proceed with the Balmoral South project if he wishes. The law does not override Mineralogy or International Minerals' rights to develop that project. It does not affect his ability to sell that right to someone else. The law protects Western Australians from an unprecedented course of action that Mr Palmer was taking. It protects Western Australia from a $30 billion damages claim, all because Mr Palmer chose not to proceed with the project with the conditions that were placed upon it by Mr Barnett. Instead of choosing to make a profit by establishing a mining project at Balmoral South, as is his right, Mr Palmer decided to try to make money via litigation. No-one has ever tried to do that before. No company has ever tried to do that before. It is unthinkable that someone could bankrupt a state in Australia just because they were not happy with the conditions set by a state government on a project.

Mr D.T. Redman interjected.

The SPEAKER: Member for Warren–Blackwood.

Mr M. McGOWAN: The Nationals WA were very good last week, so please.

Mr D.T. Redman interjected.

Mr M. McGOWAN: You were. I express my thanks. The Nationals WA were good; I did not say the Liberal Party was good.

The chief executive of the Chamber of Minerals and Energy of Western Australia, Paul Everingham, said —

> … the WA Government took very unique action against a very unique dispute on behalf of the people of WA. While some of the proposed amendments are unprecedented, it should be made clear the proposed amendments have no relevance to and are not proposed to be extended to any other such agreements. As such, the resources sector does not believe that the actions by the WA Government will be detrimental to the resources sector. The resources sector does not believe that the actions by the WA Government will harm investment in WA.

All we have done is protect the taxpayers, and therefore industry, in Western Australia from someone who wanted to bankrupt our state. The Attorney General noted that Mr Palmer went public last week, and he said the claims about $30 billion were wrong. He refused to put a figure on it, members might recall. He did not put a figure on it when asked repeatedly on radio and other programs. He refused to put a figure. But he said $30 billion was wrong.

So in order to clear up the record, the Attorney General has just tabled Mr Palmer's statement of issues, facts and contentions—in other words, his statement of claim. The Attorney General has just tabled Mr Palmer's statement of claim, and, within it, the figure, when we add up all the damages claims, comes to around $30 billion; and, on top of that, he is seeking unspecified damages. In other words, this document demonstrates that Mr Palmer was seeking in excess of $30 billion from the people of Western Australia. What is more, Mr Palmer's name, Clive Frederick Palmer, is on the front of the document. On the back of the document, is Mr Palmer's signature, "Clive F Palmer, Representative, Mineralogy Pty Ltd." So Mr Palmer, when he claims that the figures that we used last week were wrong, has been shown to not be telling the truth. In other words, the document just tabled proves that Mr Palmer was seeking to take $12 000 from every man, women and child in this state.

I have also noted that Mr Palmer has started a major advertising campaign, with radio ads and newspaper ads, and I expect there will be more. That is what bullies do when they are stood up to. That is what people like Mr Palmer do when they are stood up to. When we take them on, they do things like that. His ads are littered with untruths. I urge all Western Australians to understand when they hear these ads, and when they hear this negativity about me and the government, that it is all being funded by one Clive Palmer, who wants to take $30 billion from the people of this state.

CORONAVIRUS — INTERSTATE TRAVEL RESTRICTIONS — EXEMPTIONS

562. Ms M.J. DAVIES to the Premier:

I refer to the case reported by the ABC on 29 July about the WA man who was refused a G2G pass to return to Perth while his wife was granted one, and to the increasing number of Western Australians who find themselves in a similar situation.

(1) Does the Premier believe the 400 police currently assigned to assess these applications is adequate?

(2) Given the ongoing state of emergency and restrictions in WA, will the Premier increase resources for the WA police to add to the personnel currently assigned to assess these applications?

Mr M. McGOWAN replied:

(1)–(2) I am not aware of the particular case that the member is referring to, but I do understand that there have been some people who have been aggrieved and unhappy with the rules and the decisions put in place. It has not been an easy process. Lots of people have not enjoyed or have not been happy with the decisions made by police along this journey over the last six months. But we are doing it for the best of reasons, and we are doing it to protect the people of Western Australia. We now have had 130 days without a case of community spread of the virus in WA, and our border is a part of that. So although some difficult decisions have been made, the decisions have been made with the best interests of the health of the people of the state at heart, and they have been made in order to minimise risk. Around 400 police officers are working on this, and a whole bunch of health officials and personnel are working on it. We also have a small contingent of ADF working on it. I expect we will have more to say about the additional resources in coming days.

CORONAVIRUS — INTERSTATE TRAVEL RESTRICTIONS — EXEMPTIONS

563. Ms M.J. DAVIES to the Premier:

I have a supplementary question.

Could the Premier expand, please, on the additional appropriate resources so that we do not leave our WA police open to criticism as a result of inconsistent decision-making?

Mr M. McGOWAN replied:

I received a letter from the Prime Minister last week, offering additional ADF resources. I will be writing to the Prime Minister, taking up his offer to seek significant additional ADF resources for the people of Western Australia. I do think the commonwealth could do more to assist us in this environment, so that is where I will be seeking the resources from. The heavy lifting when it comes to the border arrangements, the health arrangements and the quarantine arrangements is all done by the state, particularly the police and health staff, and some security staff. It is all done by the state government. My view is that the ADF can do more. The Prime Minister has offered additional assistance. We will seek significant additional assistance from the ADF.

MURDOCH MEDIHOTEL

564. Mrs L.M. O'MALLEY to the Minister for Health:

I refer to the McGowan Labor government's $5.5 billion "WA Recovery Plan", which includes a significant investment in infrastructure and services that put patients first.

(1) Can the minister outline to the house what this government investment in a medihotel at Murdoch will mean for those who are discharged from hospital but may require ongoing care?

(2) Can the minister advise the house how this investment will help free up hospital beds and ensure more patients can be treated?

Mr R.H. COOK replied:

(1)–(2) I thank the member for the question. It was great to be with the member for Bicton and the member for Jandakot on the weekend to announce the funding in relation to the Murdoch medihotel. This is a great development and comes as part of the McGowan government's recovery package, which is about getting Western Australians back to work, continuing to see the economy recover, and making sure that Western Australians enjoy the benefits of their hard work of getting the COVID-19 disease under control. It was great to be with the member for Bicton on Saturday to announce the new 80-bed Murdoch medihotel as part of our health and knowledge precinct. This is underpinned by a funding commitment, some of which comes from the recovery package, of $55.5 million for the operation of the new medihotel. The medihotel will be run in conjunction with our partners, Aegis Aged Care and the Fini Group, as part of this $200 million precinct, which they will get down to building today. They are out there, making sure that this shovel-ready project will bring construction work and great opportunities for Western Australians to be employed on this important project.

As the Minister for Health, I am delighted that we will see this comprehensive medical facility established next to St John of God Murdoch, and of course Fiona Stanley Hospital. As part of this 80-bed medihotel facility, we will also see comprehensive primary healthcare services located on the one site, including an urgent care clinic with minor trauma rooms, and general practitioner services such as a pharmacy,

imaging and pathology. The development, as part of this world-leading precinct, will also offer chronic disease prevention and management, rehabilitation, and life skills training to divert people from hospital, decrease hospital admissions, and prevent patient readmission. We expect the medihotel will divert around 4 500 patients a year from the hospital. That will be a huge benefit to the ED, but it will also be of great benefit to those patients who will not need to be therefore accommodated in a busy acute hospital.

This obviously is part of a commitment that we made at the last election. It is great to see this election commitment come alive as part of a comprehensive health precinct that will see $200 million worth of private investment brought to this precinct. We thank the Fini Group for its commitment around the build. We particularly thank Aegis Aged Care, which will be operating the medihotel on behalf of the people of Western Australia, in conjunction with the aged-care facility that it will have on that site. It is an exciting development. It means jobs and better health care. Once again, the McGowan government is putting patients first.

FAMILY AND DOMESTIC VIOLENCE RESTRAINING ORDERS

565. Mr S.K. L'ESTRANGE to the Premier:

I refer to media reports that there has been a 38 per cent surge in applications for family and domestic violence restraining orders over the three years until 2018–19. Can the Premier confirm that there is a gridlock in Western Australia's courts, with women waiting months, even years, for family violence restraining orders?

Mr M. McGOWAN replied:

I do not have the figures to hand. The Minister for Prevention of Family and Domestic Violence just advised me that yesterday we were able to announce the provision of 100 new tracking or monitoring devices—the ankle bracelets—for perpetrators. Clearly, family and domestic violence over the COVID-19 period has been an issue. The Commissioner of Police has advised me that, overwhelmingly, crime rates have fallen during the last six months, related to COVID-19 obviously, but in the case of family and domestic violence, for probably quite obvious reasons, the rate has increased. Obviously, we have announced a range of packages, whether those packages involve accommodation, tracking devices or new laws. In fact, we have done more in the area of combating family and domestic violence than, I think, any government ever. One thing we did was to ensure that all cases are reported by the police, and no doubt that will mean an increase in reported cases of family and domestic violence simply because all incidents are required to be reported as opposed to before. No doubt that statistic will be used against us, but what was the alternative—to allow cases to not be reported? That is one of the things that we have done to ensure greater accountability on this issue. In terms of the detail—the member will probably ask me a detailed follow-up question—it would have been nice if he could have given me notice about something like this.

FAMILY AND DOMESTIC VIOLENCE RESTRAINING ORDERS

566. Mr S.K. L'ESTRANGE to the Premier:

I have a supplementary question. It is good to hear the Premier acknowledge that a whole-of-government approach is needed, because this area covers the Western Australia Police Force, the Department of Communities, the Attorney General and the Premier. What immediate action will the Premier take to enable the courts to protect Western Australians, including children, who are currently at extreme risk of family violence?

Mr M. McGOWAN replied:

The Family Violence Legislation Reform (COVID-19 Response) Act 2020 has implemented increases in the penalties for breaching a family violence restraining order, a violence restraining order or a police order. The fine has increased to $10 000. The limitation period for the prosecution of a breach of a family violence restraining order has been raised from one year to two years so that offenders can be held to account for breaches of orders. There is now an aggravated offence in circumstances of family violence, so that repeated breaches of an order can result in a more significant penalty. That is what the legislation that became an act of Parliament in April of this year did. It has implemented the changes I think the member was asking for.

Tabling of Paper

Mr Z.R.F. KIRKUP: On a point of order, the Premier appeared to be reading from an official document. I ask him to table it.

Mr M. McGOWAN: Away you go; go for your lives.

[See paper 3578.]

PLANNING REFORM

567. Mr J.N. CAREY to the Minister for Planning:

I refer to the state government's $5.5 billion "WA Recovery Plan", which includes a focus on unlocking barriers to investment by cutting red tape and streamlining processes. Can the minister update the house on the implementation of this government's reforms to the state's planning system and can she advise the house what has been the response to these once-in-a-generation reforms?

Ms R. SAFFIOTI replied:

I thank the member for Perth for that question and for his commitment to supporting small business and cutting red tape in Western Australia. The state government is assisting Western Australia's post-COVID-19 economic recovery through a planning system that supports major job-creating projects, small business and residents wanting to invest in home improvements. The Planning and Development Amendment Act 2020, which recently passed Parliament, contains new provisions to cut red tape and support job-creating projects. A key part of the reform was the new state development pathway. That unit has been established and has already been very busy, having fielded dozens of inquiries and looked at applications to proceed with advice to the Western Australian Planning Commission. Regulations are in the community and the marketplace for consultation in relation to the cutting of red tape and the fast-tracking of small projects for homeowners. Our planning reform package, together with the confidence of the housing industry, which is supported by both the state and federal government, has seen some significant results already. Subdivision applications have increased from 213 in June last year to 419 in June this year, which is a 97 per cent increase. There has been a 140 per cent increase from July last year to July this year in subdivision applications. Members may recall that the Liberal Party was not overwhelmingly supportive of our planning reform legislation. It made some extraordinary claims that the bills were corrupt and open to lobbying. A conga line of critics from the other side levelled insults, led by the member for Cottesloe. The member for Dawesville got in on the act and, of course, the opposition spokesperson for planning was a fierce critic of the bill in many instances. Hon Tjorn Sibma said —

> It is very clear that the creation of these new powers will create some opportunity for … corrupt or even criminal behaviour to take place, and we should all stand against that.

He also said that he did not need to labour the point that the creation of powers like this would potentially corrupt the planning system. That is his opinion and he is entitled to his opinion, but I was surprised when I stumbled across an invite to an exclusive breakfast at the 500 Club with Hon Tjorn Sibma to discuss our planning and development bill. The opposition spokesperson on planning was criticising the bill and calling it corrupt but then he had an exclusive event for 500 Club members to talk about how he supported the bill and how great the bill is for development in WA. The Liberal Party is so desperate that it is borrowing our policies for fundraisers. It does not have any policies and it does not have a leader that can be promoted for fundraisers. Here is the deal—the Liberal Party can borrow our policies for fundraisers but it cannot borrow our leader.

Several members interjected.

The SPEAKER: Members, please! Come on, it has been pretty good so far.

CORONAVIRUS — STATE ECONOMIC RECOVERY PLAN — AGRICULTURE SECTOR

568. Mr R.S. LOVE to the Premier:

I refer to the shortage of skilled and unskilled workers in the agriculture sector, including the need for 1 000 skilled heavy vehicle operators for harvesting, 200 shearers and up to 440 grape pickers for the wine industry. What is the government doing to urgently attract people to these roles and provide certainty for WA's $10 billion agricultural sector?

Mr M. McGOWAN replied:

I answered this question, or a variance of it, a number of times last week. I explained on numerous occasions that we are in a pandemic and we have a hard border—we have a border internationally and we have a border with the eastern states. We are trying to deal with some significant issues. We obviously need to look within. We need Western Australians to undertake these jobs; that is what we need. I cannot magic up fruit pickers from Vanuatu or people from other countries who would ordinarily do these roles because we have a hard international border. We have launched a massive effort to train Western Australians, with cheaper fees and far more courses. A huge number of people have applied. As I have said repeatedly, we will shortly launch a major campaign to get Western Australians out there to undertake these roles across regional Western Australia. Those are the sorts of things that we can do, but it is a joint effort. Industry needs to work to attract people and it needs to promote the opportunities that are out there. It cannot always be the government's responsibility. Members opposite always seem to ask, "Why doesn't the government fix it?" Industry needs to help. If farming communities and the agriculture sector need additional people, they need to promote the jobs and hunt the people down to do these roles. That is what needs to happen. We will do our bit, but we will not run the risk of having the virus come in by dropping the interstate or international borders. If that is what the member is asking us to do, we are not doing it.

CORONAVIRUS — STATE ECONOMIC RECOVERY PLAN — AGRICULTURE SECTOR

569. Mr R.S. LOVE to the Premier:

I have a supplementary question. I note that the Premier said that he will shortly launch a campaign to find staff, but our grain harvest season begins early next month and in many regions farmers are desperate for staff. We have been raising this issue with the Premier since March; what has he been doing since then?

Mr P. Papalia interjected.

The SPEAKER: Minister for Tourism, I call you to order for the first time.

Several members interjected.

The SPEAKER: Members, please!

Mr M. McGOWAN replied: If the member has been raising it with me since March, he has not been doing it very effectively because I have no recollection of him ever speaking to me about it, and I have a pretty good memory.

Several members interjected.

The SPEAKER: Members!

Mr M. McGOWAN: Tell me the times that you came and saw me about it, member.

As I said, we are going to do everything we can to deal with it with a major campaign, which we will launch shortly, about Western Australians working in these roles. I have said repeatedly that I think this is a great opportunity. I worked on a farm doing cotton seed bagging when I was a university student.

Mrs L.M. Harvey: You've done everything!

Mr M. McGOWAN: Have members ever been cotton seed bagging? Let me tell them, it ain't fun!

I have done a lot of things, Leader of the Opposition; that is true. Cotton seed bagging ain't fun. It was a hard experience. A lot of people from the city need to learn these skills and get out there and help. I have said it repeatedly—the member should say it—the agricultural industry should promote it, so it is not just a government responsibility to do it. Everyone has a responsibility to help here. For those people in the city who are out of work there is a great opportunity here to go and work in regional WA, whether it is in tourism, farming, mining, shearing —

Mr D.T. Redman: Shearing!

Mr M. McGOWAN: Someone cannot just become a shearer, to be frank.

Mr D.T. Redman interjected.

Mr M. McGOWAN: No, people cannot, but they can assist in the sheds. Maybe retired shearers could come back; I am not sure. But the idea that we bring down —

Mr R.S. Love interjected.

Mr M. McGOWAN: What I have noticed about the member for Moore is that he points out the problem, but he does not have the solution. Is his solution to bring down the international borders?

Mr R.S. Love: We're not in government.

Mr M. McGOWAN: Is that the member's solution?

Mr R.S. Love: That we were in government, yes.

Mr M. McGOWAN: The member raises the problem. If we bring down the international borders, the virus will come back and people will die; is that the member's solution?

Mr R.S. Love: No.

Mr M. McGOWAN: They stand there saying, "Here's a problem." We are doing everything we can to deal with it, but they appear to want the borders to come down and people, therefore, will get sick and die. That appears to be their position. It is an irresponsible position, rather than coming to us with some ideas. Why not come up with some ideas or options? Why not do that rather than going back to their electorates and doing nothing? Why not come in with some ideas and options that we can look at, rather than coming in and presenting a problem with no idea about what any solution might be?

Mr P. Papalia interjected.

The SPEAKER: Minister for Tourism, I call you to order for the second time.

SOCIAL HOUSING ECONOMIC RECOVERY PACKAGE

570. Ms L.L. BAKER to the Minister for Housing:

I refer to the McGowan Labor government's $5.5 billion recovery plan, which includes a massive investment in stimulating our building and construction sectors. Can the minister please update the house on how the government's $319 million social housing economic recovery package is supporting local Western Australian businesses and providing more opportunities for local Western Australian workers?

The SPEAKER: Minister. It is a long question; I hope you have a short answer.

Mr P.C. TINLEY replied:

I am not so sure about that, mate!

I thank the member for the question and for her enduring interest in social housing. It is great to have another opportunity to talk about the more than half a billion dollars of additional investment the McGowan government

has brought to social housing since coming to government. This is the latest iteration: the SHERP, as it is called. The social housing economic recovery package is part of the McGowan government's "WA Recovery Plan", the first state in Australia to have such a plan. The reason that we can have such a plan is that we are so ably led and have done such a good job on the health crisis. The hard border created this bubble, or the opportunity, within Western Australia to get the economy going again. That is represented in this plan with $5.5 billion worth of investment.

Inside that investment is $319 million that is a direct support package to the residential construction industry. There will be 1 700 jobs created over two years, with 430 of those in the regions. Of course, 3 800 government homes will receive an $80 million treatment around maintenance—that is, those Government Regional Officers' Housing program maintenance arrangements—and increasing the pipeline of work will ensure continued employment well beyond, hopefully, the end of this crisis, if we see it. It is first and foremost aimed at retaining and protecting jobs. We knew that the residential construction industry was heading for a cliff of nearly 40 per cent unemployed out of about 60 000 people employed in the housing construction industry. That is not something that the McGowan government was going to let go by. This package has an incremental and direct input to Western Australian businesses.

I can now update the house on the latest builds. After only a few weeks into it, we are bang on track. New builds are on track, with 64 having been allocated—33 in the metropolitan area and 31 in the regions. We are progressing with the 1 500 homes that we are refurbishing, with 127 allocated so far. That will take a little more time because we have to go through it asset by asset. The first jobs will commence later this month.

Under the social housing economic recovery package, as at 31 July 2020, a total of $302 821 in regional maintenance works has been awarded across 56 properties to companies that are direct beneficiaries. For example, I was with the member for Bunbury when Bunbury Glass got a contract of $25 000, which might not sound a lot, but for a small business in regional WA, it will have a great impact. It allows that company to employ another person, who happens to have a disability, and an apprentice and another trainee. This is the sort of direct impact that we can have when we both listen to the industry and are able to act with decisive leadership, which the McGowan government has done.

It does not end there. In the south west, Ascot Aluminium, Southbound Security, and South West Screens and Doors all got contracts. In the East Kimberley, CMT Building and Kununurra Maintenance Service got contracts. In the wheatbelt, National Party members will be happy to hear that Northam Carpet Court got $10 000 and Narrogin Carpet Court got $16 000; and, in the Pilbara, Karratha Glass Service got $27 000 worth of contracts. Of course, in the midwest, Tek Building Services received $19 000. It is these suppliers to and supporters of the residential construction industry that are thriving as a result of the McGowan government's commitment to maintaining, protecting and growing jobs.

Of course, there are some good local builders. I was very clear to the agency that I wanted to make sure that we just did not get everything out for large projects or large builders with big balance sheets. I wanted to make sure that we were helping medium-sized business as much as we could. Shelford Quality Homes, a great Rockingham builder, received seven builds to the value of $1.35 million in the suburbs of Bertram, Byford and Hilbert; and Zircon projects, a Malaga builder, has had two builds allocated to it so far, worth $387 000, in Haynes. Again, this is a demonstration that the McGowan government, with strong leadership, has a plan for recovery, and the plan is working.

WESTPORT TASKFORCE — AUTOMATED OUTER HARBOUR

571. Ms L. METTAM to the Premier:

Can the Premier confirm that the Maritime Union of Australia, the Construction, Forestry, Maritime, Mining and Energy Union, and the Transport Workers' Union of Australia marched on the Labor Party's state executive last night and that the basis of their protest was the government's ill-conceived automated outer harbour and the fact that they are concerned that their members will lose their jobs?

Mr M. McGOWAN replied:

We launched the Westport plan on Monday last week and it was very much about making sure that we have a long-term plan to deal with freight and trade in Western Australia. It has been a bipartisan position until recently that a new port in Kwinana would meet the long-term needs of freight and trade—that is, container traffic. Container traffic will continue to grow in a state that has a growing population. The growth rate of containers has been over five per cent per annum, compound. The Westport Taskforce put a conservative estimate on that of 3.6 per cent per annum in growth in container trade, but the experience has been significant growth in containers. If we were to keep Fremantle port forever, the cost of doing so would be double that of providing a new container terminal in Kwinana. Obviously, the better long-term solution to a difficult issue is to bite the bullet and to ensure that our premier industrial precinct, a major industrial precinct, has the major container port as part of it.

On top of that, there can be a significant redevelopment at Fremantle harbour, as has happened in other harbours of this type around the world. Indeed, last week I was in Fremantle to launch a new brewery in the A Shed building. This new business will employ scores, if not hundreds, of people on Victoria Quay, where I expect many more of those types of businesses will be established. The idea is that we have a new modern container port large enough to cope with demand in the long-term future and, indeed, for centuries to come. At the same time, we will take traffic out of the city through Tonkin Highway and down Anketell Road. That will get the traffic away from the

heart of the city; save money by not having to completely upgrade Fremantle port and some of the road networks leading in there, at a cost of somewhere around $8 billion; and set up the state for the long-term future. That is the vision behind this. To me, it makes a lot of sense, but change is often difficult for some people and sometimes other agendas are involved. We are committed to ensuring we have a good modern container port, a great many jobs in transport logistics on the wharf and in the maritime industry, and that we set the state up for the long-term future. Obviously, members opposite do not want to do that—they have some other policy. But I make the point that the opposition's position on this is different from Troy Buswell's and every Liberal going back to Richard Court.

WESTPORT TASKFORCE — AUTOMATED OUTER HARBOUR

572. Ms L. METTAM to the Premier:

I have a supplementary question. Why does the Premier constantly turn his back on thousands of Western Australian jobs by not supporting Roe 8 and 9 and backing the automated outer harbour plan?

Several members interjected.

The SPEAKER: Members!

Mr M. McGOWAN replied:

Had the Liberals been re-elected at the last election—which, fortunately, they were not—we would have a privatised Fremantle port that would have been automated. That was its plan—a privatised, automated Fremantle port. That was its plan.

Several members interjected.

The SPEAKER: Members!

Mr M. McGOWAN: That is what would have happened had the Liberals and Nationals been re-elected at the last state election. What is more, as the Leader of the Opposition has said, it wants Roe 8 and Roe 9 to be a toll road. Before the 2017 election, we were very clear on exactly what our policy was. It was part of all our policy documents and everything we released; it was very clear. We are doing exactly what we were elected upon. We have come up with a comprehensive plan for the future that will meet the needs of people. It will create thousands of jobs. Think of all the construction jobs that will be created and all those construction workers, as part of a new port over the next 12 years or so. There will be thousands of construction jobs. Think of all the jobs in freight and logistics when we have a modern, efficient port. Think of all the ongoing jobs; there will be continuing jobs on the wharf and thousands of jobs involved in all these areas of activity. That is what will occur under our plan. The Liberal Party is just trying to score cheap political points. That is all it is doing. It does not do any policy work. There are no policies on its website. There is nothing out there bar these glib statements when its members read some website and come in here with some silly statement that does not make any sense.

The SPEAKER: That is the end of question time.

BINNINGUP — LIMESTONE EXTRACTION

Petition

MRS R.M.J. CLARKE (Murray–Wellington) [3.02 pm]: I have a petition that has been certified by the Clerks and signed by 303 petitioners, couched in the following terms —

> To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned, say
>
> *The extraction of the proposed site next to the town of Binningup will do irreparable damage to the ecosystem and to the wellbeing and mental health of the community. The Limestone Pit proposal threatens the reputation of the town, lifestyle and health, including the mental health and physical wellbeing of the community.*
>
> Now we ask the Legislative Assembly
>
> *We request your support in opposing the development of any further Limestone extraction from the town of Binningup and its surrounds. Please help protect the community from the noise, dust and aesthetic impact that this will bring.*

[See petition 186.]

IRON ORE PROCESSING (MINERALOGY PTY. LTD.) AGREEMENT AMENDMENT BILL 2020

Assent

Message from the Governor received and read notifying assent to the bill.

PAPERS TABLED

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

"REPORT INTO MISCONDUCT RISKS WITH ACCESS TO CONFIDENTIAL INFORMATION IN THE OFFICE OF THE AUDITOR GENERAL"

Correction — Statement by Speaker

THE SPEAKER (Mr P.B. Watson) [3.04 pm]: I received a letter dated 18 August 2020 from the Acting Commissioner of the Corruption and Crime Commission, requesting that an updated version of a report titled "Report into Misconduct Risks with Access to Confidential Information in the Office of the Auditor General", which was received by the Clerk of the Legislative Assembly and deemed tabled on 23 April 2020, be tabled in the house. The original version of the report contained a number of errors that have been corrected in the subsequent version. Under the provisions of standing order 156, I authorise the updated report to be attached to the original tabled report.

[See paper 3579.]

SWAN VALLEY PLANNING BILL 2020

Notice of Motion to Introduce

Notice of motion given by **Ms R. Saffioti (Minister for Planning)**.

CORONAVIRUS — INTERSTATE TRAVEL RESTRICTIONS — EXEMPTIONS

Matter of Public Interest

THE SPEAKER (Mr P.B. Watson) informed the Assembly that he was in receipt within the prescribed time of a letter from the member for Dawesville seeking to debate a matter of public interest.

[In compliance with standing orders, at least five members rose in their places.]

MR Z.R.F. KIRKUP (Dawesville) [3.07 pm]: I move —

> That the house calls on the Labor government to undertake a detailed risk assessment of international and interstate entry exemptions, and implement an adequate testing and tracking regime.

This is yet another motion pleading with the government to move to protect the health of the people of Western Australia, reinforcing the determinations on this side of the house to continue to work to ensure that the people of WA remain as COVID-19 free as possible.

Mrs M.H. Roberts interjected.

The SPEAKER: Minister for Police!

Mr Z.R.F. KIRKUP: It reinforces the call that we made—we were the first to do so—to secure and create a hard border, an idea that was rejected by the Premier at the time we first called for it. The Liberal Party has consistently maintained the perspective that it is important to make every effort possible to protect the health and wellbeing of Western Australians faced with the significant threat that COVID-19 poses. During question time, we heard the Premier suggest to the Nationals WA the need to bring ideas and options to this place for the government to consider. That is absolutely every move that the Liberal Party has made in response to the COVID-19 pandemic. We have tried our very best to work in a bipartisan manner, and have brought ideas and options to this place as often as possible for consideration. We constantly write to the Minister for Health, offering suggestions that the government could consider to help protect the people of Western Australia from the ongoing threat of COVID-19. The most recent example included the need to undertake a risk assessment for Western Australia and international and interstate entry exemptions, and to provide for an adequate testing and tracking regime in Western Australia for any COVID-19 risk.

We have very, very consistently tried our best to work in good faith with this government to bring forward the ideas and options that the Premier desperately called for in question time and that we consistently get knocked back, with the government suggesting that we are somehow seeking to politicise this. Nothing could be further from the truth. Only the Liberal and National Parties have been coming up with the options that were initially pushed back on by the government. It was the Liberal and National Parties that first called for the hard border. That was ignored by the government. It was the Liberal Party that called for a hard border between the Perth and Peel regions, but that was ignored by the government. The Liberal and National Parties have now called for an independent expert review, but that is being ignored by this government.

The government has rebuffed us to the point at which it is now suggesting that this is somehow a brainwave that would divert important resources away from ensuring that Western Australia is as prepared as possible when a second wave occurs here. We know the devastating toll that COVID-19 leaves in its wake. Communities have been ruined. Governments across Australia have not been as prepared as they could have been when faced with a second wave. We need only look at what happened in Victoria under its Labor government. Within two months, Victoria went from having four active cases a day to having —

Mr R.H. Cook: What about the Liberal government in Canberra?

Mr Z.R.F. KIRKUP: If the Minister for Health is somehow suggesting that national cabinet has not been well placed, I look forward to hearing his response.

Mr R.H. Cook: The federal government has been absolutely missing in action.

Mr Z.R.F. KIRKUP: The Prime Minister has been absolutely on the front foot when it comes to providing the leadership that is required to guide our nation.

Several members interjected.

The SPEAKER: Members, you will have the opportunity to speak.

Mr Z.R.F. KIRKUP: Thank you, Mr Speaker.

Mr R.H. Cook interjected.

The SPEAKER: Minister for Health, I am going to have to call you. I know you are going to talk anyway, but I call you to order for the first time.

Mr Z.R.F. KIRKUP: Thank you very much, Mr Speaker. Of course, this is the response that we get when we try to move a motion on a matter of public importance to the people of Western Australia—the government howls because it knows that it once again has been exposed.

The government has the opportunity to implement a risk assessment of the interstate and international entry exemptions to Western Australia. This is a good opportunity to take up the Liberal and National Parties' suggestion of having an independent expert review of the arrangements, preparedness and readiness in Western Australia to respond to a COVID-19 outbreak. It is not just our idea; this idea is supported by the Australian Medical Association in Western Australia and broadly by the community of Western Australia, who understand and appreciate that we need to review our preparedness and that we can never be complacent in response. The government cannot be complacent in its response to the risks that COVID-19 poses.

While the Legislative Assembly has been assembled here this afternoon, we have heard the news that two more women are in police custody after allegedly escaping hotel quarantine overnight. Phil Hickey of *The West* online has reported that the women arrived in Western Australia yesterday from South Australia and that they have breached hotel quarantine.

Ms A. Sanderson interjected.

Mr Z.R.F. KIRKUP: The two women, aged 19 and 22, allegedly caught a taxi to a unit block in Coolbellup in the early hours of this morning before being taken into police custody. The member for Morley also rightly pointed out that a 31-year-old allegedly escaped quarantine from the Mercure hotel with the use of a ladder.

Ms A. Sanderson: Three times.

Mr Z.R.F. KIRKUP: He did that a number of times. It seems that he was helped to escape hotel quarantine by somebody on the outside.

Ms A. Sanderson: Because idiots exist.

The SPEAKER: Member for Morley!

Mr Z.R.F. KIRKUP: That might be the case, member for Morley, but the hotel quarantine arrangements deserve to be reviewed. We need to ensure that Western Australians are protected as much as possible.

When we raised this matter last week, the Premier suggested that there had been only four breaches thus far. We have now gone to seven breaches in the last few days. In the last 10 days, there has been a significant increase in the number of breaches. We only need one of those people to be infected with COVID-19 for them to pose a very real risk to the health and wellbeing of the people of Western Australia. It will take only one breach from an infected COVID-19 patient for us to be faced with the prospect of a second wave. Of course, we have seen the issues with the Sydney Swans footballer up in Joondalup and the 28-year-old woman who was caught in Scarborough after sneaking across the border. We also have 52 people crossing our border each day without the need to enter mandatory 14-day isolation in Western Australia. This is why we are calling on the government to ensure a proper review of our arrangements so that the people of Western Australia and, more importantly, the government are as prepared as possible. We want to make sure that we are doing absolutely everything possible to prepare the state to respond to what we know will be a second wave.

We are concerned about the level of complacency in the community. As the Premier said, we are concerned that COVID-19 might sneak across the border and take off like a fire, or words to that effect. We know the risk that COVID-19 poses to the people of Western Australia if an infected person finds their way onto the streets, either because they have not complied with their hotel quarantine directions or by other means, such as the 52 people who cross our border every day without the need to quarantine. There is a very real risk. It is important that we protest in a measured and calm manner. We believe it is important that the government supports our motion and

undertakes a detailed risk assessment. The government should take up our offer of an independent expert review to make sure that Western Australia is as prepared as possible. We desperately need to ensure that we are as prepared as possible.

I encourage the government to not be seen on the wrong side of this argument once again. It is only the Liberal and National Parties that have consistently called for more work to be done to protect the health and wellbeing of Western Australians.

Several members interjected.

The SPEAKER: Members!

Mr Z.R.F. KIRKUP: The Liberal and National Parties continue to work hand in hand with the government by offering bipartisan support for all the protective measures that can be taken. Once again, this is a suggestion that the government should take up.

Several members interjected.

The SPEAKER: Members!

Mr Z.R.F. KIRKUP: The government should not be stuck on the wrong side of history when, in a week's time, it takes up the offer of an independent expert review. It should do it now and get ahead of this. The experience of the Victorian Labor government shows that we cannot be on the wrong side of COVID-19. We cannot be behind it; we need to be ahead of it. The best way to do that is to prepare the state as best as possible. Let us make sure that we are ready for a second wave. The Liberal and National Parties have called for an independent expert review because we know we need to be ready. The government should stand with us once again in trying to protect the health of the people of Western Australia.

The SPEAKER: Member for Southern River, I call you to order from earlier; I did not want to interrupt the end of the member's speech. You have been in here for only five minutes and you have not stopped talking.

MR P.A. KATSAMBANIS (Hillarys) [3.16 pm]: I rise to support the motion brought to the house by the member for Dawesville. It is a matter of utmost public interest and concern. We know that our borders, quarantine and the exemptions from quarantine are the risk factors in COVID-19 returning to our community. We absolutely know that because we have seen what has happened in Victoria. Where did the second wave come from? It came from breaches of hotel quarantine. That is where it came from. We see the scythe that it is cutting across that society, both in terms of the health and economic costs, as well as the massive mental health impact. Many of us in this place, including me, and many Western Australians have family members and friends who are having to cope with that. It is horrible. We do not want to see that happen in this state.

When the Leader of the Liberal Party, Hon Liza Harvey, called for a border closure in Western Australia at the early parts of COVID-19, she was absolutely ridiculed by the Premier. The Premier adopted that policy and he is now the king of the border closure. Well done to him! I think the public of Western Australia say well done to him for picking it up and doing it. We are now saying that the government needs to conduct a risk assessment of whether this is working. Why does the government need to do that? It is because we know that more than 50 people are crossing the border into Western Australia each day who have an exemption from quarantine or self-isolation. It is at least 50 people a day. The police minister verified that today. When we told her there were 6 661 people in total, she said, "No; today it's probably more like 7 000." That confirms that around 50-odd people a day are getting that exemption. They are coming into our community. We need to know where they are coming from, but we will not be told that. Moreover, there have been quarantine breaches here. We heard about the idiot with the ladder. Today, we heard about the two women who arrived yesterday and have already breached their quarantine. The hard border is not hard; there is an open door through which people can enter with an exemption. Quarantine is also being breached. We heard about that other idiot, Elijah Taylor, the Sydney Swans footballer up in Joondalup. He is a Western Australian. His girlfriend or partner is also a Western Australian by origin. They just thumbed their noses at the quarantine restrictions. We need an independent review. It is not good enough for the government to say, "Trust us". Daniel Andrews and the Victorian Labor government said, "Trust us", when they put their hotel quarantine procedures in place. We can see where that has ended up. It is sad and unfortunate and we do not want that to happen here.

In Western Australia, we primarily task our hardworking, overworked, underpaid and underappreciated police force with being at the front line of protecting our borders and protecting our quarantine and self-isolation requirements. Four hundred police officers have been pulled off the front line and put in to do this very, very important work. Of course, they are supported in hotel quarantine by private security guards. We saw what happened with private security guards in Victoria, and we saw last week a private security guard here in Western Australia marching into a couple's room in breach of all the quarantine requirements. We know there are problems that need to be identified and nipped in the bud before they get worse. Why have we as a state not called in more support from the Australian Defence Force? We called on the ADF when those cruise ships were out there looking to come in.

Mr R.H. Cook: And they did nothing.

Mr P.A. KATSAMBANIS: The minister says they did nothing; he can back that up.

Ms A. Sanderson interjected.

The SPEAKER: Member for Morley, I call you to order for the first time. Members, you will have an opportunity to speak. Just let the member have his right, too.

Mr P.A. KATSAMBANIS: Can we consider doing things better? Can we give relief to our hardworking police officers so they can return to the front line to deal with all those other issues that are happening—the fight club that happens in Northbridge and the CBD every single weekend, the issues around our community, the domestic violence issues and all the other crime that is going on unabated in our community? Taking 400 officers off the front line is a lot to take off when this government has not made the investment it should have in police officers. Those people need a break; they need support.

What galled me most was to come in here today and hear a question from the Nationals WA about a really strategically important issue for Western Australia—getting our harvesting and our agriculture continuing to work. The Premier turned around and said, "What you want to do is bring down our borders and kill people. You want people to die." That is what he said to the National Party, which said nothing of the sort. The Premier is saying that if there are problems with the border, if there are problems with quarantine, if there are problems with self-isolation, people could die. The Premier is claiming that—we have seen chinks in the armour appearing, we have seen breaches of quarantine, we know of breaches of self-isolation—but we still cannot get a straight answer about how many of those 50 people a day being given an exemption from quarantine and self-isolation have come from a place such as Victoria or perhaps certain postcodes of New South Wales. Why can other states ban people from certain postcodes from entering the state, but we cannot even tell people in our state whether people from those postcodes have come in? It is ridiculous.

Mr R.H. Cook interjected.

Mr P.A. KATSAMBANIS: It is because it is all too hard. The government cannot walk and chew gum at the same time. That is what it is telling us. That is the problem. The public of Western Australia does not deserve platitudes; it does not deserve to be taken for granted. It deserves its government to take important issues with the utmost seriousness, which is why the opposition, and the member for Dawesville, as our shadow Minister for Health, have called on this government to undertake a proper risk assessment, an independent risk assessment, to verify that what we are doing is right, and if there are any problems, to identify them early and work together to nip them in the bud. If the government does not do that, it is not doing everything possible to offer the protection it claims it is offering the public of Western Australia. The public of Western Australia does not deserve lip-service; it deserves its government doing the right thing. It would be doing the right thing if it took on the suggestion of the member for Dawesville, if it put away its pride because it did not come up with the idea, acknowledged that it was the right thing to do, supported it and did it for the betterment and the protection of the health of the public of Western Australia.

MR D.T. REDMAN (Warren–Blackwood) [3.23 pm]: I also want to respond to the matter of public interest raised by the member for Dawesville and make the point of asking the following questions. When is a good time to have an inquiry? When is a good time to test transparency? When is a good time for the opposition to get an independent assessment of just how things are going in Western Australia? Last week, the Minister for Health said that right now the government did not want to pull people off the front line. For the most part we do not have COVID-19 in Western Australia; we do not have any community spread. If there was a good time, it would probably be now. Is it in six months' time when there is an outbreak? Is it in 12 months' time? Is it in two years' time? When is a good time? It is only reasonable for the opposition to call for an assessment of the risk that Western Australia faces to what is a unique challenge. For the most part, the people in Western Australia want to see a hard border. That is what my constituency wants to see. They understand that there need to be exemptions, because commerce has to transact across those borders and essential services have to move back and forth. There is a process applied in order to get across the border into Western Australia, and in some cases there has to be quarantine, and rightly so. People have to meet the requirements that the state puts in place.

I have had people come to me on both sides of this argument. One person said to me that they had come across the border and quarantined, and quite frankly, they did not think they had been checked on enough. Another person said they had seen someone down the street who was supposed to be self-isolating, and they were not. I rang up and made some inquiries about that, and I understand that has been sorted out. I also know of someone from Kununurra who is trying to do transactions across the border as part of his business. He is not able to do it and is having some massive issues in trying to maintain his business. There are issues that the opposition, rightly, should be able to get some visibility on through having an independent look at how things are going.

There is also another group that I think is really important. Yes, Western Australia's people want to keep the border hard, but there are also people from Western Australia, our people, Western Australians, sitting somewhere else in the world or in the eastern states trying to get home. They are there for reasons out of their control. They

are either there for work reasons or on compassionate grounds. I will go through some examples that have come through my office. One lady went to regional Victoria prior to the recent outbreak of COVID-19 to support her daughter when she was having a baby. After spending a few weeks supporting her family, she wanted to return to her rural property in WA where her husband was alone after having had a heart attack. Here is another example. A man and his partner went to Sydney to attend the funeral of his brother who died tragically and unexpectedly. Some confusion regarding his address prevented them from returning to WA to run a business of 10 employees. Here is another example. A man who specialises in technical skills has been undertaking contracts in central Queensland. He cannot fly, so he needs to come back by road. The minute he goes through New South Wales, he will have to undertake a special set of quarantine requirements. Another woman over east has animals—these are Western Australians—including three horses and two dogs, and needs permission to return by road to Western Australia. She wants to self-isolate on her rural property. They cannot go into a hotel. There are these points.

We had this discussion in our party room this morning. There are lots of examples that collectively Nationals WA members have of Western Australians trying to get back into WA. We do not want them to break the rules. We do not want them to break the quarantine arrangements. When the Premier was asked about this, he said that they had had six months to get back. I do not think that is good enough for Western Australians. This is not other people trying to come here. This is Western Australians trying to come home—our people. We should be moving heaven and earth to get them home, to get them back here, to the place they belong. Through no fault of their own, they have not been able to achieve that.

Members of Parliament used to have a hotline that they could get straight on and get a quick response. We could get these compassionate issues into the system really quickly, but now we do not have it. The National Party has written to the Premier to try to get it, and we were rejected the right of having a hotline. I think that is a shame, because it was a chance to put on the table all these unique issues that come in our door and to get a response to them. There are Western Australians trying to come home to their state. We should be moving heaven and earth for them to achieve that; there needs to be a clear pathway. Right now, we are sending email after email to ministerial offices. I want to compliment one. A fellow called John Gangell in the Minister for Police's office has been fantastic. But what we need is a hotline to be able to raise these issues.

I think there needs to be a risk assessment of how Western Australia is managing the COVID-19 pandemic for a range of reasons—not only managing the risk of COVID-19 coming into Western Australia, but also properly managing trying to get our people home. There has been limited success in achieving that. Yes, 400 officers are on the task, and I accept that, but the appropriate level of compassion does not seem to be applied to those people trying to get home. There are some unique circumstances. We might not like it, but, unfortunately, a bit of politics has to be applied to these situations. Ministers will know that there is not a regimented set of rules to go by and everyone fits into that game. It does not work like that. Aside from the issue of managing the risk to Western Australians and despite the good work that is happening in some of the ministerial offices, we need to get our people home and we need to have a platform for members of Parliament to raise that properly—I thought the COVID hotline was a good strategy. The Nationals WA support undertaking a detailed risk assessment of international and interstate entry exemptions, because a range of things need to be put on the table to give us an appreciation and an understanding of whether we are on the right path. I again make the point that I made at the start of my contribution. When is a good time to do this? Is it in six months, 12 months or two years? One could argue that now is a pretty good time, when we do not have a significant number of people in intensive care units in Western Australia and our frontline officers are trying to manage those issues as an acute response. Thank you, Mr Speaker.

MS L. METTAM (Vasse) [3.30 pm]: I rise to also make a contribution to this debate and support the member for Dawesville's matter of public interest motion, which states —

> That the house calls on the Labor government to undertake a detailed risk assessment of international and interstate entry exemptions, and implement an adequate testing and tracking regime.

As the shadow Minister for Transport, I want to focus on transport and testing. I have, as the member for Vasse, raised this issue with the Minister for Health previously. We know that Western Australia has, unfortunately, the lowest testing rate in the country. We fall behind South Australia and the Northern Territory, with 10 514 tests per 100 000 people. I heard a remark on the radio the other day that we are no longer hearing encouragement for people to go and get tested when they are unwell. Quite obviously, we are also challenged by—as we have heard in this debate—52 people on average crossing the border every day without any mandatory testing or protocols in place for protections from COVID-19.

I think it is very valuable that national cabinet has made some moves towards mandatory testing for the transport industry, given that we are seeing over 300 trucks cross the border every day. Obviously, the transport industry is on the front line, crossing the border, moving between states and dealing with many people across the country as well. We on this side of the house certainly support the national cabinet decision around regular testing of those in

the transport industry. We also support that the Western Australian government got on board and supported that measure as well. But what we are seeing, and I am hearing from the transport industry, how problematic it is to test truckies once they have crossed the border. I have heard that firsthand from industry and community representatives, and largely from the truckies themselves. The feedback I have heard is that when truckies hit the border, there are only a couple of opportunities to be tested, whether that is at Broome Health Campus or in Kalgoorlie, under the Commissioner of Police's directive. This is problematic for the trucking industry. It is off-route and pragmatically it is very difficult.

We know that testing and screening need to be very accessible. This relates to issues I have raised previously in this place about support for private clinics in regional areas in the absence of public clinics. I take the opportunity to thank the Minister for Health for his support for the drive-through clinic in Busselton, which has been very well received. The transport industry is saying to me that we need accessible testing for asymptomatic cases in Kununurra and Norseman as well. Truck drivers have a significant challenge when crossing the border, they have 24 to 48 hours to get a test. The logistics of testing truck drivers within that time frame is very problematic because they often have very large vehicles and carry livestock or dangerous goods. I understand that some work has been happening behind the scenes but it is being challenged at a health level. I encourage the Minister for Health to see that some support goes to accessible testing for the transport industry.

While I have the opportunity, I will also underline that we obviously need in place a clear plan on what is happening with aged care testing as well. We on this side of the house hope that some strong and clear lessons have been learnt from what we have seen in Victoria and the problematic nature of en masse testing. Recently, 21 sister aged-care facilities in Victoria, with over 100 residents and over 50 staff, undertook a testing process within one day. I imagine that this would involve all aspects of the pathology sector. What plan is in place? Has there been real practical planning around this on PPE requirements so we can train the 30, 40 or 50 collectors who would be involved in such a process? These are the questions that members on this side of the house are asking about the transparency of decision-making and the thinking behind the planning that is in place. It is important. We know that in these COVID situations things can get out of control very, very quickly, and that is why I stand on this side of the house supporting this very worthy motion seeking support for a detailed risk assessment of where WA is at, because we have bought time and we are in a very good position. The government has been rightly applauded for its health response so far, but we have seen reported significant breaches of quarantine and self-isolation in hotels so far.

MR R.H. COOK (Kwinana — Minister for Health) [3.38 pm]: Thank you, Mr Speaker, for the opportunity to speak on this motion, which we will oppose for very good reasons. At the beginning of the discussion —

Mr Z.R.F. Kirkup interjected.

The SPEAKER: I have a good idea, member for Dawesville; I will call you to order for the first time.

Mr R.H. COOK: My question at the beginning of my contribution to this debate is: why do you care? Opposition members want to pull down the borders so why do they care about how well they operate? The opposition has made it quite clear that it wants to bring them down. In March, the Leader of the Opposition made her position quite clear when she said, "I was not calling for the borders to be closed." In May this year, when asked whether she would open the state borders if she were Premier, she said, "I would." In June, she accused the government of resorting to political expediency to maintain the hard borders and essentially said that the hard border rhetoric is a myth.

I am not quite sure why we are at this point. The opposition, having discovered that the hard borders kept us safe, has come to us saying that it wants a risk assessment on our hard border quarantine arrangements. Risk assessment is what public health risk management is all about. It is like moving a motion saying that we want the doctors in our hospitals to practise medicine and we want the teachers in our schools to educate. It is what they are trained for! I say to the member for Dawesville that they are public health physicians. They manage public health risk. This has been the game from the word go. Admittedly, it is only August; we have been doing this for only seven months. It is good to see that the member has caught up. This is what we are doing. We are managing the public health risk. We have been resoundingly successful with this program. We have managed the three elements of public health risk—keeping the public with us at all times, making sure that we do not destroy the economy, and ensuring that we keep people safe. We have been successful at that because all the way along the WA community has joined us and had great buy-in, making sure that we do all those things that we see as necessary to keep the disease under control. Because we have been so successful and because the WA public has been so good, it has enabled us to open the economy and get people back to work, more so than is the case in any other state in Australia.

I am sure that the member for Dawesville will forgive us for being slightly irritable when he comes to this place and says, "We want to look over your shoulder. We want to check how things are going." We have five active cases in this state. They are all in hotel quarantine. That is a pretty good track record. I thought the member would be taking the opportunity not to second-guess our great public health physicians, not to try to criticise the police and not to say to our doctors and nurses working on the front line, "We are not quite sure how good a job you are doing."

Mr Z.R.F. Kirkup interjected.

The SPEAKER: Member for Dawesville, I call you to order for a second time.

Mr R.H. COOK: I thought the member would be coming to this place to say that we have been doing a cracking job and that the opposition stands with the government in thanking our police, doctors, nurses and all our allied health and support staff—all those who have put this great work together to ensure that we can continue to manage this disease.

Managing public health risk is what public health physicians do. It is what we have done from day one and it is what we are doing day in and day out. We analyse the risk and we act on that analysis. At the same time, we are doing our best to keep the economy going while keeping Western Australians safe and continuing to make sure that we can do all those things necessary and required of us by the national cabinet. Of course we have to manage international arrivals. We understand that that is one of the key areas of risk—our risk assessment that the member for Dawesville has asked us to undertake. That is why we have a set of directions for everyone who arrives from overseas. Under these directions, they are required to undergo testing on day 2 and day 12 and stay in one of our quarantine hotels. Anyone who enters WA from a state other than New South Wales and Victoria is required to present for testing on day 11. Unless they fall under the category of "exempt traveller"—that is, transport, freight or logistics, which means they will leave WA before day 11—they are given a hotel direction, hospital direction or are required to quarantine or isolate under the relevant directions. Someone from New South Wales or Victoria is required to present for testing within 48 hours unless the person is part of a domestic flight crew.

The member for Dawesville has constantly talked about the thousands of people who have received exemptions. Thousands of people have not received exemptions. There are thousands of exemptions because we are required to create exemptions for certain classes of people who have to get through and get on and do things. Those categories of persons are senior government officials and members of the commonwealth Parliament and their staff. I am sure that Senator Mathias Cormann would thank the member for Dawesville for moving this motion. Under the member's arrangements, everyone would be in hotel quarantine, including Mathias Cormann. We think that Mathias Cormann is doing a pretty good job and he needs to go through the airport.

Other categories of persons include active military personnel on duty in WA; specialist skills not available in WA, although they are now subject to modified quarantine conditions; a judicial officer or staff of a court, tribunal or commission; persons carrying out a function under the law of the commonwealth; health services requested by the Chief Health Officer; transport, freight and logistics; airline crew, WA based, who have not been in Victoria or New South Wales in the previous 14 days; and other airline crew. As the Minister for Police said, we have since tightened up the arrangements and those crew essentially have to be isolated in hotel arrangements and then travel to and from the airport. Also, there are categories of emergency services workers who have not been in Victoria or New South Wales in the previous 14 days and travellers from Indian Ocean territories in accordance with the exempt traveller Indian Ocean territory travellers' approval. These arrangements have been put into place because they are necessary to keep the state moving. We have to be able to allow judicial officers, members of the commonwealth Parliament and those carrying out responsibilities on behalf of the commonwealth to travel through the border.

We are all subject to risk mitigation. We continue to scan the horizon to ensure that those people who are coming into Western Australia are appropriately dealt with. Those who do not receive an exemption are often required to hotel quarantine or be returned to their state of origin. There have been cases of people having to return to their state of origin, obviously disappointed, but if they do not receive the exemption under the G2G PASS app, they simply have to return. These arrangements are inconvenient. All members would have been approached by constituents who have complained because the arrangements have caught up a relative or someone like that. If the members assembled would like us to be harder, we will not be able to provide those exemptions. Exemptions are a fact of life and, member for Dawesville, they are based upon a risk assessment that is undertaken day in and day out.

A number of members of Parliament come to me on a regular basis saying they want an exemption applied to a particular constituent or someone of that nature. If today's suggestion is that we should not be doing that, we can stop forwarding those requests to the Minister for Police's office if that is what members are saying is appropriate. I think people believe that the arrangements we have in place are appropriate. They protect Western Australians. They will get Western Australians back into the workplace as quickly and as appropriately as possible. At the same time, they make sure that Western Australians stay safe. Our hard borders have been the thing that has kept Western Australians safe. It is what Clive Palmer and the Leader of the Opposition want to bring down. As a result, we will resist the temptation to bring down our hard borders. We will also resist the temptation of people who second-guess and make sure that they sow doubt into the minds of members of the public who have great confidence in the arrangements that we have in place.

We continually undertake risk assessments. In particular, in our hotel quarantining arrangements, the shift throughout July has progressed the following initiatives to continue to improve the hotel quarantine process. We have weekly meetings with hotel and security management at each hotel to discuss emerging issues and compliance with

processes and protocols. We provide ongoing refresher personal protective equipment training for hotel staff and security guards. Ongoing audits on hotels are conducted by public health infection, prevention and control nurses. We have seen the development of plans to manage passengers in hotel quarantine in support of the recent issuance of the Quarantine (Closing the Border) Directions restricting entry into WA by persons from Victoria and New South Wales. No system is perfect. But we are continuing to undertake the risk assessments to ensure that we address any perceived anomalies and weaknesses and fill those gaps. A classic example is the move we have made, as part of the national program, to require that all truck drivers who are members of the freight and logistics industry be tested regularly to ensure that our freight and logistics industry continues to practice in a COVID-19 safe way.

I note that the member for Vasse raised an issue about the amount of testing. We are doing the comparable level of testing that we need to do to ensure that we maintain vigilance and line-of-sight for any outbreak of the disease. At the moment, we are undertaking around 18 000 tests a week. That is a combination of our COVID-19 clinics and the private pathology labs, scattered in over 100 locations across the state. Truckies have an opportunity to be tested wherever they need to go. Within 48 hours of entering the state, if they cannot show evidence that they have been tested within the last seven days and have returned a negative result, we can make sure that they have access to either a GP-referred COVID clinic or a private pathology lab, or they can simply go to one of our COVID-19 clinics and get themselves tested. It is the responsibility of everyone.

We are continuing to work hard with the aged-care sector to ensure that it has the support that it needs to be able to deal with any outbreak of the disease. Just this weekend, I held a meeting with representatives right across the aged-care sector to ensure that we are doing everything we need to do to assist them to manage it. Whether that is with the level of PPE that they need, the support they need for their workforce, or an outbreak management plan, we will ensure that the Department of Health is on hand to assist them at all times.

We will not be supporting this motion. That is because risk management is what we are doing day in and day out. We assess the risk, we respond to the risk, and we make amendments about the hard border. This is what we have been doing all along. This is what the Premier has been leading. We are continuing to undertake risk assessments and put on further restrictions. That is why we now have more restrictions on people travelling from Victoria and New South Wales. That is why we are continuing to make sure that our quarantine hotels are operating second to none in Australia to keep Western Australians safe, and to allow us to move to an easing of the stage four restrictions to get Western Australians back into the workforce. Western Australia currently has four active cases.

What the member for Dawesville should be drawing to the public's attention is the fact that although we are having some success, the disease is still out there, and we need to continue to be vigilant. We will continue to undertake the risk assessments that the member for Dawesville has called for. That is what we are doing every day. That is what public health physicians do. They manage the public health risk, whether they are in the Public Health Emergency Operations Centre or the State Health Incident Coordination Centre, or whether they are a doctor or a nurse working on infection control right across our great healthcare system. They are doing the job, day in and day out. They have kept us safe. The opposition should be supporting them, not denouncing them.

MS R. SAFFIOTI (West Swan — Minister for Transport) [3.53 pm]: This motion is another weak, insipid and pathetic performance by the Liberal Party in this chamber. This matter of public interest calls for a review, a committee and an assessment. The pandemic is happening now. The front line is busy now. The Chief Health Officer and the Commissioner of Police, and the entire group of officials protecting Western Australia, are working hard now. The idea that we would pause that work to reflect on how we are going, rather than just getting on with it and protecting Western Australia, is wrong and false. That is why the Minister for Health outlined very clearly that we will not be supporting this motion. We are not about contemplating the world. We are about acting and protecting Western Australia now.

We have already seen a complete waste of time, particularly for our top legal teams, on the High Court challenge. I am curious, as everybody should be, about why some of our top legal minds have been occupied with this High Court challenge, when they should be working in WA to help make sure that we can put all the legal mechanisms in place to protect Western Australia in the best way possible. That is why we will not be supporting the motion. We do not support reviews. We support action. What we are doing, under the leadership of both the Premier and the Minister for Health, is a coordinated and continual risk assessment and management process. We saw with the Premier's announcement today another continual assessment of risk and making decisions to manage that risk. That is the job of the Chief Health Officer and the entire team, and of course also the Commissioner of Police in the management of this process.

Today we have seen the very different views of everyone who has spoken on this matter of public interest. The National Party said that it wants more overseas workers to come into the state. The Liberal Party and the member for Hillarys said that we should not let anyone in.

Several members interjected.

The DEPUTY SPEAKER: Members!

Ms R. SAFFIOTI: I do not agree with the idea that somehow the opposition is better at making these decisions than the Chief Health Officer and the Commissioner of Police. I back those people in making those decisions.

Mr D.T. Redman: If that's your view, you wouldn't have any parliamentary committees. You wouldn't have oversight of anything.

Ms R. SAFFIOTI: It is a pandemic. It is a state of emergency. Members opposite want to sit around and have a review. Members opposite are all over the place. We have seen their constant dismissal of Victoria, and their party-political attacks. Members opposite have played cheap politics on this from day one, and they continue to do so. Member for Hillarys, managing the border by postcodes does not work. The member for Hillarys is advocating for it. They tried to do that over east, and it did not work. Every time they tried to manage their border —

Mr P.A. Katsambanis interjected.

The DEPUTY SPEAKER: Member for Hillarys!

Ms R. SAFFIOTI: All the states that have tried to manage their border by postcode have failed, and they now have a hard border across their entire state, because that is what they had to do.

Mr P.A. Katsambanis interjected.

The DEPUTY SPEAKER: Member for Hillarys, I have warned you. I call you for the first time.

Ms R. SAFFIOTI: The member for Hillarys talked about the extraordinary effort of the Australian Defence Force when it came to cruise ships in Western Australia.

Ms S.E. Winton interjected.

The DEPUTY SPEAKER: Member for Wanneroo! I believe the minister has the call, not the member for Wanneroo.

Ms R. SAFFIOTI: The member for Hillarys highlighted the role of the ADF in managing cruise ships in Western Australia. If anyone can tell me what it did, please let me know.

The member for Dawesville talked about a bipartisan approach. He has never undertaken a bipartisan approach to anything when it comes to this issue. I want to touch on the omnibus bill. I tried to take a bipartisan approach. We gave the bill to the opposition before we brought it into this chamber, and the opposition has played politics with it from that point on. The opposition has shown that it cannot be trusted to take a bipartisan approach on anything, even a technical and legal bill in relation to managing COVID-19.

Mr Z.R.F. Kirkup interjected.

Ms R. SAFFIOTI: The member for Dawesville should be embarrassed. He knows that that will damage how we operate in this place and the other place for many years to come.

I refer to another comment, and I understand that the Leader of the Opposition did not stand to speak on this matter. Somehow, she was the first person to call for the hard border. I quote the Leader of the Opposition from 18 March —

> If members go back and check the *Hansard*, they will see that I did not call for travel to stop or borders to be closed; …

Again, the *Hansard* contradicts the member for Dawesville. Of course, there are the other comments again and again that we should bring the borders down. The Leader of the Opposition believes that no-one in Western Australia has a memory, that *Hansard* does not exist, that video and audiotapes do not exist and that somehow we cannot check what was said. I remember sitting in here in question time after question time and being asked, "Why can't you bring those borders down?" Let us go through the comments. On 19 May, the Leader of the Opposition was asked whether, if she was Premier, she would reopen the interstate border. The Leader of the Opposition said, "I would." Also on 19 May, she said, "There does not appear to be a valid reason to keep the interstate borders closed." On 16 June, she said, "The Premier needs to show us the advice; they say there's a constitutional issue, but clearly there isn't." Also on 16 June, the Leader of the Opposition said, "It's politically expedient to maintain the hard borders" and "There's clearly no evidence that it's actually medically required at this point." Her comments go on and on. On 12 June, she said, "I think it's ridiculous. Every other Premier has made different decisions based on the evidence they have on hand." On 1 June, she said, "We're one country. We're all Australians. This hard border nonsense is absolute nonsense." Again and again and again.

Another point that has been overlooked is the backing of Clive Palmer during this debate and the shock and anger because Clive Palmer was not allowed to enter WA. On 16 June, the Leader of the Opposition said, "I think the Premier is blocking Clive Palmer and it's political. Why is he blocking Clive Palmer?"

Mrs L.M. Harvey interjected.

Ms R. SAFFIOTI: We have a High Court challenge to deal with. So, again, the Leader of the Opposition is on Clive Palmer's side. She cannot help but be on anyone's side but that of the McGowan government.

Mr M. McGowan: Not Western Australia's side.

Ms R. SAFFIOTI: No, not Western Australia's side. The Liberal Party tried to refer the Palmer legislation to a committee. It tried to stop it from being debated and passed last Thursday. Those are the facts. We cannot walk away from facts, because things such as television, audio recordings and *Hansard* exist. I was reading the Clive Palmer ads this morning and they look very similar to Liberal Party ads. They use Liberal Party comments and are very similar to Liberal Party ads. The Clive Palmer ads use Liberal Party key lines. If anyone has noticed the contents of the ads, they will know they use Liberal Party key lines and I suspect that that will continue.

Mr R.H. Cook: He and Mathias Cormann should get together.

Ms R. SAFFIOTI: Yes, it is as though it is a coordinated approach. When Tim McMillan from Channel Seven's Flashpoint asked the Leader of the Opposition, "What about Clive? Would you let Clive in?" The Leader of the Opposition replied, "Clive has business interests in WA." Yes, he does; he is trying to sue us for $30 billion! She continued, "Why can't he get a business exemption?"

Mrs L.M. Harvey interjected.

Ms R. SAFFIOTI: Sorry?

Mrs L.M. Harvey interjected.

Ms R. SAFFIOTI: The Leader of the Opposition should stand up and make a contribution.

Mrs L.M. Harvey: How many people come in every day?

Ms R. SAFFIOTI: The Leader of the Opposition should stand up and make a contribution, because once again she seems to be on Clive Palmer's side.

Amendment to Motion

Ms R. SAFFIOTI: I move —

> That all words after "house" be deleted and the following words be substituted —
>
> > notes the strong and rigorous measures taken by the state government to stop the spread of COVID-19, including its firm decisions to retain WA's hard border despite repeated calls by the Leader of the Opposition and the Liberal Party to bring the hard border down

MS A. SANDERSON (Morley — Parliamentary Secretary) [4.04 pm]: I rise to support the amendment moved by the member for West Swan. In doing so, I will highlight some of the desperate lengths that the opposition has gone to. It has given up trying to be relevant and is now about getting attention. Misrepresenting the number of exemptions as individuals is desperate and scaremongering. That is exactly what the opposition has been doing. Those exemptions apply to essential workers. The entire exercise of the last six months has been an exercise in risk management—that is what it has been. To say that somehow the government is not implementing risk management strategies continuously for this public health pandemic is absolutely ridiculous. It is a balance between managing the contamination potentially brought in by essential industry workers and keeping industries going—industries advocated for by the opposition's coalition partner such as agricultural industries, airlines, logistics and all those that bring really important goods and services to WA with the potential for an outbreak.

This motion has two completely separate purposes. One part of the dog is the tail that says, "We want you to be more compassionate", and I have some sympathy for that, while the other part of the dog says, "We're not being hard enough." If we had to think about who we really want to manage this crisis and which leader we want to manage this crisis, we have had the commonsense advice–driven approach of the Premier, who has taken advice at every step of the way. To assert that somehow the Chief Health Officer and the Commissioner of Police are not independent and experts at what they do is offensive. To assert that they can somehow be lent on by politicians of either stripe and that the Commissioner of Police is not independent and that we can bend him to our will is absolutely offensive. We can compare the leadership of this government and this Premier, which has been sensible and commonsense but decisive, with the flat-footed and, frankly, bizarre performance of the Leader of the Opposition, who has been flip-flopping around. One minute she says, "We want the borders up", but only a few weeks ago when we were debating a matter of public interest in this chamber, the Leader of the Opposition called for us to ease restrictions. That was a few weeks ago. I was standing here having an argument with the Leader of the Opposition. I was trying to put across to her that there is an element of chaos in the world right now because we are in a global pandemic. She was advocating to ease restrictions even more. We have done that on advice, and slowly and steadily is exactly how we have done it. We have not rushed to make political decisions at all. We have taken that advice and made hard decisions.

I absolutely support this amendment. It is far more reflective of what the community thinks. Opposition members are making cheap political shots just for attention; it has thrown relevance out the door. I absolutely condemn the opposition because it has been hopeless—absolutely hopeless. The Leader of the Opposition has been calling on the government over and again to bring the border down, consistently playing politics with people's lives. The fact of the matter is that people's jobs and lives are at stake. Our children are at school because of this Premier and his leadership. Our businesses are open because of this Premier and his leadership. If it had been up to the Leader of the Opposition and the shadow Minister for Health, we would be in a world of pain like Victoria.

Division

Amendment (deletion of words) put and a division taken, the Deputy Speaker (Ms L.L. Baker) casting her vote with the ayes, with the following result —

Ayes (30)

Ms L.L. Baker	Mr D.J. Kelly	Mr D.T. Punch	Mr C.J. Tallentire
Dr A.D. Buti	Mr F.M. Logan	Mr J.R. Quigley	Mr D.A. Templeman
Mr J.N. Carey	Mr M. McGowan	Mrs M.H. Roberts	Mr P.C. Tinley
Mr R.H. Cook	Ms S.F. McGurk	Ms C.M. Rowe	Ms S.E. Winton
Ms J.M. Freeman	Mr S.A. Millman	Ms R. Saffioti	Mr B.S. Wyatt
Mr T.J. Healy	Mrs L.M. O'Malley	Ms A. Sanderson	Mr D.R. Michael *(Teller)*
Mr M. Hughes	Mr P. Papalia	Ms J.J. Shaw	
Mr W.J. Johnston	Mr S.J. Price	Mrs J.M.C. Stojkovski	

Noes (16)

Mr I.C. Blayney	Dr D.J. Honey	Mr R.S. Love	Mr K.M. O'Donnell
Mr V.A. Catania	Mr P.A. Katsambanis	Mr W.R. Marmion	Mr D.T. Redman
Ms M.J. Davies	Mr Z.R.F. Kirkup	Ms L. Mettam	Mr P.J. Rundle
Mrs L.M. Harvey	Mr S.K. L'Estrange	Mr D.C. Nalder	Mr A. Krsticevic *(Teller)*

Pairs

Mr M.P. Murray	Mr J.E. McGrath
Ms M.M. Quirk	Mrs A.K. Hayden
Mr R.R. Whitby	Dr M.D. Nahan

Amendment thus passed.

Division

Amendment (insertion of words) put and a division taken, the Deputy Speaker (Ms L.L. Baker) casting her vote with the ayes, with the following result —

Ayes (29)

Ms L.L. Baker	Mr F.M. Logan	Mr J.R. Quigley	Mr D.A. Templeman
Dr A.D. Buti	Mr M. McGowan	Mrs M.H. Roberts	Mr P.C. Tinley
Mr R.H. Cook	Ms S.F. McGurk	Ms C.M. Rowe	Ms S.E. Winton
Ms J.M. Freeman	Mr S.A. Millman	Ms R. Saffioti	Mr B.S. Wyatt
Mr T.J. Healy	Mrs L.M. O'Malley	Ms A. Sanderson	Mr D.R. Michael *(Teller)*
Mr M. Hughes	Mr P. Papalia	Ms J.J. Shaw	
Mr W.J. Johnston	Mr S.J. Price	Mrs J.M.C. Stojkovski	
Mr D.J. Kelly	Mr D.T. Punch	Mr C.J. Tallentire	

Noes (16)

Mr I.C. Blayney	Dr D.J. Honey	Mr R.S. Love	Mr K.M. O'Donnell
Mr V.A. Catania	Mr P.A. Katsambanis	Mr W.R. Marmion	Mr D.T. Redman
Ms M.J. Davies	Mr Z.R.F. Kirkup	Ms L. Mettam	Mr P.J. Rundle
Mrs L.M. Harvey	Mr S.K. L'Estrange	Mr D.C. Nalder	Mr A. Krsticevic *(Teller)*

Pairs

Mr M.P. Murray	Mr J.E. McGrath
Ms M.M. Quirk	Mrs A.K. Hayden
Mr R.R. Whitby	Dr M.D. Nahan

Amendment thus passed.

Motion, as Amended

Division

Question put and a division taken, the Deputy Speaker (Ms L.L. Baker) casting her vote with the ayes, with the following result —

Ayes (27)

Ms L.L. Baker	Mr W.J. Johnston	Mr P. Papalia	Ms J.J. Shaw
Dr A.D. Buti	Mr D.J. Kelly	Mr S.J. Price	Mr C.J. Tallentire
Mr J.N. Carey	Mr F.M. Logan	Mr D.T. Punch	Mr D.A. Templeman
Mr R.H. Cook	Mr M. McGowan	Mr J.R. Quigley	Mr P.C. Tinley
Ms J.M. Freeman	Ms S.F. McGurk	Mrs M.H. Roberts	Mr B.S. Wyatt
Mr T.J. Healy	Mr S.A. Millman	Ms C.M. Rowe	Mr D.R. Michael *(Teller)*
Mr M. Hughes	Mrs L.M. O'Malley	Ms R. Saffioti	

Noes (15)

Mr I.C. Blayney	Dr D.J. Honey	Mr W.R. Marmion	Mr D.T. Redman
Mr V.A. Catania	Mr Z.R.F. Kirkup	Ms L. Mettam	Mr P.J. Rundle
Ms M.J. Davies	Mr S.K. L'Estrange	Mr D.C. Nalder	Mr A. Krsticevic *(Teller)*
Mrs L.M. Harvey	Mr R.S. Love	Mr K.M. O'Donnell	

Pairs

Mr M.P. Murray	Mr J.E. McGrath
Ms M.M. Quirk	Mrs A.K. Hayden
Mr R.R. Whitby	Dr M.D. Nahan

Question thus passed.

McGOWAN GOVERNMENT — LAW AND ORDER

Removal of Order — Statement by Speaker

THE DEPUTY SPEAKER (Ms L.L. Baker) [4.18 pm]: I inform members that in accordance with standing order 144A, private members' business order of the day 1 "McGowan Government Law and Order", has not been debated for more than 12 calendar months and has been removed from the notice paper.

ROAD TRAFFIC AMENDMENT (IMMOBILISATION, TOWING AND DETENTION OF VEHICLES) BILL 2020

Second Reading

Resumed from 17 June.

MS L. METTAM (Vasse) [4.19 pm]: I rise to speak on behalf of the Liberal opposition as the lead speaker on the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020. From the outset, the Liberal opposition supports the proposed legislation. We support the wider community that is calling for the predatory and draconian practice of wheel clamping to be outlawed. We have seen questionable, predatory practices, particularly in Scarborough and around the City of Stirling, that has resulted in the driving away of customers. We have seen wheel clamping small businesses sitting, waiting and illustrating this predatory behaviour; and local shoppers being penalised for minor infractions—for example, parking in front of one shop and visiting another in the same complex. On this note, we, on this side of the house, believe and support the comments made by the Premier that this practice is simply unacceptable. I quote WAtoday on 5 December 2019, which states —

> Premier Mark McGowan has labelled wheel-clamping contractors as "thugs and bullies", declaring the state government would develop legislation to outlaw the controversial practice across WA.
>
> Mr McGowan said wheel clamping and the way that contractors targeted people was "unacceptable" and un-Australian.

The Liberal opposition has indicated early support for such a measure. Our shadow Minister for Police, the member for Hillarys, stated that it was about time the government recognised the public anger over the practice and put a stop to it. Another news article states —

> "Nobody wants to come out of a store, find their car clamped, unable to pick up their children from school, unable to get to their job, unable to get to medical appointments," he said.

That was in response to a growing level of anger in the community regarding these sorts of behaviours. The Cities of Stirling and Melville, and other local governments, have strongly advocated for wheel clamping to be banned in light of the practices I have touched on. The City of Stirling first raised this in the media in August 2019, and it

has been investigating changes to local government laws to ban wheel clamping itself. It should be acknowledged for bringing this issue to the fore and for being very proactive on this issue. The Liberal opposition, as I stated, supports this proposed legislation.

There needs to be a balance for local businesses and drivers to be treated fairly while at the same time protecting the rights of small businesses and landowners to maintain access to their properties. I am pointing to some consideration of issues surrounding the tow truck industry. This bill will bring WA in line with other states regarding vehicle immobilisation, which is prohibited in New South Wales, Victoria and Queensland. Queensland has quite a heavy-handed approach with this practice that is largely condemned by our community, and this bill draws from its existing legislation. Queensland has banned vehicle immobilisation since 1997, and has a thoroughly regulated towing industry as well. This bill proposes changes to two aspects of private parking enforcement, with the prohibition of wheel clamping and other means of immobilisation. This bill will ban vehicle immobilisation in WA or wheel clamps, but will also see the banning of other technology such as barnacles on windscreens. Some vehicle immobilisation will still be permitted, as the bill suggests. People will be able to use wheel clamps on their own vehicles, such as caravans or trailers, to keep that part of the vehicle secure. This legislation applies to private parking enforcement, and some vehicle removal will still be necessary and legal when they are obstructing or causing a hazard on public roads, or are an abandoned vehicle. There is quite obviously a necessary need, in extraordinary circumstances, when a vehicle simply has to be removed. We understand and acknowledge that that is sometimes a measure of last resort. State appointed enforcement officers will still be able to immobilise vehicles in the course of duty, as will sheriffs, police and agents of the court under written authorisation.

This bill also regulates the removal and detention of towing of parked vehicles. As I understand it, there is currently no regulation of private parking towing. These new laws will have no impact on the cost or any of the issues around breakdown towing, which have been raised quite separately in the public sphere as well. To that end, the Liberal opposition has some questions on this section of the bill, which will be raised during the consideration in detail stage. Experiences in other states suggest that when vehicle immobilisation is banned, some car park owners turn to having vehicles removed from their land as a means of controlling parking. That makes a lot of sense. For this reason, the government intends to regulate vehicle removal and put a greater level of onus on local government. Some of those measures have been outlined in this bill. We will ask some questions during consideration in detail about the resourcing that will go into that effort.

The bill outlines that a number of steps must be taken before a vehicle parked on private property may be towed. Prominent signage will be required and the tow truck driver must try to locate the vehicle owner or the driver. If they return before the vehicle is fully loaded and agree to move their vehicle, they can have their vehicle returned without charge. How will that cost will be borne? Will it be by the car park owner or by the tow truck industry? If the driver or owner does not return until after the vehicle is loaded or they refuse to move the vehicle, the vehicle will be taken to a storage yard. The regulations will provide a fixed fee for return of the vehicle. I understand the fixed fee we are looking at is around $200, and will be indexed, which is in line with Queensland and other states as well. The Department of Transport will provide wardens to support this level of enforcement, which will be an expansion of its powers. The government's position is that the best enforcement option is for parking operators to enter into local parking arrangements with the relevant local government. I will seek clarity around the preparation for local governments to support the measures that will be put in place. From the briefing, I understand that 39 of the 40 local governments in the metropolitan area are already in a position to support this approach, but we will seek clarification of how that will work and also how it will work in the regions.

Although this bill deals specifically with towing from private parking areas, it has been pointed out that there is an opportunity to revisit outstanding reform of the tow truck industry more broadly. Some concerns are yet to be addressed by the Labor government, particularly around consumer protection. There are around 750 registered tow trucks in WA. We have heard many stories of unfair and intimidating behaviour by tow truck drivers and corrupt practices, such as accepting tip-offs and the like. A RiskCover agency bulletin from February 2017 highlighted instances of receiving accounts for metropolitan towing from the same crash, with a 500 per cent cost difference between towing operators. I know the minister is aware of the issues with the unregulated tow truck industry, with meetings requested with the industry from July 2017. We are all familiar with the inquiry undertaken by the Economics and Industry Standing Committee in 2018 into Western Australia's automotive smash repair industry, which handed down a raft of recommendations. That inquiry also gained significant media attention, similar to the wheel-clamping issue. Towing rates for journeys of less than 10 kilometres in distance range in cost from $300 to $1 500 in central Perth, with dodgy companies taking advantage of vulnerable drivers. Since May 2019, Consumer Protection has received 135 inquiries and 37 complaints about tow trucks. It found that high towing fees were mainly a problem in accident towing situations. There are a number of issues.

I note that the minister stated in December 2019 that it was a deeply concerning issue and that some new regulations would be introduced to provide maximum towing and storage fees, and that trucks would be subject to annual inspection and compliance with relevant standards. However, to date there is no function for the vetting of operators. There is an outstanding issue with the accreditation process that could be put in place. There are public safety issues as there is no compulsory criminal history screening of people who drive tow trucks. I note that the minister previously

pointed to the Consumer Protection options paper. There was a bit of media on that last week, with a representative from Consumer Protection pointing to some of the work that has been undertaken in this area. However, it should be pointed out that there seems to have been very little progress in this space. A Consumer Protection representative said on radio just last week, on 11 August, that the department is asking people to submit any experiences or concerns and it will provide a report to the government. This is of significant frustration to the industry.

I take the opportunity to raise these issues at this time because some regulation of the tow truck industry is included in this bill. The Liberal Party is supportive of the body of what is proposed in the bill. We certainly support the prohibition on wheel clamping in this state. We also support the regulation of the removal, detention or towing of parked vehicles. However, there are a number of questions we would like to ask about the bill. We will also take the opportunity to urge the government to address some of the broader outstanding concerns with the tow truck industry and some of the questionable practices that remain. I will leave my comments there.

MR V.A. CATANIA (North West Central) [4.35 pm]: I speak on behalf of the Nationals WA as the transport spokesperson handling this bill, and put on the record that the National Party supports the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020. I also put on the record my thanks to the minister's office for providing the National Party with a briefing on what is well recognised to be an unsafe practice in a lot of ways—that is, wheel clamping. For example, someone could be walking by themselves to a car park at night after being at a nightclub or pub. They then find that their wheels have been clamped and need to try to find out how to get them unclamped so that they can get home. That puts that person in an unsafe and precarious position. It is timely that wheel clamping is thrown out the door in Western Australia, in line with what has happened in Queensland, New South Wales and Victoria.

The purpose of the bill is to prevent wheel clamping as a form of vehicle immobilisation by private landholders, including shopping centres and strata schemes. The bill also seeks to prevent wheel clamping from being replaced by the towing and detention of vehicles by seeking to introduce greater regulation of the towing industry, including maximum fees. As has already been mentioned, Queensland has similar legislation in place. That legislation includes maximum towing fees, with a maximum fee of $260.25 for release from a towing yard, $156.16 for onsite release if a vehicle has been loaded but not towed, and $26 per day for storage in a holding yard. I am pleased that the government has indicated that similar fees will be set out in Western Australia. The maximum fee will hopefully be around the $200 mark to disincentivise tow truck operators. I think that is what it will come down to.

I hope that the changes in this bill to stop wheel clamping do not lead to an increase in the number of vehicles being towed away. I note that when the Queensland legislation to ban wheel clamping came in, the number of cars being towed increased. The regulation of the towing industry under this bill will hopefully prevent tow truck drivers from simply towing away vehicles and creating another unsafe environment for people. I gave the example of a person walking to a car park late at night. When they parked their car, there might have been a heap of cars there, but suddenly there are no cars. The tow truck driver says that they can release their car, but that it will cost $200 or whatever it is. The person does not have that money on them, so they go to get some cash out. They therefore have to go through the streets at night to find a place to get out some cash. It creates all these issues. I hope that the towing away of vehicles does not create the same problem as wheel clamping.

This is probably a more city-based piece of legislation to protect people who park in the city. A lot of country members park in the city in some of the shopping centre car parks and may fall foul of the requirement to park in the right space or get a ticket. This is unlikely to have a big impact in regional areas, but bigger towns such as Bunbury and Busselton, and perhaps even Geraldton or Kalgoorlie, may have vehicles towed away. As the member for Vasse outlined, it is great to see that already a large number of local governments have moved away from wheel clamping, which I think has created a safer environment in their local areas and ensures that people are not caught out by wheel clamping.

We understand the bill is limited to private areas such as shopping complexes and private property. Regulation will call for towing to be a last resort, with signage needing to be displayed. Tow truck drivers would need to demonstrate that they had made every effort to locate the owner of the vehicle. It is important that signage is present so people can see it. There should also be a number to contact should people come back for their car and find it is not there. That would provide them with the ability to make a call. I hope when one rings that phone number, someone will be on the other end at all hours of the day so people can find out where their car is and access it. If it is 10 o'clock at night or one or two o'clock in the morning and a person's car has been impounded for the company by a tow truck driver, can that person get a taxi, an Uber, an Ola or whatever to get their impounded vehicle—obviously if they meet the requirements and pay the fee owing? That would be a good question for the minister to answer, because it is important to allow people to access their vehicles at any time once it has been impounded. If an impounded vehicle is left to the next day, it costs more money. As I said, that is a last resort. I hope the tow truck industry realises that it is a last resort, because at the end of the day it is there to make money. It is there to protect the business that employs them. Obviously, with clamping, the more clamps put on, the more money earned, so hopefully this provision to tow vehicles away does not suggest to tow truck drivers that they have another avenue of earning income. That is why it is important to have more regulation around the tow truck industry. As the member for Vasse said, this bill is a step in the right direction, but there needs to be greater regulation around tow truck drivers, because, let us face it, all of us in this place know that they generally do not have the best reputation. Anyone who has had

an accident and had 10 tow trucks rock up has had to try to pick which one will get them the best deal, and a lot of them can be quite forceful. As I said, this bill goes some way, but there needs to be further regulation on tow truck drivers, or those companies, to ensure they employ the right people and have some standards so that public safety is first and foremost.

The regulations will also include the maximum distance a vehicle can be taken to, in order to avoid vehicles from Perth being impounded in places such as Mandurah. Although that seems pretty commonsense, one of the issues will be where companies can have a compound to house the cars. If it is in the CBD, land will obviously be more expensive. It is important that there is requirement for people to be able to access their vehicles in the general vicinity of the Perth CBD and there is a maximum distance. Perhaps the minister can explain what that maximum distance will be. Companies will find the cheapest dirt to house vehicles, which will assist in keeping costs down through them not owning or leasing a very expensive piece of dirt. As I said, will there be a government garage, if you like, for vehicles not collected or owned by people who cannot afford to pay the fine? What happens to those vehicles? Is there a maximum time they can be left in the yard? After a month or two, is the vehicle handed back to the state, which then disposes of it if a person cannot pay a fine? They are some important questions that the minister could answer. Some people will not have the ability to pay the fine, especially if it accumulates over time and goes from $200 to $1 000. What happens next? How does a person who relies on their vehicle to work access it in the future? Does it get sold if it is not able to be collected in the necessary time? What does the government have in mind? Are there time frames in which the vehicle could be kept? What is the maximum penalty? What happens if the vehicle cannot be paid for?

I think the intent of the bill is right. Public opinion says that wheel clamping is not on. As I said, I do not think it is safe, but I understand that small businesses need to be protected so they can earn money by having customers come and go and not having people park in front of them because there is free parking and them then walking into another shop down the road or catching a bus to work. I understand the complexities affecting small businesses, but my real concern is about someone going to a nightclub district late at night, say in Northbridge or Perth, where it can be unsafe to go to a car park to retrieve a vehicle and finding it has been clamped or towed away. There needs to be signage, a number to call and a requirement for tow truck drivers to make sure they have tried every way of finding the owner of the vehicle. We do not want a tow truck driver to be there for just 10 minutes and then load the vehicle up and off they go. Perhaps the minister can talk about whether there is a time frame. Is it one hour or is it two hours? That needs to be put out there to the tow truck industry. The fear is that we get rid of one problem of wheel clamping, but create another one of vehicles being towed away.

As I said, the Nationals WA support the bill. It would be crazy not to support it. Wheel clamping is not needed in this state. It follows other states that have done this. It is important that consideration is given to regulating the industry more into the future to make sure that we have people who are there not to bully and intimidate but to make sure that businesses can operate in a safe way. We will ask a few questions in the consideration in detail stage and I have raised a few questions that hopefully the minister can answer in her second reading reply speech, because it is important to know exactly what some of these regulations, which we in this house have no visibility over, will be. Perhaps the government can give us some idea about that because it would be nice to come back in to this chamber in due course with the future regulations and reflect on that to see how this legislation has impacted on the industry and whether it has worked and we have seen an increase in the number of vehicles towed away. Perhaps, in due course, after this legislation is enacted, the minister can report back to the house on that.

MRS L.M. O'MALLEY (Bicton) [4.50 pm]: I rise to speak in support of the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020. "Shop local" has become an important mantra for the business owners of Bicton and beyond. Wheel clamping and other means of vehicle immobilisation are fundamentally anti–shop local and create a disincentive and in some circumstances a financial barrier to customers to visit their local shopping areas where the practice of wheel clamping exists.

I note that although the new legislation means that the use of all vehicle immobilisers will be banned, including new technology, I will mostly use the term "wheel clamping" during my contribution. I refer specifically to one shopping area in my electorate of Bicton, Hulme Court in Myaree. A constituent, who I will refer to as Colin, wrote to me to express his frustration and dismay following a recent wheel clamping experience in Hulme Court. He sent me a copy of the communication between himself and the wheel clamp company regarding the wheel clamping of his car outside a business that he visited following a visit to a different business. It is important that I read the exchange more or less in full to best illustrate the unfair and potentially discriminatory nature of this draconian practice. Colin wrote —

> The Manager
>
> …
>
> This email is to complain / appeal against the wheel clamping of my vehicle … in the afternoon of Friday 6 September 2019 …
>
> Firstly, we ARE going to GI Clinic (Unit 16) but chose to go to Spice Express for lunch first. It was almost 2pm and we were hungry.

> Secondly, there is no prominently displayed signage anywhere in the vicinity of your "private lots" to inform the public that they are private lots reserved for "units 16 to 32". Most shops do not have their Unit Number prominently displayed in their shopfronts facing Hulme Court. This includes Hulme House. Are patrons of Hulme Court expected to get off their vehicles, unparked, walk around to look for your obscure signage, and then check out unit numbers of shops to determine which lots belong to which shop, before parking? Clearly, this is ridiculously impractical. Hulme Court is a busy area at lunch time, with cars passing every minute. All my wife and I wanted were to get a quick lunch and then go to GI Clinic to check on an outstanding bill. Would everyone need to go through this parking legitimizing process just to get a quick meal or visit the shops?
>
> We revisited the area later in the afternoon, and found that there are merely two notices of perhaps A3 size … stuck on the wall of Hulme House, the blue/gray building. Facing Hulme House, the notice on the left side of the building has an arrow pointing right while the notice on the right side of the building has an arrow pointing left. There were parking lots directly in front of Hulme House and they fall between these 2 arrows. All these lots are unmarked, giving the public the impression that they are not reserved lots. However, even if one is to stretch the point that they are reserved by virtue of the 2 notices on the wall, what one can infer from the arrows on the notices is that they refer to the lots directly in front of Hulme House, ie within the "range" of the arrows. Our car was not parked in these lots.
>
> Where we parked was on the left, before Hulme House. There is no shop there at all. The lots where we parked are also unmarked. There is also no signage stating that these lots are reserved for patrons of units 16 to 32.
>
> To the left of the lot where we parked, there are a couple of notices hanging on the posts supporting an extension. These face a completely different direction, away from the lots I was parked. These notices are also different from those on Hulme House. They do not indicate that the lots are reserved for specific units. What they say is that the lots are for "Customers Parking" and are restricted to 2 hours.
>
> Unlike those carpark lots in front of DV Computers where signage clearly state that lots are for its customers only, there are absolutely no markings on the ground of the lots on the Hulme House side. How would anyone even start to suspect they are private lots when there are no appropriate markings? DV Computers has brightly marked bollards in front of their lots, supplemented by equally bright notices on the wall. Any unsuspecting patron would, by comparison, know that those lots are reserved, and the rest on the opposite side are therefore not.
>
> My wife and I have been in and out of Hulme Court for years, having part-owned a business there. We still frequent the area to eat and shop weekly. Never had we encountered this nasty shock before. We have decided never to go there anymore. What you are doing is killing the businesses there.
>
> Thirdly, —

The wheel clamp attendant —

> told us he watched my wife and I on CCTV closely, from the time we parked the car to our walking over to Spice Express. Basing on the CCTV, he concluded that we are not visiting the specific shops 16 to 32, so he decided to wheel clamp our vehicle. What gave him the idea that we will not visit the shops after our lunch? After all, it was almost 2 pm and we were hungry. As stated earlier, we are going to GI Clinic after lunch to settle a bill. We were so distressed by the whole affair we just drove off after being release. The point I am making is – do patrons have to go to the shops first to "legitimize" our parking before proceeding for lunch? Kindly point us to this notice, if indeed there is one.
>
> …
>
> Lastly, our car was the only one wheel clamped during the time we were there, although there were cars on either side of ours. None of these were clamped. As we were questioning … about the wheel clamping, the owners of these vehicles returned. One was a young couple, our acquaintance, and they told us they too did exactly the same thing as we did, ie parked their cars, had lunch, and came back to collect their cars. The other car belonged to a young woman with a little girl, carrying a cup of bubble tea. Her car was also not clamped although it was clear she went to the Bubble Tea shop, not the shops from Unit 16 to 32.
>
> On this basis, we want to know why was our car selected to be clamped. Was it perhaps because we are elderly and therefore soft targets? We asked —

The wheel clamp attendant —

> why only ours was clamped and his answered was he did not see them parking their vehicles and didn't know where they walked to. He therefore did not wheel clamped their vehicles. It appears to us then, that it is a matter of selective wheel clamping, a cat and mouse game …
>
> Please be aware that the … "release fee" is about a third of a pensioner's fortnightly income. It was a very painful expensive experience for us.

> In conclusion, I therefore request for a refund … on the basis that the wheel clamping is completely unjustified. Firstly, we ARE going to GI Clinic (Unit 16). Our "crime" was choosing to go to Spice Express for lunch first. Secondly, there is no proper and prominent signage, no markings and the inadequate number of notices displayed are unclear, misleading and contradictory.

The response from the wheel clamp company was —

> Dear Colin,
>
> I have reviewed the circumstances which lead to your vehicle being clamped.
>
> The car park is signed at all entrances and within the parking area, all clearly display parking is for customers vehicles only and the consequences if failing to comply with the car park conditions.
>
> Your vehicle was parked on private property which is for the exclusive use of the customers of Hulme House. It is your responsibility as the driver of the vehicle to ensure that you make yourself aware of the conditions of use of the car park when parking on private property. Please note that you need to remain on the premises to be considered a customer of the premises.
>
> Unfortunately you had no authority to park at this location as you were not a customer of Hulme House at the time of clamping, and therefore I wish to advise you that I decline in offering a refund based on the above.
>
> Please note that this decision is final and no further correspondence will be entered into.

Deputy Speaker, this is but one example of a far too familiar situation that results in an entirely disproportionate penalty and punishment for the nature of the infringement. Although it could be argued that the practise could be beneficial in ensuring that car parks are kept available for customers of the businesses that have agreements with the wheel clamping company, in reality, the practice of wheel clamping overwhelmingly benefits only one business—that is, the wheel clamping company.

Bicton business owners have also told me that a lack of available parking has a detrimental effect on customers easily accessing their business, so it is important that this legislation reflects the need to support local businesses.

This bill is not about removing the rights of private property owners; it is about putting in place a just and proportionate framework for dealing with illegally parked vehicles. The new legislation will protect the rights of landowners and small businesses to allow for infringements as normal. As the minister reflected in her second reading speech —

> At a time when we are actively trying to encourage people to shop at local businesses more than ever, it is vital that we remove practices that scare them away.

There is no doubt that during the COVID-19 pandemic, it has been a difficult time for Bicton business owners, especially those who operate small to medium-sized businesses in retail, hospitality and tourism or travel, which rely almost entirely on international movement, to remain viable. Bricks and mortar businesses, including those located along our "high streets" and shopping areas such as in Hulme Court, Myaree, have also been hit hard. I know of many who have had to close the doors of their business for a period, some of whom have still not reopened. All of them have had to adapt their business models rapidly and repeatedly over the past months while negotiating changes to their business property leases and mortgage or business loan repayment schedules.

I know firsthand how challenging and, quite frankly, strange this time has been for business owners and their families, because I live it every day with my husband as the owner of a work wear, personal protective equipment and uniform supply business. We have been in business for over 15 years now and know that the challenges can be great, as can be the rewards of small business ownership. I know personally that now more than ever, small business needs all our support as legislators and as customers. I believe that the changes proposed in the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020 will play an important role in providing this support. I thank the minister on behalf of the business owners of Bicton. I commend this bill to the house.

MR W.J. JOHNSTON (Cannington — Minister for Mines and Petroleum) [5.01 pm]: I am speaking today on the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020 in my capacity as the member for Cannington. I wanted to give members some information on wheel clamping. An unusual situation occurred at my office in Cannington. During the redevelopment of the Westfield Carousel Shopping Centre, people were parking in the bays outside my electorate office and the offices of two other tenants—a medical imaging centre and MercyCare, the charity. It was driving us crazy. It was very difficult for us. We spoke to our landlord and asked for the capacity to ring somebody if we thought a person was not behaving properly. We did not want random wheel clamping. We agreed on a system that enabled my senior electorate officer, the manager of the medical imaging centre or the manager of MercyCare to dial a phone number and say that we wanted a specific vehicle clamped. It was agreed that we could dial a phone number and provide the registration, make, model and colour of the vehicle. Only then would the vehicle be clamped and only when we rang.

Auto Clamp, a business run by a woman named Sue Chapman, put the signs up and then clamped cars when our offices were not open. This was terrible. We were getting complaints from everybody whose car was clamped at our place. As a member of Parliament, it became very difficult because people were parking on the weekend when my office was not open, when the medical imaging centre was not open and when MercyCare was not open. People's cars were still being clamped.

Mr W.R. Marmion: You'd be losing votes.

Mr W.J. JOHNSTON: Absolutely. The car belonging to the daughter of a prominent businessman in Western Australia was clamped. He sought me out at a business function to tell me what had happened outside my own office on a weekend in July. We took action and asked our landlords to not allow this to continue to happen, but of course it did continue. I will not go through all the correspondence. We received all these emails backwards and forwards to our landlord asking that this practice cease.

It all came to a head in the week of Christmas 2017. On 20 December 2017, the people from Auto Clamp started clamping cars at night while their owners were shopping across the road at Carousel. One of the people whose car was clamped was a relief electorate officer from my office. She had parked in one of the car bays in the car park that was clearly marked "Bill Johnston". My casual relief electorate officer rang me and said, "How can this be?" I came out to see her.

I point out that the signs that Auto Clamp had put up did not comply with the code of practice for wheel clampers and they gave an incorrect address—4 Cecil Avenue instead of 6–10 Cecil Avenue. Auto Clamp then asserted that it had clamped the car because it was not authorised to be parked there. I said, "Look on the ground. It says 'Bill Johnston'. I'm Bill Johnston. How can you say that the person is not authorised to park their car there?" Auto Clamp threatened to clamp my car parked in my bay outside my office. We called the police. The police said that they could not intervene; they believed it was a civil matter. I accepted the advice of the police. However, Sue Chapman threatened to have the car towed away. The police pointed out to her that that would be illegal because nothing on the sign said that a car would be towed. Although the sign said that if a car was not authorised to be parked there—this person was authorised to park their car there—it would be towed, there was no authority to tow the car.

We can see what Auto Clamp has been doing. It clamps cars and has a tow truck circling, and people believe that their car is about to be towed. Therefore, Auto Clamp gets the money, even though it has no lawful authority to do it. I make the point: how did Sue Chapman and Auto Clamp know which vehicles were authorised to be parked there and which vehicles were not authorised to be parked there? I gave the example that the person whose car was clamped was authorised to park her car in my bay. The fact that Sue Chapman threatened to have my car clamped when I parked my car in my car parking bay in front of my electorate office shows the extraordinary extent to which these people will go. Over the following couple of days, we sought the assistance of the Department of the Premier and Cabinet and the clamp was removed two days later. The car sat outside my office for two days before the clamp was removed. In the end, it was removed and we did not pay.

Then we come to 26 December, Boxing Day. As it happens, my wife and I were about to go on annual leave, travelling overseas. Like everybody, I had a few things to tidy up in my electorate office before I went on leave. On Boxing Day, I went to my electorate office. When I went into the car park, all the bays were full, so I parked behind the building. The bays at the back of the building are marked as being for people who work for the medical imaging centre. It was always agreed, specifically between myself and the manager of the medical imaging centre, that if my bays were occupied—sometimes they are occupied by his clients during the day, which is just the way it is—I was always permitted to park in the staff bays at the back. I spent three or four hours working away, clearing up correspondence—the usual stuff that we all do before we go on leave—and came out to find that my car had been clamped. Again, we went through the charade of having an argument with these people. I said, "How do you know that I am not authorised? Who told you that I am not authorised to park here?" They said, "We've clamped your car because you're not authorised to park your car there." I was authorised to park there. The question I had for them was, "Okay; if you've clamped my car on the basis that I'm not authorised to park there, prove that I am not authorised to park there." They could not do it because there was no proof. In fact, there was no proof that any of the cars they had been clamping were not authorised to be parked there. I can go through it. I have lots of correspondence that shows that each of the tenants had told our landlord that we had no interest in public holidays and weekends; we were concerned only about Monday to Friday.

Mr W.R. Marmion: Did you have to pay the money?

Mr W.J. JOHNSTON: I paid the money, because what choice did I have? I was leaving the country in two days. My casual did not have to pay; the Department of the Premier and Cabinet negotiated something with the landlord. I had to pay $170 via Visa to get the clamp removed. I videoed things and did all that. The point was that Auto Clamp had no authority to put on that clamp, because it did not know who was authorised to park in those parking bays. It was just a scam. I watched how much the company was taking. I reckon that on Boxing Day 2017, it took between $10 000 and $20 000 from the car park in front of my office and the other offices alongside. If that is not

illegal, it should be illegal. I have seen in the media real estate agents and others say that businesses need to be able to manage their car parking. That is true. That is the problem that I was trying to confront. However, clamping vehicles when the businesses are not open is ridiculous. It is a scam. There is no other way of putting it.

Following on from that, we had some correspondence with our property managers, and, in the end, the property managers arranged to cancel the contract with Auto Clamp. We now manage the parking problem in a different way. Subsequent to that, the works at Carousel Shopping Centre have finished, and although the parking problem is continuing, it is not as bad as it was during that difficult period in 2017 when Carousel had significantly reduced parking capacity. I acknowledge that the real estate agent for my property refunded the $170 that I had been scammed out of by Auto Clamp.

I want to refer to another incident. My office is on Cecil Avenue. At the corner of Cecil Avenue and Lake Street is a block of multiple-use premises, with businesses on the ground floor and apartments above. My daughter was living there with her flatmate, a friend, who was a nurse. One Saturday evening, her friend came back from her night shift, and for some reason the electronic gate to get into the premises would not open, so she parked in front of the row of shops. The next morning, she went out and found that her vehicle had been clamped, again by Auto Clamp. My daughter's friend has a very clever stepfather. There is a method of removing the clamp. I do not know the details of how to do it, but I understand it is by letting the tyres down. Her stepfather removed the clamp and took it to Cannington Police Station, which is at the end of the street. Auto Clamp would not go and collect the wheel clamp from the police station. I ask why the director of that company would not attend the police station to recover their property. That is an interesting question.

What is more, in that block of units and businesses there was a Lebanese restaurant called Cedar Cafe. Auto Clamp was clamping the vehicles of all the customers of that cafe—hundreds of them—because they were parked in the bays at night when the other shops were closed and only Cedar Cafe was open. Vehicles were also being clamped when they were parked on the grassed area out the front, when there was no evidence that that grassed area was the property of the development, so how would Auto Clamp know who was authorised to park in those areas? Cedar Cafe had to move out of that premises and to another premises on Sevenoaks Street because of the problems caused by Auto Clamp. I have heard representatives of small businesses, and property managers, talk about the need to manage car parks. However, if they are using Auto Clamp, they are not doing that. They are not protecting the interests of their tenants. They are simply making money for a person who is clearly not interested in working hard and earning a living as the rest of us have to do.

I do not want to go through all the documentation, but let me make it clear: I do not believe Auto Clamp could prove that it had a right to clamp cars that were parked at our property in Cecil Avenue. Of course, the challenge is that it is a civil matter, not a criminal matter, and the cost of going to court would be high. I am very glad that in the end, in early January 2018, our landlords cancelled the arrangement with Auto Clamp. I am also very pleased that the Minister for Transport has brought this bill to the house. When this bill came to cabinet for approval to draft, I sent a text message to the minister saying, "You're the best minister in the cabinet", because she is finally dealing with the question of clamping. That is because I have been so personally affronted by Sue Chapman from Auto Clamp and the bullying and intimidation that went into this $170 that they were intimidating hundreds of people into paying. I think the behaviour of that company is completely unlawful.

MS J.M. FREEMAN (Mirrabooka) [5.15 pm]: I thank members for the opportunity to speak on the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020. I absolutely welcome this bill. I want to talk about the length of time I have been raising this issue in this Parliament. The amazing fact about emails is that I can go back and see that I was raising this issue right back in early 2009 and 2010, but more stringently in 2015. This bill will ban the use of certain vehicle immobilisers, such as wheel clamps, to enforce payment or the collection of parking charges on private property.

Although some people might argue that wheel clamping is a right of private property owners, I absolutely agree that it is predatory, intimidating and unfair. The reason I believe that it is unfair is that it provides no opportunity for the person whose vehicle has been clamped to do anything other than pay a penalty to get their vehicle released. The penalty is vastly greater than the commensurate damage to the private property owner. This is the sort of stuff that gets caught up in contract law. A person owns a piece of land. A person who owns a shop that is located on that piece of land enters into an agreement with the person who owns that private property about how they will use the parking area that has been allocated to them, and if people breach what the property owner says is the proper use of that parking area, the property owner has some sort of right to penalise that person for the damage or loss they have caused. However, the penalty of wheel clamping is in no way commensurate with the damage or loss that has been caused to that private property owner. It is absolutely unfair.

I have recounted this in Parliament before, but I will do it again. A year or two year ago, a very distressed woman with a number of children came into our office. English was not her first language, so her understanding of what had happened to her was limited. She was Muslim, and her capacity to interact with the overbearing wheel clamper was such that she found it very intimidating. She came into our office because her car's wheels had been clamped after she had parked in the Mirrabooka ice-skating rink car park. The rink is now closed but the wheel-clamping

notice is still up. The business no longer operates, so it could no longer incur a loss from anyone parking in that area, but the wheel-clamping sign is still up. I was recently asked, "If I park in the vacant car park of the ice-skating rink, which is no longer in use because the equipment has been sold and the signs have been taken down, will my car still be wheel-clamped?" My answer could only be, "I think you still will be because the contract is still with the company if you park there." The business was operating when this woman parked at the Mirrabooka ice-skating rink. She parked there to go to the Department of Housing, which is located at this new, great, you-beaut building on Milldale Way in Mirrabooka, but it has no parking. I have a gripe about this. The previous government promised a light rail to Mirrabooka—we were robbed—and because of that, when the building approvals were given, it was allocated less parking. We now have this you-beaut government building that houses the Department of Justice, the Department of Housing and a whole bunch of departments, but there is no parking for its customers, effectively, so there is a massive parking issue.

The staff park all over the place in every available position, so people who try to access the Department of Housing services have no capacity to park anywhere. This woman parked in the ice-skating rink car park, which is across the road. She went back to her car after trying to seek information—I am not even sure why she went to the Department of Housing—to find that her wheel had been clamped. Suddenly, an overbearing, really large man told her that she had to pay $165 to have the clamp removed. She was fearful and upset. She had children with her. She came into our office and all we could tell her was, "Yes, you will have to pay this fine." We rang the company. We tried to deal with it, but there was nothing we could do.

I see two circumstances. The first is what happened to that particular woman. There was a sign saying, "If you park here and you're not using the business, you'll get wheel-clamped." I understand that that will be stopped entirely, but the second is an issue that I have talked about in this place before. Parking Enforcement Services, which is a division of Wilson Parking, has established parking zones in some areas in Mirrabooka. If a person drives past a sign that says, "You agree to the terms and conditions when you park in this area", and then they park in front of a sign that states that they can park for only three hours, if a person breaches the rules of that parking area, a breach of contract notice is put on their car window. It looks exactly like a fine that a person would get from a local council and it basically says, "We are Parking Enforcement Services and you have to pay $65 because you have overstayed and broken the three-hour parking rule." People have to read the fine print to realise that they have breached a contract by staying in that area.

I argue that $65 is not commensurate with the loss when shopping centres have massive car parks, such as at Mirrabooka. Frankly, we could do with other people being allowed to park in some of the car parks in Mirrabooka because people end up parking on verges, but that is another matter. People cannot park in the Mirrabooka shopping centre car park for any length of time greater than four hours without getting one of those breach notices and they cannot park in the car park out the front of my office for any greater period than three hours without getting a breach notice. If they catch a person breaching the terms and conditions, they say that they have to pay this amount within a period of time. The amount is $65. It is really questionable whether that is a commensurate loss. It is a free car park. People do not go through and flick and pay for ticketing or anything like that. The term that is used for parking there too long is "liquidated damages". What is worse is that the small print on the breach notice, which looks like a fine, says that they have a right to clamp a vehicle if someone does not pay for the breach. If people park at Mirrabooka shopping centre and stay for more than four hours, they get a breach notice for liquidated damages. If they then park in the parking area outside my office, Parking Enforcement Services will drive by and clamp their car even if they have not been there for any length of time, and they then have to pay $165 to have it unclamped, plus the $65 for liquidated damages.

It is really interesting to look at old emails. I have an email that I wrote to Rita Saffioti on 26 May 2015, which is headed "Parking issue — Mirrabooka Square". This was a while ago, Rita, so I do not expect you to remember this! The email reads —

> Hi Rita, as you have Ellenbrook in your area I wanted to raise with you the issue with parking at the Mirrabooka Square and a constituent in Ellenbrook.

I then provide the background of the story and include the email that was sent to me, which states —

> Hello Janine,
>
> I work for the Dept of Housing in Mirrabooka. 3 weeks ago I had finished my shift at work to find when I had returned to my vehicle that it had in fact been clamped. I was mortified. 17.15 at night and I am trying to get someone to come ad un clamp it. I was spoken to rudely and hung up on multiple times. There was a woma from DCP who had also been clamped and the parking gentleman was with her. He was extremely rude and arrogant. I was advised I had to pay $135.00 to have my vehicle un clamped (this was off pay week with 3 children and left very very short on funds for the week). I asked why my vehicle had been clamped and he advised me because I had a coupe of out standing fines from Mirrabooka Shopping centre for parking my car in there car park. I kindly advised this gentleman that I had never received a ticket on my windscreen ad if I had I would have contested it or paid it. He just said, "we are targeting you government workers".
>
> …

> I have disputed my clamping issue but heard nothing from them and I have also requested that they reimburse me the $135.00 that I had to fork out.
>
> I am hoping that you will be able to help me and the other lady's that has the same issue.

Frankly, we could not help because for all intents and purposes, having parked in that area, unless she could show that she never got those breach notices, she had to pay those liquidated damages. I understand that cars can still be wheel-clamped if there is explicit consent. My question for the minister is: does explicit consent happen when a person does not pay the first breach notice? They get a notice of breach because they parked in an area after driving past a sign and supposedly entering into a contract with Parking Enforcement Services, which is a division of Wilsons. They incur a breach. They do not pay it, and they never park in that parking area again because they think, "I'm not going to park there again", but they park somewhere else, somewhere completely different, and suddenly their car wheel is clamped. Is that a situation in which the company could argue that there was explicit consent because they did not choose to pay the first parking fine?

In wrapping up, I want to say that ever since I have come to this place I have argued against private car parking companies being able to issue fines when they do not issue parking tickets or require cars to pass through some sort of boom gate. I refer for example to Parking Enforcement Services, which is a division of Wilson Parking services, which simply drives past and take photos of car registrations because it has done a deal with the owner of a parking area and businesses located nearby. I do not believe that is an effective way of regulating parking in our community.

People know that businesses do not want people to park, say, in bays outside my electorate office for the whole day so they can catch a bus into the city. We get that. But the idea that just because someone drives past a sign, they implicitly, by driving past and parking, have entered into a contract, and that if they breach those conditions can be subject to liquidated damages, is simply unfair. I raised this issue when Minister Rob Johnson was Minister for Commerce; Police; when Minister Paul Miles was Minister for Commerce; and when Minister Johnston was Minister for Commerce; and I have also raised it with the current Minister for Commerce, John Quigley. This issue crosses into consumer protection. My understanding is that Consumer Protection investigated the issue of liquidated damages that happens with PES and Wilson Parking and whether that conduct amounts to false or misleading misrepresentation under the consumer law. Given that Wilson Parking does not hold statutory authority to issue penalties, because it issues only breaches, Consumer Protection has concluded that the application of liquidated damage does not constitute an offence contrary to the Australian Consumer Law. I disagree with that. Consumer Protection has never pursued that claim. It has never taken that matter before any court on behalf of anyone subject to those sorts of damages.

Also, I understand that in Victoria and other jurisdictions, liquidated damages must be commensurate with the loss. It cannot be for massive amounts. If a company tows a vehicle away, it could be able to say, "You have to pay us $250 for towing," when the loss incurred from someone parking in an area for four hours versus three hours is only $20 because that person has walked into a business to buy a lotto ticket or something like that. We really need to comprehensively look into this area to make sure that consumers are protected. Everyone accepts that businesses want their parking areas to be available for their customers. But the loss to that business when someone parks in that area for the day is very different from the loss incurred when someone overstays by a short time. At the moment those things are not taken into consideration; it is just a block breach.

I want to congratulate the City of Stirling because it considered changes to its local law to stop wheel clamping. That really was the impetus for this change. I was really pleased when the City of Stirling did that, because I always felt as though I was yelling into the wind every time I stood up to speak in Parliament or to ministers on this issue. Everyone I spoke to would just give me this look of, "It's too hard." The issue of wheel clamping is only part of the much broader issue around private property rights and parking, and the commensurate losses and proper damages that result from people who park in those areas. I thank the minister for bringing this bill before Parliament.

MR D.R. MICHAEL (Balcatta) [5.33 pm]: I will be reasonably quick given that the member for Nedlands looks as though he, too, wants to speak on the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020, and that it will be good to go into consideration in detail on this bill before we deal with another bill tonight. It is great that everyone agrees that the practice of wheel clamping is terrible. There are massive safety problems involved. I often think that it presents difficulty for young people, especially those who have just got their licence and are the designated driver, when they have to park in the city when they go out. Sometimes they come back to their car alone and find that their car is gone, and it is not a good situation to be in. I first encountered this when I was young. My car was never wheel clamped, but there used to be quite a lot of empty lots in Northbridge and Perth and, like the member for Mirrabooka mentioned with the Mirrabooka ice rink, the businesses were not operating anymore, but the owners of that property were taking advantage of the situation and not putting a chain on the entrances to their vacant property or having any sort of bollards and letting people park there. They would have very small signs that no-one could read in the dark, and there would be wheel clamping. There were, as we have heard, exorbitant costs not proportionate to the offence, if you like. There was intimidation sometimes by the people who were involved in removing the wheel clamps. There was sometimes entrapment. We saw that happen in Scarborough in the lot where the great former member for Stirling Jann McFarlane used to have her electorate office.

People would wait in the darkness for someone to park their car while they nicked into a shop to get something. They may not have thought they were parking on someone else's property because the signs were very small. It has been a terrible plague that we have had for some time now.

When I became a City of Stirling councillor in the mid-2000s, I remember a gentleman by the name of Taiura Nicholls, who worked for the RAC and with the party as well. He had done a heap of research into wheel clamping. I still have in my Google Drive scans of documents that he gave me when I became a councillor, because I thought that the City of Stirling should try to ban wheel clamping. Those documents are related to a Victorian parliamentary report done in the late 1990s and a heap of research done for the Queensland Parliament before it drafted its anti-wheel clamping laws. I was 25 or 26 years old when I became a councillor. Back then I did what I was told but if I had been told this at the end of my local government career I would not have done the same thing. I was told that in local government we could not do a local law. It would not fly. Do not do it. If I tried to do it at council, the mayor or someone else would rule it out. I left it there because I thought that was right.

At the 2019 City of Stirling elections, the then and current Mayor, Mark Irwin, the first directly elected mayor of the city, started a petition as part of his campaign to ban wheel clamping. Like the member for Mirrabooka, I congratulate him and the City of Stirling for passing a local law to ban wheel clamping. I do not think it got to the Joint Standing Committee on Delegated Legislation because the council has since decided not to continue after the state government announced that this legislation was coming. I think the push for anti-wheel clamping came very much from the City of Stirling and its council. I would also like to thank the mayor and those departmental officers and other people within government who pushed for this as well and who have probably been doing it for some time. I think it is really good.

I think it is great that the bill goes further. The last thing we want is for those in parts of the tow truck industry who are not as reputable as others to come in with similar practices and charge people a lot of money to get their cars back. It is great that there will be some regulations that promote prominent signage for penalties and consequences for breaching parking conditions, rather than those little things that no-one can read and the confusing signs that the member for Mirrabooka spoke about that no-one can understand. It is great that a tow truck driver will need to make an effort to find the owner of a parked vehicle, and that if the owner of the vehicle comes back and the car is still there, the person will get their car back without charge, which I think is important. However, it is also important that there will be a regulated fee, which is not exorbitant, if a car is towed away.

At the end of the day, as well as safety and all those other issues, wheel clamping is about anti-vibrancy. If a person wants to shop or eat some food or go somewhere or use a business at a shopping precinct, big or small, and they know that wheel clamping is going on, they will be less likely to go to that shopping precinct than another one. Not having wheel clamping will make it better for all businesses in an area. That is why I think it is so important that this bill passes.

Local government has a part to play. It is great we are promoting local parking arrangements or agreements. The City of Stirling has had these for many years. It means that a business can enter into a partnership with the City of Stirling to regulate its car parks. This will be for businesses that are located in areas in which car parks are used as park 'n' rides near a high frequency bus route to the city or at a train station. The City of Stirling or any local government can come along, chalk tyres and check to see whether someone is using that car park as a park 'n' ride. The owner will get a modified fine that will stop that behaviour pretty quickly once they know that that car park is for the business's use only, and it may be for only two or three hours' parking.

I congratulate the minister for bringing this bill forward. Although it is minor in many people's eyes, it is a very important thing to do and it will make our shopping precincts much better for not only consumers, but also businesses in that area. Hopefully, we will outlaw the predatory behaviour of wheel clampers and the companies that do that, and also make sure that we regulate tow trucks, as part of a further suite of reform to the tow truck industry, which is sorely needed.

MR W.R. MARMION (Nedlands — Deputy Leader of the Opposition) [5.40 pm]: I will make a brief contribution to the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020. If I had known there were going to be so many speakers from the other side, I probably would not have! I have gone through this bill to try to find fault with it, and I have not been able to do so. It does two things. Firstly, it prohibits wheel clamping. What does wheel clamping achieve? If someone has a car parked in a bay, and it should not be there and its wheels are clamped, it is still there. The problem has not been solved. All the wheel clamping has done is create a burden, rightly or wrongly, for the person who owns the car. It has also created a bonanza for the person who has clamped the car and can recover some cash to unclamp it. Getting rid of wheel clamping is a good thing. Wheel clamping can also damage wheels and tyres, and a lot of other issues can happen with wheel clamping. When this topic comes up on talkback radio, the phones go wild. I have heard so many stories, and we have heard some stories this afternoon. It is very hard to beat the member for Cannington's stories. I have a couple of little stories, but it is amazing that the member had his car clamped. Some people on this side might say it is just deserts for the member, but it was hilarious to find that the member for Cannington has had his car clamped.

The other aspect of this bill that we support is the change to the towing away of cars from a private property. This bill is about private property. If someone has their car parked in a private car parking bay, there needs to be regulations around someone taking their car away. There also needs to be some protection, of course. An owner of a private property can earn some income from owning a car park. I will use the good example of an electorate office. I will use my office as an example, as the member for Cannington did. In my car park, I am authorised to park in a certain spot, but who knows which car I might park there? I might bring in my wife's car, or one of my electorate officers might park in my spot. I have got only one spot in this big car park, so the issue is: how does anyone know who is authorised? In most private car parks, the car registration is assigned to the bay, so someone could be penalised if their car is registered, but they use another car. There is a huge issue around that. Six months ago, in our particular car bay, signs suddenly appeared stating that if someone is unauthorised to park, their car would be wheel clamped. We were not advised of these signs going up; they just appeared. When we looked at them, we wondered whether someone had just put them up to scare people off from parking there. I think there was a phone number on the sign, but I am still not sure how formal it is. At our car park, if someone parks in my bay, I will end up parking in another bay. If I know whose bay it is, I will go to the particular shop and say, "Excuse me. I have parked in your bay. I am going to be two hours; is there a problem?" If there is a problem, I would park in another bay. Members can imagine that if wheel clamping was happening in our car park and one person parked in the wrong spot, there would be a flow-on effect. If somehow the wheel clamping organisation knew which car was supposed to be in each bay—I think the member for Cannington said they would not be able to, but let us assume they can—the flow-on effect of one car parking in the wrong spot would mean that 30 cars would have their wheels clamped for being in the wrong spot if they all cascaded from the wrong one. Therefore, I agree that wheel clamping should be prohibited. That is what this bill does.

The next part of the bill is all about towing vehicles away. This reminds me of an incident of an authorised towing of a clearway. A couple of years ago, I was going to a function on Beaufort Street. The left lane was a clearway until 5.15 pm, from memory. I got to where I was going at about 5.10 pm. I thought, "Should I risk it? No, I'll go around the block." I drove around the block and it still was not 5.15, so I went around the block again. When I came back it was right on time, but someone had already parked in that spot, so they got the best spot opposite this particular venue on Beaufort Street. I managed to drive a bit further up and I found a spot, but then I saw the tow truck that the car was being put on. I am sure this person got there at 5.14 pm, one minute before it was not a clearway. The tow truck driver must have been waiting until someone parked there, and this person thought they would risk the one minute. The person was at the function I went to—in fact, I think the member for Dawesville would know this person, but I will not mention them in Parliament. When I went into the function, I asked someone, "Who owns a Jaguar?", and they said that it was their car. I told them they will find it has been towed away. He raced out in the street and was too late. He could not negotiate with the tow truck driver to not tow his car away. That reflects on some of the experiences that people have had. That was legal, but we probably need to look at that. That particular car was not a serious threat to Beaufort Street at 14 minutes past five, but that is how officious the tow trucking industry obviously is, and there is a good return for it.

Back to the bill, which is about private land. I am pleased to see that the towing of vehicles will be a last resort. Regulations will be put in place to ensure the right processes are followed, including signage. Signage is a key issue. From my memory of contract law from about 30 years ago, car park owners are obliged to have signage that is readable so that when someone goes into a car park they can see the signage and its conditions are quite clear. I think the member for Mirrabooka mentioned whether there is a contract. My understanding is that if it is going to be an implied contract, it has to be quite clear to the person and they have read the sign that states the conditions of parking in that place. It has to be on every single entry to that car park. If someone comes in a different way and they have missed the sign, they could argue there is not an implied contract. I am sure all those things will be in the regulations, such as making sure the signage is fit for purpose. With those few comments, the Liberal Party supports this bill and I hope it comes into force soon.

MR Z.R.F. KIRKUP (Dawesville) [5.48 pm]: I, too, rise to talk to the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020. I will be short, I imagine, at 11 minutes or less. I obviously stand with the Liberal Party in support of the legislation; I think it is an important bill. I would like to talk about two areas very briefly—firstly, the revenues that local governments continue to get from car parking, and, secondly, towing. It goes to the point the member for Nedlands and others have already raised in this debate.

I find it interesting to consider what the future will look like. We can assume that in perhaps a decade or so there will be an increased number of autonomous vehicles and a massive decrease in the number of cars that will pay for parking. I envisage that we will no longer have a need for large, multideck car parks and that street parking will also probably not be required if people use autonomous vehicles to come into the city. At the moment, some people use a rideshare service. There will be less need for people to park vehicles if there is an increasing capability for rideshare services to easily and conveniently pick people up. The annual reports of many local governments clearly show that they have a huge dependency on car parking fees. That presents a challenge for governments going forward, particularly in the case of Western Australia. I do not know the number of car parks in the CBD, but there would be a large number. When we hopefully see an increase in the use of autonomous vehicles or at least increased

dependency on rideshare services for convenience in a decade or so, how those car parks will be repurposed will be a challenge. The disposal of those sites will present an interesting concern. I will be interested to see how future governments respond to that.

Local governments have a heavy reliance on car parking fees. Car parking revenue is in the order of tens of millions of dollars for the City of Perth. There is significant cash flow coming through to local governments in our capitals, and they need that revenue to ensure that they remain viable. What will happen when that revenue starts to drop off? That might have been brought forward by COVID-19. We know that plenty of companies in Perth now have split rosters, with only one-third or two-thirds of the workforce coming into the office blocks. I suspect we will start to see a decline in inner-city parking. How will a local government reorient if it has been dependent on tens of millions of dollars of parking revenue? That will be an interesting discussion about car parking fees. I have thought about that mainly in the sense that I expect autonomous vehicles, rideshare or some form of public transport to be used at a higher rate. Perhaps in a post-COVID world, people will prefer smaller vehicles to larger vehicles to meet their transport needs. The ongoing risk that poses to the financial viability of local governments is a conversation that is at least worth thinking about now, because we should be trying to futureproof our local governments for the inevitable situation in which there will no longer be such a revenue stream. When we were dealing with Hale House, for example, the local government charged the state government for the car parking bays that we built there. Back then, it was maybe in the order of $4 000 a bay, because we were within the bounds of the City of Perth. For example, BGC, where I previously worked, had a large number of car parking bays right across the city. A lot of money goes to local government from car parking and that revenue stream will no longer exist if people do not constantly come into the CBD to meet their workplace needs.

I encourage members to read a really interesting article by James Altucher about the future of New York City. It effectively suggests that New York City is dead—that dense cities in a COVID world do not have a future, because people will flee to the suburbs, towns or regional centres. A good place would be Cottesloe, member for Cottesloe, or Mandurah—that is a good regional city to come to.

Ms R. Saffioti: Mandurah is more dense than Cottesloe.

Mr Z.R.F. KIRKUP: We are very forward thinking in Mandurah; we have many different densities. The member for Mandurah in particular loves a good bit of density.

Mr D.A. Templeman: I am very keen on density.

Mr Z.R.F. KIRKUP: He loves density.

Mr D.A. Templeman: As long as it's not in my backyard!

Mr Z.R.F. KIRKUP: As your local member, member for Mandurah, I promise we will not have it in Falcon!

Mr W.R. Marmion: Here is your backyard; you've subdivided it.

Mr Z.R.F. KIRKUP: He comes to me when he has concerns about the government! Of course not.

It is an ongoing concern. The post by James Altucher was interesting, because we can imagine people not going into cities. For what it is worth, property prices in New York City have dropped quite significantly. That apparently relates to international investors no longer wanting to invest there. There is a conversation to be had about density in cities. I expect we will start to have a more mobile workforce now. With COVID-19, fewer people have been coming into the CBD to work because they can effectively work from home. One of the major consultancy firms is doing one-third–two-third split shifts, for example. Basically, on a three-week rotating basis, one-third of the entire workforce is not there. That is a big reduction. We obviously know the economic impact of that, particularly on vendors in the CBD, but it will inevitably also have an impact on car parking. It is just interesting to think about what the administration of our capital will look like when that revenue source is no longer available.

In the remaining time, I would like to talk about an issue that the member for Nedlands and I think other members have articulated here. I was not here, so later I will read the member for Cannington's contribution in *Hansard*, given what appears to be a terrible stoush he has managed to have with a local landlord, whom he said was acting unlawfully. With vehicle towing in the City of Perth, I find it interesting that there is not a requirement to provide signage to let people know what has happened to their vehicle. The City of Perth came up with the idea, I think during the term of the former government, to free up the flow of traffic in the city, when everyone was going into the city. For some bizarre reason, I remember it ticking over as an issue of concern. I think it was a contentious issue on which we were providing briefings. It is an established practice now, but people are still quite uncertain about where their vehicle goes when it is towed in the City of Perth. I have thankfully never had my vehicle towed, but some mates of mine have. Plenty of times when people walk out of wherever they are, even on a weekend—it was something like that —

Mr W.R. Marmion: They think their car's been stolen.

Mr Z.R.F. KIRKUP: They think their car might have been stolen, member for Nedlands. It is simply not there.

Ms R. Saffioti: That's because they all drive Jaguars.

Mr Z.R.F. KIRKUP: Apparently. I am sure there is a range of vehicles. I think in the CBD in Sydney—I am not too certain—if a car is towed from a clearway, the signs provide the number for the driver to call. I appreciate that this is not something that the state government needs to regulate, but I find it bizarre that the City of Perth does not put on its signage that if a car is not there, the driver should call this number. I am surprised that that is not the case. The City of Perth has not, in this case, made it particularly user friendly for somebody who has gone through what could actually be quite a traumatic experience. Unlike many people who get parking fines and see the parking inspector there, who has come five minutes after their time has expired, I do not go up to them; I just wait, because I would find that an awkward conversation. I am not going to try to engage them in a conversation about how I am only five minutes over time or something like that; I will just wait. I would feel uncomfortable talking about that. If my car has been towed, I could not imagine going to explain that I was in a clearway. Some cars remain in holding yards overnight. Some people do not have the money to have their car released. The member for Mirrabooka made a point about cultural differences. To be perfectly frank—I apologise, because the member for Mirrabooka has far more experience in this area than I do—the cultural concerns are real and present. I had not considered for a moment the impact that could have. The member told a story about a Muslim woman. I obviously understand the barriers that that presents to engaging in a conversation with someone who is typically deliberately imposing looking, I would argue, in terms of the people who are chosen for wheel clamping. The language barrier would be a problem. In the case the member raised, I imagine that other cultural issues would also present a barrier. That is not a particularly easy process. For a professional outfit like the City of Perth, it would take nothing to put up a sign next to a clearway, for example.

Mr W.R. Marmion: I think there is also a problem about when they shut. If you finally work out where your car is and you ring up, they say, "You're too late. We close at six o'clock." That can be another issue when you've lost your car.

Mr Z.R.F. KIRKUP: Sure. There are plenty of issues with the ease of access to it. The idea that there would not be the opportunity for someone to easily retrieve their vehicle is a concern. I personally hate Wilson Parking. I do not think that is a good organisation. I do not like it. I think it sometimes presents its car parking signage in a way that is not particularly easy to understand or read.

Mr D.R. Michael: It would be terrible to give them hospital car parking then, wouldn't it!

Mr Z.R.F. KIRKUP: In that case, I am sure it is well laid out, member for Balcatta. I am aware of some City of Perth car bay signage, for example, that is not easy to follow. I think that perhaps sometimes they are deliberately not easy—in some but not all instances. There is a lot of improvement that could be made with car parking, wheel clamping, towing and the like. I think this is a really important step and I welcome the bill that has been brought to the house. It is one thing that I think we might consider, given everything we have dealt with during this pandemic. It is not as big as everything else, but I think the impact will be quite considerable. I support the bill.

MS R. SAFFIOTI (West Swan — Minister for Transport) [5.59 pm] — in reply: I thank members for their contributions to the debate on the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020. A number of questions were raised, which I will try to answer.

Sitting suspended from 6.00 to 7.00 pm

Ms R. SAFFIOTI: I will try to address the questions that were raised during the second reading debate by members opposite and also on my side. First of all, I will try to answer the questions of members in the chamber at this point in time and wait until the rest all come flocking back. The member for Vasse —

Mr D.A. Templeman: I thought you said something else, but I am leaving it now!

Ms R. SAFFIOTI: I said "flocking back"!

Regarding who covers the cost of the release of the vehicle, when the vehicle owner returns before the vehicle has been towed away and it is released without charge, the costs of the tow truck driver will be covered by arrangements between the parking landowner and the tow truck company. The legislation requires a signed towing agreement between the landowner and towing company with standard wording that will be approved by the CEO of Transport. Another question that the member for Vasse raised was how this legislation will affect crash and breakdown towing. This scheme applies only to vehicles towed away from private parking areas because they are causing a hazard or are not parked in accordance with posted conditions. The scheme does not apply to crash or breakdown towing. This work makes up the majority of towing. The Department of Mines, Industry Regulation and Safety is currently working on proposals to regulate crash and breakdown towing. It has recently released a consultation document about the regulation of the towing history as a whole. We are currently preparing the regulations governed by the Department of Transport, and these will include vehicle roadworthiness inspections and the disclosure of towing and storage fees prior to the vehicle being towed away.

The member for North West Central asked in what circumstances a vehicle could be towed away. Towing will be the last resort for parking management. If a property owner wants to have a vehicle towed away from their property, a number of steps must be followed. First, there must be signage in the parking area that warns about the possibility of towing. This signage must be in line with the requirements outlined in the regulations. The owner must have

a towing agreement with the tow truck operator. This is an agreement in a template approved by the CEO of Transport. There is a 30-minute waiting period before the vehicle can be towed, unless it is causing a hazard. In this period the tow truck operator can search for the owner and load the vehicle. If the owner returns before the vehicle is loaded, the vehicle must be returned without charge. If the owner returns after the vehicle is loaded, the vehicle must be returned for a set charge. The member talked about a $200 fee, but we are looking at whether that could be a bit lower, and we are working on that at the moment. The figure in Queensland is slightly more than that. Regarding what happens when the car is gone—that towing situation—the parking signage will include a telephone number that the owner or driver can call to find out whether the vehicle has been towed and where it is. The responsibility for servicing this number is currently under investigation. It could be staffed by government officers or maybe managed by the landowner or towing company. Regarding vehicles being towed excessive distances, the vehicle must be taken to the nearest appropriate approved storage yard. Fees will be capped, again, to ensure that longer distances cannot be chosen.

The member for Mirrabooka commented that under proposed section 92 a vehicle owner may give consent that is explicit. This means the express words by the driver in that particular occurrence of parking. Please note that this legislation does not affect the use of breach notices and a breach notice will not provide consent and has no bearing on the use of clamping.

The member for North West Central has disappeared. I am sure he appreciates all of those answers to his questions!

There were very useful contributions by everyone. I thank everyone for their contributions. As the member for Mirrabooka has raised previously with me and as the member for Balcatta has outlined, the City of Stirling has been very proactive on this issue. I think last year at a community cabinet meeting in Mt Lawley, Mayor Irwin spoke directly to me about it. At the time I was not quite sure whether the issue fell under my portfolio; I think it could have fallen under three or four portfolios, but here I am bringing in the legislation. I am very happy to do so. I think we have seen very bad behaviour in this area. For example, someone wrote to the Premier as late as a couple of weeks ago outlining how a wheel-clamping company clamped her car in Scarborough. They seem to have targeted and been very aggressive in Palmyra, Scarborough and Cannington, and I think it should not be allowed. The other issue, even compared with towing, is that wheel clamping is a pretty easy thing to do from a cost point of view—very, very low cost, with a very high return. The cost is very limited and that return is $170 straight away. There is incentive for unscrupulous wheel clampers to make a quick buck, because there is a very low cost, it is very quick to implement and there is a very high return that can be gained very quickly. One of the other issues about wheel clamping is that it is such an easy thing for someone to do to another person's vehicle. I am very happy to bring in this legislation. I thank everyone for their support and comments and look forward to consideration in detail.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1 put and passed.

Clause 2: Commencement —

MS L. METTAM: I hope I might be able to ask some general questions at clause 2 that I cannot see relate specifically to other clauses of the bill. These are just questions that have been asked of me by the industry. One question posed was: what consultation has the government and/or its relevant departments had with stakeholders with a direct interest?

The DEPUTY SPEAKER: I am just querying. This is clause 2, member, "Commencement".

Ms L. METTAM: It relates to the commencement of the bill and whether that has an impact on stakeholders in the industry. I just wonder whether the minister or the department have had discussions about what that commencement would look like and what the impact would be.

Ms R. SAFFIOTI: The Department of Transport has consulted with the Western Australian Local Government Association; specific local governments, such as the City of Stirling; security companies undertaking wheel clamping activities; strata companies; Western Australia Police Force; the Department of Local Government, Sport and Cultural Industries; the Department of Mines, Industry Regulation and Safety; and the Road Safety Commission. The statement of intent was placed on the Department of Transport website on 25 May 2020 and circulated to relevant parties, including tow truck owners, strata agencies, parking organisations and security agencies that are engaged in wheel clamping.

Mr V.A. CATANIA: Further to that, with regard to the commencement and being prepared for when this bill is enacted and we cannot clamp wheels anymore, when is that going to occur—when this becomes law? When the legislation becomes law, will the property owner have to put up signs with phone numbers to call if someone's car is towed away? With regard to being ready to have the infrastructure in place at businesses, will they have to be in place before this bill is enacted?

Ms R. SAFFIOTI: Before cars can be towed there needs to be an agreement between the landlord and the tow truck company. The regulations will also specify the size of the signs, and there will be a phone number there. Sorry; I answered that question before. There will be a phone number on the sign in relation to towing.

Clause put and passed.

Clauses 3 and 4 put and passed.

Clause 5: Part 6A inserted —

Ms L. METTAM: This clause contains definitions, and I refer to the definition of "controller". Can the minister further define what a controller actually is and how this will work if, for example, it is not the owner of the property but somebody who is staying at that property?

Ms R. SAFFIOTI: It is the person in charge of the storage facility where a car may have been towed to as a result of this legislation.

Ms L. METTAM: With regard to parking facilities, how does this work in relation to towing from verges or other places? There is a definition, and obviously this bill relates to wheel clamping or towing from parking bays. I just wonder what the situation is when we are talking about parking in public places.

Ms R. SAFFIOTI: It is not intended to cover any public verges or public land.

Ms L. METTAM: I imagine that the issues relating to having to move a vehicle would still exist in those circumstances. I just wonder whether it has been considered as part of the bill if the vehicle could be, for example, out the front of an aquatic centre or another area.

Ms R. SAFFIOTI: Again, this is intended for private parking facilities. It is not really intended for verges or government-owned land.

Mr V.A. CATANIA: I refer to paragraphs (a) and (b) of the definition of "parking agreement". Is it incumbent upon the tow truck driver to take photographs of the vehicle before the vehicle is towed away as part of that agreement, to ensure that no damage is done to the vehicle and to provide cover for the tow truck operator and the owner of the vehicle? Would that include photographic proof so that everyone is clear that there is no damage to the car?

Ms R. SAFFIOTI: The regulations will cover the procedures for the towing of the vehicle, and those regulations are in the process of being drafted. We will, of course, be waiting for the passing of this legislation before the regulations can be finalised. But those procedures will be covered through regulations.

Mr V.A. CATANIA: Are there any conditions attached to the parking facility for maintaining distance between vehicles? For example, in a situation in which a vehicle is impounded, are there any requirements on the piece of land that houses the vehicles for them to be a certain distance from other vehicles, or can they be put in stackers? What are the requirements to ensure that the vehicles are not damaged? Are there any requirements around the size of land and how many cars it can hold—all those sorts of potential requirements to ensure that damage is not done to the vehicle?

Ms R. SAFFIOTI: Is the member talking about the storage facility when a car is towed? That will be looked at as part of the regulations, but also more widely as part of the reforms of the tow truck industry. We are doing work on that. We are doing some work and the Department of Mines, Industry Regulation and Safety is also doing some work under the consumer protection hat with regard to the regulation of tow trucks. There is a consultation paper out at the moment, so if there is a particular issue around storage yards, it may be worthwhile going through the consultation that DMIRS is undertaking on the regulation of the tow truck industry more widely.

Ms L. METTAM: I return to the matter of the parking facility, which we touched on earlier. I imagine that private parking facilities rely on the local government agreement that was pointed to in the second reading speech. I understand a bit of work needs to happen between local governments and the state government to ensure that these parking facilities are effective, if you like. Can the minister outline where we are with that body of work, and who is on board?

Ms R. SAFFIOTI: A number of councils across the state have established parking agreements, particularly across the metropolitan area. There has been a lot of consultation and liaison with WALGA about making sure that those councils that do not have agreements seek to implement them. As I understand it, a model parking agreement has been established, so it is relatively easy for councils to adopt that model parking agreement, which will help govern private parking facilities in council areas.

Ms L. METTAM: What is the situation in regional Western Australia? How many local governments are involved?

Ms R. SAFFIOTI: The parking agreements are available for regional councils but none has those parking agreements in place yet.

Ms L. METTAM: I have a question on towing charges.

The DEPUTY SPEAKER: Is that under clause 5, member? The minister is happy to take that question.

Ms L. METTAM: Will the charges for loading a vehicle onto a tow truck and the towing charges, or a breakdown of these charges, be defined in the regulations that will be prepared?

Ms R. SAFFIOTI: Yes. The regulations will set the maximum fee.

Mr V.A. CATANIA: The minister may have mentioned this in her second reading reply speech, but would she like to see a cap for towing charges to be set at $200? To get it on the record, can the minister perhaps outline the charges that she anticipates will be set by the regulations? Exactly how much does the minister anticipate the charges will be for an individual who gets their vehicle towed away? If an individual sees their car being towed away, what will it cost them to retrieve their vehicle on the spot? If an individual's car is impounded, what does the minister anticipate it will cost them on a daily basis until they take their car out?

Ms R. SAFFIOTI: As the member outlined in his contribution to the second reading debate, the cost in Queensland is $250. We are currently looking at $200 as the cap, but we want to bring that down further. We are also looking at a daily storage fee of $25 through regulation, but we are hoping to bring that down. We are consulting heavily with the Western Australian Local Government Association and local governments on those fees.

Ms L. METTAM: I refer to page 9 and division 2, which relates to penalties. Proposed section 95(1) states that there is "a fine of 100 PU". My question follows on somewhat from the member for North West Central's comments; can the minister explain how this fee or charge will be determined?

The DEPUTY SPEAKER: Do you need any information further to that, minister, or are you okay?

Ms R. Saffioti: I'm good.

The DEPUTY SPEAKER: Minister.

Ms R. SAFFIOTI: The PU is valued at $50, so the maximum penalty is $5 000.

Mr V.A. CATANIA: I refer to proposed section 93, "Terms used: authorised enforcement action", which states —

> A motor vehicle is immobilised, towed or detained in the exercise of authorised enforcement action if the immobilisation, towing or detention is done —

In my contribution to the second reading debate, I brought up whether there is a time frame. If a person has their vehicle towed away and that costs, say, $200, and they do not have $200 on their person, in another week, another $100 may be added to the cost, but perhaps the person does not have that money. Is there a limit on how long one can hold a vehicle and what happens to a person who is unable to, or chooses not to, reclaim their vehicle? What process is in place and what is the time frame in which a towing company could hold or impound a vehicle on its premises? What will happen after, say, 30 days, two months or whatever the time frame is? Does it become the government's responsibility? Do they sell or crush the vehicle? What happens then?

Ms R. SAFFIOTI: The next clause refers to towing motor vehicles. The proposed section the member referred to explains when immobilisation can happen under authorised enforcement action. More generally, the member's questions about how tow truck operators and storage yards run their operations are, again, subject to further review. Daily costs and what happens to unclaimed vehicles are subject to the current consultation process being undertaken through the Department of Mines, Industry Regulation and Safety. The issue of general regulation and the running of both the towing and the storage of vehicles for tow trucks is being picked up in the other reform process. This legislation is basically to stop wheel clamping and to say that in extraordinary circumstances there can be towing. The towing has to be regulated in this form but more generally the regulation of storage facilities and other parts of the tow truck industry will be picked up as part of other reforms.

Ms L. METTAM: I referred to the costs associated with the towing arrangement in my contribution to the second reading debate. This bill fairly outlines that if someone approaches a vehicle that is being loaded to be towed, it will not be pursued. If someone shows up while the tow truck driver is about to move the vehicle, it will not progress. Industry raised with me the question of who would pay the cost of the tow truck going to the site.

Ms R. SAFFIOTI: I addressed that particular issue in my second reading reply speech. There will be an agreement between the tow truck company and the landowner. That agreement between the landowner and the tow truck company would include, for example, that should the tow truck driver be there loading a vehicle and then have to unload it, the cost of their time would have to be covered by the landowner. They may have a shared cost structure; the landowner might bear it or it might fall on the tow truck company, but it will be according to the agreement that has been be struck.

Ms L. METTAM: I refer again to page 9 and proposed section 95(2), which refers to motor vehicles not to be immobilised. What can be immobilised? Will it be the same as in Queensland? Can the minister give an indication of how this proposed section will be utilised? Is there an opportunity for the industry to take any of this work and, as part of that, has the department liaised with the towing industry?

Ms R. SAFFIOTI: The sheriff or other similar enforcement powers, for example, may use third parties to assist them with immobilisation. This is not something we have the answers for here. This basically says that in some

extreme circumstances or if the sheriff is involved or if a person needs to have their vehicle immobilised for a particular reason, this allows that to happen. Can the industry be involved? I suspect that it may be already involved in some arrangements with the relevant enforcement powers, but those would be arrangements between, for example, the sheriff and those relevant parties.

Ms L. METTAM: On page 10, proposed section 96, the reference to roadside towing says —

> (2) This Division does not apply in relation to —
>
> (a) the towing of a motor vehicle —

Can the minister provide a time frame of where the Consumer Protection division work is at?

Ms R. SAFFIOTI: As I said, it has a consultation paper currently available on its website proposing different models of regulation. I think five models are out there for public comment, from very little regulation to significant regulation, and it is seeking a response from industry now. I suspect that once the Consumer Protection division gets that feedback, it will be in a position to provide some recommendations to the government. It may require some legislative or regulatory change, but the current process is under significant consultation.

Ms L. METTAM: Are we talking of a time frame before the end of the year?

Ms R. SAFFIOTI: If it requires legislative or regulatory change, I am not sure whether that would happen; if it requires legislation in particular, I suspect not. The Consumer Protection division will probably have recommendations to the government by the end of this year, but I am not sure and I cannot really speak on behalf of the Minister for Commerce, as much as I would love to; I cannot do that. We are taking this seriously. It is an industry that we believe—I believe, in particular—needs better regulation and that is what we undertook to do and that is what we are consulting on now.

Ms L. METTAM: I refer to clause 5, page 13, proposed section 98, "Regulations relating to towing requirements". There is a reference to notifying the CEO of the Department of Transport prior to towing. How will this happen in a 24-hour setting and does the CEO nominate somebody else in their absence? How will this work, around the clock, outside of business hours?

Ms R. SAFFIOTI: It will work either through a phone call or email. I suspect it will be a relevant officer with delegated authority from the CEO.

Ms L. METTAM: I appreciate that we are talking about situations of last resort and extraordinary circumstances. Is the minister confident that measures are in place to enable an urgent response when a vehicle needs to be moved?

Ms R. SAFFIOTI: I think the member's question is on behalf of a business owner having access to that type of authority; is that correct?

Ms L. Mettam: Yes.

Ms R. SAFFIOTI: If the landlord or the landowner, in particular, has that agreement, I am confident that they will have mechanisms in place. I know how quickly tow truck operators sometimes attend scenes. We do not want to see cars towed at the drop of a hat. We do not want to see that at all. A big part of the bill is overseeing the towing rather than just the immobilisation, because the experience of other states that banned wheel clamping without the right structures in place was a quick move to towing. As I said, towing is more difficult and more costly than wheel clamping. One of the reasons people have clamped a lot of vehicles is, as I said, it is very low-cost and very quick and it is a big deterrent; however, it is now against the law. Having the right procedures in place will allow the landowner and business owner to make sure that they are not having people parking in their car bays for days on end with no repercussions, but also to protect the people who we hear about who are grabbing a coffee next door before visiting a shop.

I take the point raised by the member for Dawesville that more and more as we move forward, the flexibility of parking arrangements is going to be very important, such as the idea of fixed parking bays for each shop and each centre as we grow towards autonomous vehicles. More generally, as public transport becomes more prevalent, but also as ridesharing becomes a bigger part of what people do and as we try to get multi-use facilities and have more available car parks, we cannot have sterile land that is not used for 16 hours of the day.

We are looking more and more into how we can use all our infrastructure more productively, whether it be for car parks or anything. Going forward, as part of the planning project, the whole idea is how car parks can adapt and change for the different needs over the 24-hour period.

Mr V.A. CATANIA: Proposed section 99, "Release of motor vehicle that is being loaded onto tow truck", states —

> (1) This section applies if —
>
> (a) the process of loading a motor vehicle that was parked at premises onto a tow truck has begun but has not been completed; …

Can the minister explain whether that means that if an individual sees their car being put onto a tow truck, they can stop it and have the tow truck driver release that vehicle? Is there a charge associated with that? It continues —

> (b) a relevant person for the vehicle agrees to remove the vehicle from the premises within a reasonable time.

This is commonsense. It continues —

> (2) The tow truck driver for the tow truck must immediately release the vehicle to the relevant person without charge.

Is there a charge involved if the vehicle is put on the tow truck and the owner arrives and says they want their car off and the tow truck driver responds: "Yeah, sure. No worries. I'll take it off for you."?

Ms R. SAFFIOTI: If the car is in the process of being loaded, they have to release at no charge. In relation to the recovery cost of the tow truck company, as I stated before, that will be part of the agreement that is struck between the landowner and the tow truck company. There has to be an agreement for the tow truck company to be able to access that vehicle. Part of this legislation and the regulations will provide that in order for people to be able to contact a tow truck company to remove a vehicle, there has to be an existing agreement, and that agreement has to be approved by the Department of Transport. Cost-sharing responsibilities will form part of that agreement. For example, if a car is being loaded but is stopped in that process, there may be a sharing of costs between the landowner and the tow truck company. It may all rest on the tow truck company or on the landowner; it depends on the agreement that is struck. If the truck is fully loaded and about to depart, there will be a discharge fee. That will be worked through in the regulations. If it is fully loaded, locked up and the driver is about to take off, there will be a discharge fee. We do not believe it will be the same as the towage fee, but there will be some fee.

Mr V.A. CATANIA: Can the minister see where this can go a little wrong? Say the agreement between the tow truck driver and the landlord is that it is the tow truck driver's cost to load it up. If the person comes, they bear that responsibility and that cost. Obviously, a tow truck driver makes money from towing vehicles away. Is there any penalty if the tow truck driver demands payment? Say they are told, "No, you're too late." He or she is tying up the last wheel on the vehicle that is being towed away, but they are not leaving for another five minutes, and the person is demanding, "The legislation says that you have to allow me to take my vehicle at no charge." He or she is going to miss out; therefore, they get in the car, they bolt with the vehicle and ring the number to get their car because it will cost them. That is how they are going to make their money. What penalty is there for the tow truck driver or the company who sees that as an opportunity to make money? What is the penalty if they do not comply with this legislation—that is, it is not completed and has not been tied up to be taken away? As we have seen with wheel clamping, some tow truck drivers—not all—have not had the best relationship with the individual whose car they are clamping. There is no regulation or tightening up of the requirements for trained tow truck drivers. Can the minister see that this potentially could be a situation in which that angst between the tow truck driver and the owner of the vehicle being impounded will be much the same as it is with wheel clamping? Is there any penalty that the tow truck driver can incur if they do not follow the legislation?

Ms R. SAFFIOTI: First of all, I was asked whether I can see how things can go wrong—no answer. My parents are Calabrian, so I always think everything is going to go wrong! That is how I was born. I am always a glass half empty.

I have three things to point out. Firstly, there is a penalty in proposed section 100(2). The penalty for a tow truck driver not releasing a vehicle is $5 000—100 times 50. Secondly, it relates to the regulation of the tow truck industry. The situation outlined by the member happens on the side of the road at accidents. The concept of a fit and proper person test and other tests are potentially being looked at as part of the proper regulation of the industry. Thirdly—I refer the member to proposed section 103—the legislation requires that if an owner follows the person who is towing their vehicle to the storage yard, for example, the vehicle has to be released at no cost. The owner cannot be charged at that point. They can be charged later, but that vehicle has to be released straightaway. There is really no incentive in a sense because by that stage the owner would have all the evidence to say that it was done illegally and could follow it up with the Department of Transport. There is not a lot of incentive to do it as opposed to wheel clamping, which is easy—they get the money and move on. This is far more rigorous.

The member asked whether I can see how this can go wrong. I was being a bit flippant before. Of course, we always have to try to get the balance right. The balance is banning wheel clamping and allowing landowners a legitimate pathway should people abuse the situation on purpose, but then protecting the innocent shopper who gets the coffee or accidentally parks there occasionally. I think this gets it right. The mechanisms are there. If someone is going out of their way, day after day, to park in a car bay they should not be in, this pathway will be a good one. But for the person who is there for 15 minutes, it will not be worth someone sitting there watching, taking photos and then clamping their vehicle just because they have gone into the shop next door. It has the balance right. With all legislation and regulations, there is always concern about how they are implemented, but I think the team has done a very good job. We have used the experience from over east, too, to try to get that balance right. Because this pathway has been undertaken by others, we have been able to learn from some of that experience. We always try to use our best endeavours to get that balance right.

Ms L. METTAM: Given that a vehicle has to be released on demand without payment, is it foreseeable that this may create further issues in trying to follow up on such payments? We are not talking about people who are parked for 15 minutes at the front of a store, but someone perhaps who has left their vehicle at a location for an extended period and that vehicle has been towed to a facility. The legitimate business has done the right thing in moving that vehicle but is then not paid. Can the minister see that there may be some issue, potentially even with the courts having to bear an added workload? What considerations were given to that?

Ms R. SAFFIOTI: Proposed section 105C clearly states the liability for those charges. I understand the member's point that it becomes a potential court issue, but, again, I always believe that most people are law abiding. That is my view of life. There are always some people who will not abide by the law, but in general most, especially in a country like Australia, are law abiding, and if they are required to pay that charge, they will. I start from the premise that most people abide by the law. I think, as I said, that that is probably what happens in a place like Western Australia.

Clause put and passed.

Clauses 6 to 13 put and passed.

Clause 14: Part 4 Divisions 6A and 6B inserted —

MS L. METTAM: I refer to clause 14 and page 27. Proposed section 61B(2) states —

> A police officer may search —

Rather than inspect —

> premises for RTA Part 6A compliance purpose.

Concerns have been raised that the powers set out in proposed sections 54(4), 54(9) and 61B are in addition to the powers already bestowed upon WA police in the normal course of their duties. Are these additional powers, and can the minister provide some clarification on the powers that are spelt out in this proposed section?

Ms R. SAFFIOTI: The reason this is in the legislation is we are basically replicating the powers that Main Roads has for mass, dimension and loading requirements for heavy vehicles. The idea is that there will be consistent powers for heavy road or mass and loading compliance and parking enforcements, and police will have the same powers.

Ms L. METTAM: On these powers, there is perhaps a better clause of this bill under which I can ask this question, but have any additional resources been provided to either WA police or local governments in support of the proposed new regulations?

Ms R. SAFFIOTI: We are just having a discussion. I thought there was an allocation already, but we are going through that process. I am seeking some further allocations for undertaking this work, so I can get back to the member on that, or maybe we can provide an answer tomorrow in the chamber. But there will be some further allocations to undertake these types of activities.

Ms L. METTAM: Can I just clarify whether that is in relation to WA police and local governments? I acknowledge that I am not asking this question under the right clause.

Ms R. SAFFIOTI: It is the Department of Transport, because the Department of Transport will be undertaking the compliance activities.

Ms L. METTAM: Obviously, this will put additional pressure on local governments as well. Will additional resources be provided, or how will it work?

Ms R. SAFFIOTI: As I have said already, some councils have parking agreements, so I am not sure about additional pressure. I do not think I have had that feedback yet from the Western Australian Local Government Association or from councils directly. This creates a new activity for state government and the Department of Transport. That is where it is creating the extra workload, because we will be administering and undertaking compliance with the act. As I see it, the direct cost will be to the Department of Transport, because that is the agency that will administer the provisions of this bill and the relevant section of the act.

Ms L. METTAM: I turn to page 29 and proposed section 61C, "Direction to produce records, devices or other things". It states —

> A police officer may, for RTA Part 6 compliance purposes, direct a person to produce any of the following —

Can I just clarify whether these powers already exist and can already be exercised, or are these new powers?

Ms R. SAFFIOTI: Yes, these powers already exist—for example, when Main Roads is dealing with mass, dimension and loading requirements.

Clause put and passed.

Clauses 15 to 27 put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

MS R. SAFFIOTI (West Swan — Minister for Transport) [7.56 pm]: I move —

That the bill be now read a third time.

MS L. METTAM (Vasse) [7.56 pm]: I will just make a couple of brief comments. I speak on behalf of the Liberal opposition, and we certainly support the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020. This has certainly been well supported by the community. I think local government, particularly the City of Stirling, has taken a great role in leading the charge. We welcome the provisions that have been put together on behalf of the Minister for Transport. I would like to take the opportunity to thank the staff of the Minister for Transport for the assistance and information they have provided. I look forward to some clarification on a couple of questions that were asked on behalf of those in the tow-truck industry about issues that have been raised directly with me, but we certainly support what has been proposed here and commend the bill to the house.

MS R. SAFFIOTI (West Swan — Minister for Transport) [7.57 pm] — in reply: I thank members for their cooperation. I think everyone wants this type of practice to be made illegal. We have heard the horror stories from around the suburbs, and we really do not want people being preyed upon by unscrupulous people out in the community. As I have said, this type of practice undermines people's confidence, impacts small businesses and costs Western Australians thousands of dollars, and we do not want this behaviour to continue.

Question put and passed.

Bill read a third time and transmitted to the Council.

INDUSTRIAL RELATIONS LEGISLATION AMENDMENT BILL 2020

Second Reading

Resumed from 25 June.

MR P.A. KATSAMBANIS (Hillarys) [7.58 pm]: I rise to speak on this very important bill, the Industrial Relations Legislation Amendment Bill 2020. Clearly, the industrial regulation system in this state and this nation is one of the key factors that underpin the ongoing capacity of our economy to function, generate employment, generate growth and, obviously, generate prosperity for all Australians. I do not think anyone would suggest that our industrial relations system is perfect, but compared with the majority of systems around the world, I think it has served us well, particularly over the last 30 or 40 years. In that time, Australia has moved from having a more inwardly focused economy, which is focused on things that we consume, to a far more outwardly focused economy, which focuses on trading with the rest of the world and generating wealth from both goods and, importantly, services not only internally but also externally. It utilised the growth in global trade and exchange as a way of building prosperity and putting together the building blocks that ensure the employment rate in Australia is kept as high as possible and the unemployment rate is reduced to the lowest amount possible. Right now, we are obviously facing a challenge that nobody could have predicted. Economic downturns usually come from things like terms of trade and global economic shocks. The shock that has come to the global system and Australia recently has not been predominantly created by an economic force or some shock to the economic system; it has been a health pandemic. That has led to the economic challenges that everybody is facing.

When we look at industrial relations legislation and making changes to industrial relations, we must always consider changes in the context of, firstly, what they will do to the nature of employment in this country and in this state in particular if we are looking at the state system, and secondly, the economic circumstances we are facing. When the Labor Party was elected in 2017, it indicated significant reforms to the industrial relations system would be introduced in this state. I do not think any person who has experience of Western Australian industrial relations would argue that the system we have currently in 2020 is fit for purpose. It is quite clear that the significant changes that have taken place in the federal landscape over, perhaps, the last 15 years have moved the federal industrial relations system into a more modern context than that in Western Australia. It is a good thing to look at reforming and changing what we have, including introducing some changes that will make the system more robust and for fit for purpose. I have expressed in this chamber and in other places that I am certainly not averse to reform in the industrial relations space. In fact, I have championed reforms over many years. They may not be reforms that the minister would agree with, but at least we are talking about them. Everyone involved in the system usually talks about changes that would facilitate better outcomes for everybody involved—employers and employees.

Our system is fundamentally based on both good faith and collective bargaining so that employers and employees come together with their representatives and negotiate an outcome. That can occur at an enterprise level, an industry-wide level on awards, or sometimes at an individual level. We need a flexible system that recognises the differences between enterprises, businesses and individuals. I think it is an accepted maxim for everybody that we also need a system with a level of protection for people who are perhaps less able to negotiate their own way, or are working in employment where the conditions need to be regulated in a more thorough manner. When this government came to power, it commissioned a review. It was conducted by Mr Mark Ritter, SC, who was ably assisted by the

member for Forrestfield, Mr Price, who is deputising this debate as one of the Acting Speakers. Eventually, the review was tabled in April 2019 but it took a while. It was a thorough review that made a series of recommendations. At the time, I think the government accepted most of them and it indicated that they would be introduced in stages. This is one of those stages.

The government simultaneously commissioned a report, which was titled "Inquiry into Wage Theft in Western Australia". It was conducted by the honourable Anthony Beech—isn't he?

Mr W.J. Johnston: I don't think he's an honourable.

Mr P.A. KATSAMBANIS: He might not be; anyway, he is an honourable man, who has been in the industrial relations system since the time I was in short pants, which was a long time ago. A series of recommendations was made and some of them are being implemented in this bill. From looking at the time line and the way in which this bill has come to the house, I would say that the minister's response and the government's response to those inquiries that it commissioned are still a work in progress. This is part of that process.

A number of changes will be made to the act—some of them fundamental, some of them incremental and some of them novel. A few changes perhaps do not quite fit into the recommendations made by Mr Ritter and Mr Price, or the recommendations made by Mr Beech, but nevertheless they are the government's proposals. In the time available to us, we have examined the changes thoroughly. The bill was introduced in late June so we had the opportunity to talk to stakeholders across the board. This legislation does a number of things. I will not be able to cover all of them in my contribution to the second reading debate because I do not have hours, but I will spend a little bit of time going through them in the consideration in detail stage. We support a number of changes. We think some of the changes are fundamental and some, as I said, are incremental, but nevertheless are good. We have a couple of issues, which I will expand on. Hopefully, there will be some amendments either on the notice paper tomorrow or, if they miss the notice paper, on a supplementary notice paper tomorrow. I will outline them as we go along. As we consider the bill in detail over the next few days, we have some amendments that we think will improve the bill. I will make it very clear that, if those amendments pass, we will fully support the bill passing, but our support is conditional on those amendments being passed. I will outline during my contribution and obviously during the consideration in detail stage why our support is conditional. I think some things this bill does ought to be tidied up. Some of the issues relate to the ability and opportunity for people to enter into other people's residential premises. We will get to that in time.

The bill does many things. It removes the existing exclusions in the Western Australian industrial relations system from the definition of "employee". Particularly in that space, it removes the exclusion of domestic workers. Until now in Western Australia, domestic workers have been excluded from the operation of the industrial relations system. A number of federal ministers have written to the government, which the minister stated in this place and he made the correspondence available to me. I think the first minister was Michaelia Cash when she was responsible for this space, followed by Kelly O'Dwyer. They are both very, very good friends of mine, and are people who know their industrial relations well. They indicated to the government at the time that they were concerned that this sort of exclusion from the definition of "employee" caused the federal government problems, especially in relation to the government becoming a signatory to the Protocol of 2014 to the Forced Labour Convention, 1930 that had been issued by the International Labour Organization. It leaves Australia exposed to allegations that it has industrial relations laws somewhere within the commonwealth of Australia that may encourage things like exploitation of workers or—as the term nowadays has become—modern slavery. It is a broad term and I do not think it necessarily applies to domestic workers, but that is the sort of framing of it. Nobody wants to encourage modern slavery—nobody at all. In fact, the member for Mount Lawley has spoken about it recently. I also have often referred to it in the past. It is something we should all work to eliminate as soon as possible. We do not want our nation or our state in particular to be accused in any way of facilitating it. The government has therefore removed the exclusions from the definition of "employee". The exclusions were a little bit broader than just domestic workers. They were people who were paid by commission, percentage or piece rates. They were people with a disability in supported employment, volunteers and several other types of workers who might be employed by the National Trust or employed as wardens. Some of those people are volunteers, some are not. Those exclusions have been removed now.

A series of other changes will be made to help facilitate the introduction of those types of workers into the industrial relations system. Of course, removing "domestic worker" automatically enlivens concern about what rights someone in their own home has in relation to rights of entry by inspectors, trade union officials or the like. We will discuss that in a minute. In relation to whether the definition change will allow the federal government to now sign up to the Protocol of 2014 to the Forced Labour Convention, 1930, I have had correspondence with the federal Attorney-General and Minister for Industrial Relations and Leader of the House of Representatives, Hon Christian Porter. He has indicated that he has perused the proposed legislation and he believes that the changes give the federal government the opportunity to become signatory to that protocol. We are therefore happy to authorise those changes on that basis.

I want to take this opportunity in this house—it is a little unusual—to recognise the contribution of Hon Christian Porter's father, the late Charles "Chilla" Porter and to offer my condolences, personally. I know I speak on behalf of everyone in the Liberal Party and I believe every Western Australian really, in offering our condolences to Hon Christian Porter

and his family on the passing of his father, a great Australian and a great Western Australian. Although he was not born here, like many of us, he made this place his home and made a magnificent contribution to Western Australia; he made a magnificent contribution as an athlete to Western Australia and to Australia. Particularly for us in the Liberal Party, he was an absolute stalwart and hero of the Liberal Party. In all political parties, we celebrate our heroes and we should. Chilla Porter was an absolute hero, and as I said, I place on record my condolences and everyone's condolences, particularly from the Liberal Party, to Hon Christian Porter and his family on the passing on, I believe, Sunday, of his father.

Back to the bill. The legislation will also introduce a workplace bullying jurisdiction for the Western Australian Industrial Relations Commission. That is pretty similar to what exists in the commonwealth Fair Work Act. Workplace bullying is often considered to be part of workplace health and safety. However, federally, it has also been included in industrial relations law and the government has seen fit to include it here. We will have some questions at the consideration in detail stage perhaps around jurisdiction shopping and the concern that two matters might be on foot at the same time in relation to workplace bullying, with one at WorkSafe and one within the industrial relations framework. I am sure the minister will have some answers about how that will work in practice. There is some concern from employers and their representatives that that may cause them some issues.

The bill will introduce an equal remuneration jurisdiction for the Western Australian Industrial Relations Commission. Again, it is similar to that which exists in the Fair Work Act. That has caused some consternation. We know there has been an equal remuneration order federally that has caused a lot of consternation, particularly in various areas of community services. The minister may want to expand on what he thinks introducing an equal remuneration jurisdiction into Western Australia will do in Western Australia, particularly for rates of pay in some of the occupations that may be analogous to those that the equal remuneration order of the Fair Work Commission applies to.

New provisions will vary the scope of private sector awards to ensure that all state private sector employees are covered by an award other than those that are not traditionally award covered. I will deal with my concerns about that in a minute. There is some modernisation of the language around the Long Service Leave Act 1958, which will introduce penalties for noncompliance. I would say that that has been a long-term historical oversight; we have to comply with a series of laws and if we do not, there are usually penalties. Not having penalties strikes the casual observer as passing strange. I do not know the history of that and I do not intend to delve into it. It will increase penalties for breaches of employment laws generally. It will change some of the powers around industrial inspectors and some of the rules around rights of entry for authorised representatives, who are usually trade union officials.

The increases in the penalties are interesting. They attempt to mirror the Fair Work Act penalties, so in that regard there is a precedent for it. However, in many cases, penalties are increased by 30, 40 or 100 times the current penalty. Obviously, in the current economic environment that we are living through, for a number of businesses some of those penalties could be the difference between surviving and not surviving. I am not arguing in any way that they should not be subject to the penalties but I will argue that they should comply because compliance with industrial law is important. It will allow the Industrial Magistrates Court to consider some illegal contracts of employment as being valid for certain purposes. That is a particular protection to safeguard vulnerable workers, including migrant workers. We have seen some exploitation in that space. Again, as a Liberal Party, we do not think that is of particular concern. In fact, we think there will be a very small cohort of workers, particularly workers who are vulnerable to exploitation, being better protected, and we think that is a good thing.

The bill will provide a specific power for Western Australia to declare certain employers not to be a national system employer. That in itself is not controversial; in fact, it is perfectly well foreseen in the commonwealth Fair Work Act 2009, which includes a specific provision in section 14(2) to allow any state to give itself this sort of power to declare that certain employers not be a national system employer. It is not every employer; it is really employers that are state government entities. Local government is specifically named in the bill and certain things we would ordinarily describe as quangos, created by state government legislation. There is a specific carve out: the state cannot do anything about universities, even though they might be created by a state act. I do not think every university is created by a state act.

A member: ANU.

Mr P.A. KATSAMBANIS: It is certainly not ANU and I am not sure that Bond University is either. Notre Dame is covered by an act here but has campuses in other places. It does not matter; they cannot be hauled back into the state system if they choose to be in the federal system. There is nothing controversial in the state giving itself that power. The federal Fair Work Act does not say what mechanism is to be used to do that, leaving that up to the states. It says just that states should make a declaration. The Fair Work Act has a further check; that is, once the state minister makes that declaration, it needs to be endorsed by the federal minister and does not have effect until it has been endorsed. The Minister for Industrial Relations has indicated that this power is being introduced specifically to declare local governments in Western Australia to be employers that are not to be deemed to be national system employers. The minister has indicated that express intention and has not indicated any intention to spread it beyond that. I will get to that in a moment. I am just setting out what the bill does. Then I will set out my concerns.

The bill increases the compulsory retirement age for commissioners from 65 years to 70 years, which is totally non-controversial. It does not mean that they have to work until they are 70 years old. Judges and magistrates can work until they are 70 years of age, but commissioners are currently restricted to 65 years. The retirement age in Australia now is 67 years, so that does not make any sense. In the past, I have often expressed my interest in watching some retired judges, or commissioners and the like, move on post–compulsory retirement and have extraordinary careers. One who struck me from years ago is Justice Anthony Street, who practised well into his late 80s. Bob Ellicott, who was also a former federal Attorney-General, practised well into his late 80s. Michael McHugh, the former High Court judge, is an arbitrator, and it has been at least a dozen years since his retirement from the High Court. Tony Beech continues to work. I do not think we should have appointments for life. Eminent jurist Ruth Bader Ginsburg in the United States and other justices over many years have served a long time on the judiciary and have done fantastically well. However, right at the end of their lives, they are not really being productive. Flexibility in retirement, particularly in the modern context, is needed. In the future, we might look at expanding that 70-year maximum and taking a more flexible approach. It strikes me as passing strange that we say that someone cannot be a judge or an industrial relations commissioner anymore, but they can go off and practise privately and be hired by people because they think that they are still the best person for the job. I think we are missing out by setting that arbitrary retirement age.

Another thing this bill does is implement some protections for workers that were recommended in the "Report of the Inquiry into Wage Theft in Western Australia". I think the concept of wage theft is an interesting one. Clearly, there are dozens of examples of employees who have been dudded and underpaid, such as restaurant employees of high-profile celebrity chefs, employees of the ABC, employees of universities and the like. Unfortunately, here in Western Australia, it was some of the lowest paid employees of the Department of Education, such as cleaners. I would not suggest that any of those people were underpaid because someone wanted to steal their wages. A large part of the reason for underpayment is the extraordinarily complex nature of our industrial relations system. There are examples of many trade unions having been found out, many years later, to have underpaid their workers. I would not suggest for one minute that any trade union thought, "Here we go! We'll underpay our workers." The vast majority of cases of underpayment of workers in this country by small businesses, medium-sized businesses, large businesses, the government or non-government instrumentalities comes from the complexity of the system and genuine errors. However, we know that a very small cohort of employers, unfortunately, exploit vulnerable workers. Again, we are not going to stand in the way of providing protection for those vulnerable workers. I will express that we are concerned about inadvertent errors made by people who are trying to do the right thing, whether they are a chef running a restaurant, the education department of Western Australia, the ABC, various trade unions or other bodies such as Woolworths or Bunnings, which have been caught. If it is an inadvertent error, they have to repay the money that people are owed, but I do not think that they should be liable for penalties in the same way as someone who does it deliberately. That is probably a discussion for another day. I have tried to outline the majority of what the bill does.

Stakeholders have expressed some broad concerns to us. One is that there has not been an overall assessment of the impact this legislation will have on employment and the economy in Western Australia, whether it is a regulatory impact assessment or some other form of economic assessment. If the minister has any insight into that, it would be welcome. I recognise that the minister will say that these are long-awaited and important changes that are the product of a review and the like. Sometimes, introducing changes at the wrong time can have a negative impact. If there has been an assessment, it would be useful to hear about it. The changes to deeming an employer not to be a national employer will initially create some confusion. I discussed pecuniary penalties. In some cases, if the maximum penalties right now were levied, that would make the difference between someone continuing to keep their doors open and having to shut them. Again, I think the government has tried to make them commensurate with the Fair Work Act. I think a balance always has to be struck there. We are definitely concerned about the expansion of the right-of-entry powers of both trade union officials and inspectors. Our concern is not limited to it, but is particularly about them entering people's homes. We are concerned about the power being given to trade union officials and authorised representatives to take photographs, audio, video and other recordings, not of documents—they already have that—but of processes and the like. It is a specific concern that we think needs to be addressed. As I said, we have some concerns that we will take up with the minister in consideration in detail around how the bullying jurisdiction in the Industrial Relations Commission will work alongside any bullying investigations by WorkSafe and how that will interrelate.

I will address some of our specific concerns. The incorporation of domestic workers into the definition of "employee" gives rise to concerns because domestic workers in private homes are becoming more common. The National Disability Insurance Scheme provides funding for people to hire workers to come into their homes to look after people who are covered by that scheme. At the federal and state level, and, I also think, a community level, there is a strong push to have more aged care delivered in the home. A lot more people are being employed in other people's homes, either directly —

Mr W.J. Johnston: Can I make a point?

Mr P.A. KATSAMBANIS: The minister can, quickly. I do not have a lot of time.

Mr W.J. Johnston: You've got 31 minutes yet. A person who is employed in somebody's home through an agency, for example, to deliver aged-care services, is already an employee. This is in respect only to people who are employed by the householders.

Mr P.A. KATSAMBANIS: I understand that.

Mr W.J. Johnston: Most of the discussion in these topics is talking about people who are already covered.

Mr P.A. KATSAMBANIS: I understand, but with the NDIS there is a specific capacity for people to take that package and apply it themselves. When the minister interrupted, I was about to say that some of these arrangements are made through agencies and some of them are made directly. I put the direct ones first because that is where the concern is. I agree with the minister that the real concern is in the direct space. Experience tells us that at the moment the majority seem to come through an agency, so the employment relationship is not direct, and that is helpful too. But I recognise that there can be a direct personal relationship. A person who is seeking care has hired a carer, and that is a direct personal relationship. If there is a breakdown in the relationship, there is not much that industrial law can do about that. Someone is not going to be forced to keep someone they do not want because they just do not get along, unless that person is being capricious, vexatious or whatever. We acknowledge that in framing the legislation, the government has introduced proposed section 23A(2), which essentially deals with the termination of a person working in a private home. Termination that is unfair or unjust dismissal will be treated in a way analogous to termination during a probationary period for new employees. It will not be an absolute ability to dismiss under any circumstances, but if it is a domestic worker relationship in someone's private home, the commission will have to take regard of that relationship and the breakdown of that relationship when assessing whether a dismissal was harsh, oppressive or unjust, as the terminology in the legislation says. We think that is good as far as that goes. We think there are other concerns about right of entry.

I think I have made my points about workplace bullying and equal remuneration already.

We are concerned about this provision to vary the scope of private sector awards. There are two limbs to varying the scope of private sector awards. One is the limb that the Ritter review directly addressed, and that is that the awards have just not kept pace; they have fallen behind. It is interesting that the Fair Work Commission calls its awards modern awards. I would call the majority of Western Australian awards non-modern awards—old-fashioned awards. They have not kept pace because there have been new industries and all the named employers to the awards have fallen away or ceased to exist; new employers have come in. The changes made in this regard, which are effectively recommended by the Ritter review, attempt to mirror the provisions of section 143 of the Fair Work Act. To that extent, we do not see any harm in that, but another set of provisions is brought in by the introduction of a new section 37D that allows the commission to vary the scope of the private award of its own motion without anyone—employees or employers—applying to the commission. We are concerned about that because it overturns the accepted concept of collective and good-faith bargaining, which is the basis for Australia's industrial relations system. The commission is the referee. The commission is the conciliator and arbitrator, to use the old-fashioned language from back in the 1960s and 1970s prior to the reforms that started in the 1980s. The commission is the body with the clean hands that adjudicates a matter between employers and employees bargaining in good faith. To allow the commission interventionist powers has the potential to corrupt its independence.

Interestingly, the power for the commission to vary an award is limited to private sector awards. It does not apply to public sector awards or enterprise agreements. It was not a matter that the Ritter report directly recommended on, although I think it touched on it. I see you, Mr Acting Speaker (Mr S.J. Price), in the chair, and you can interject from the chair if you like. It touched on this issue. I am paraphrasing, and you can correct me if I am wrong, Mr Acting Speaker, because I have spent a lot of time reading it, but you spent a lot more time doing all of this work. Essentially, the Ritter review says that some awards will need a bit more intervention, and over a three-year period the commission should reach out and talk to both parties to try to bring them in and get them to get going there. It does not say to give the commission its own powers to vary the scope of a private sector award of its own motion. We think that is a step too far that the government really has not explained, and we would seek to remove the power at this stage. I know there is a far more limited power in the Fair Work Act than there is in this bill, but this is not what the government is doing. It seems to be a bit of a flourish from the Ritter recommendations, which I thought were relatively sensible. It said to spend a few years working with the parties to bring them back into the system, which I accept is a hard recommendation to write into law, but then give the commission its own motion power. If I were a party to any action in any commission, if the commissioner hauled me in and said the commission thought it had to make changes to my award, I would not necessarily think that the commission was working with clean hands as an independent arbiter of the matter. As I said, we think doing that compromises the commission's standing.

We have serious concerns about the right-of-entry powers, particularly, but not limited to, right of entry into private homes. The right-of-entry powers extend to both trade union representatives and industrial inspectors, and I will deal with each separately. Authorised or union representatives on site, particularly for workplace health and safety matters, act as a second eye because they are not the regulator, they are not the WorkSafe authority, and they currently have some significant right-of-entry powers. They have the right to view and take copies of documents. They also

have the right to request to view work, material, machinery or appliances in relation to a suspected breach. Apart from the power to view work, material, machinery or appliances relevant to the suspected breach, the government is proposing to give them the power to take photographs, film, and make audio, video and other recordings of that work, material, machinery or appliance relevant to the suspected breach. Automatically, we can think to ourselves that there are some processes that have intellectual property attached to them. There are some materials, machinery or appliances that have intellectual property attached to them, and an employer might not want those to be photographed or distributed. Many employers impose a no-photography rule—full stop, period—within their business for that very reason. It is not a rule for union officials; it is a rule for anybody. It is a rule for employees, it is a rule for the management of the company and it is a rule for delivery drivers and anyone else coming in—no photography—for very, very important reasons to do with preserving their own intellectual property rights and processes. Other employers, importantly, introduce a no–mobile phone provision in their workplaces, which is the usual method nowadays of taking photos and videos, for safety purposes. The government is talking about overriding all of that to give union representatives the power to take photographs, film and make audio, video and other recordings of any work, material, machinery or appliance relevant to a suspected breach. We think that is a bridge too far and we will not support it. There are other examples, and in the consideration in detail stage I will have more time to go through them and the reasons that we think it is a concern.

Current section 49K of the Industrial Relations Act expressly prohibits these union representatives, these authorised representatives, from using their right-of-entry powers under this act to enter any part of the premises of an employer that is principally used for habitation by the employer and his or her household. They cannot enter people's homes; there is an absolute prohibition. We recognise the inclusion of domestic workers in the legislation and that there may be extremely rare occasions on which a right-of-entry power, particularly in relation to suspected breaches of workplace health and safety, may well be justified, but it would have to be extremely rare, and extremely limited. The government is proposing to give the power to the commission to give an order to allow a union representative to enter a home, if the commission is satisfied that exceptional circumstances exist sufficient to warrant the making of the order. Unfortunately, "exceptional circumstances" is not defined at all in the Industrial Relations Legislation Amendment Bill 2020, so it could mean anything. That leaves employers, particularly those in a domestic worker relationship, open to the fear that these applications could be made. If we think about combining that right of entry with the ability to take photographs, videos, films and the like, we can see the potential for a serious breach of people's privacy, particularly disabled people and elderly people in care. We can see that; I do not have to spell it out.

The opposition is not totally convinced that this right is required, but if it must be required, there needs to be more than "exceptional circumstances" that are completely and utterly undefined. We think that, as a starting point, it should be included in the legislation that the owner or occupier of those premises must be given the right to be heard at the commission. The minister might say, "Oh, it's implied", but we will get to that in a minute in relation to another provision. We think it should be expressly in the legislation that the owner or occupier must be heard before entry is allowed, or at least given the opportunity to be heard. Even then, after they have been heard, the commission must be satisfied that the information being sought by the union representative cannot be obtained in any other manner. That is a much, much higher bar than undefined "exceptional circumstances".

It is hard to know what exceptional circumstances are, and it is going to take a long time for jurisprudence to limit the field. We can understand that it may be necessary in extremely limited circumstances, as with industrial inspectors, and I will get to those in a minute, but, my goodness, if we are going to invade someone's home through the equivalent of a warrant, we need to make sure that they are given the opportunity to be heard before an order is made. Even then, the commissioner has to be satisfied that the information that is being sought cannot be obtained in any other manner whatsoever. That hearing is obviously a great opportunity: "What is it that you would like to see, Mr or Ms authorised representative—A, B and C? Occupier, can you deliver this up without this person coming into your home?" If they can do that, all well and good. If they cannot do that, and it seems to the commissioner like a legitimate reason, the commissioner can order that they go in and get it. We think that is sensible and we think that provides people with the comfort that they need and deserve with regard to third party entry into their home.

At the same time, we recognise that we will have all these obligations under the International Labour Organization protocols to the Forced Labour Convention, so of course the opposition is not saying, "Absolute prohibition—never walk in there", but we want to put in the highest test we possibly can to preserve the sanctity of the home for individuals and their families and at the same time allow legitimate information to be passed on to those people who are seeking it. That is our position in relation to right of entry to homes for authorised representatives or trade union officials.

I turn now to the powers of industrial inspectors, which will also be enhanced by this legislation. An area of concern for the opposition is the expansion of powers for inspectors to enter business premises that also comprise premises principally used for habitation. Again, this refers to the power of industrial inspectors to enter someone's house. Under proposed section 98(3A), an inspector must give at least 24 hours' written notice of any proposed entry, except in circumstances in which the owner or occupier is carrying on an industry at the location or premises, or in circumstances in which the commission has made an order waiving the 24-hour notice period. The opposition has two concerns about that. Firstly, "carrying on an industry" is not defined, and that really gives inspectors almost

unlimited power to circumvent the 24-hour written notice if they so wish. I am not saying that inspectors will necessarily be capricious; I am saying there might be the odd inspector who might be capricious, but even one case of using this power wrongly is not good enough, because it involves invading someone's home—a place where someone and their family are living. "Carrying on an industry" is just not defined, and we do not think that is a good enough way to deal with the capacity to enter someone's home without notice.

We think the 24-hour notice period is the absolute minimum standard that should be allowed. We recognise that if these are workplaces, there is a legitimate role for an inspector to request to come in, even though it is a family home, so we think 24 hours' written notice is a good thing. But to waive that written notice because someone is "carrying on an industry" could mean anything. We do not think that is good enough.

The second way in which the 24-hour written notice can be waived is perhaps even worse. The commission can make an order to waive the 24-hour notice period, but there is a specific provision in the bill—proposed section 98(3C)—that allows the 24-hour notice requirement to be waived so that the application to the commission may be heard in the absence of the owner or occupier of the premises. The inspector can go to the commission and say, "I want to enter someone's home", and the owner or occupier will not get a say in it; they will not even get a chance to be heard. They will be denied natural justice and denied the opportunity to put their case. As I articulated in relation to authorised representatives, it would be simple to say, "Is that the information you want? Here it is; I'll give it to you. You don't have to come into my home." As with authorised representatives, the opposition will move amendments to amend the provisions for the right of industrial inspectors to enter homes to ensure that only the commission can waive the 24-hour notice period, that the owner or occupier must be given the opportunity to be heard prior to any order being made to enter their home and that the order can only be made in circumstances in which the commission is satisfied that the information sought by the inspector cannot be obtained in any other way.

Again, the hearing with the commission is a great opportunity for a perhaps recalcitrant employer/home owner who, upon arriving at the commission, realises, "Hey, if I don't provide this information, these people can come into my own home, annoy my family, annoy my children, and annoy my elderly relatives", and the like. We think that is fair and reasonable. It gives the industrial inspectors a good opportunity, if they want to enter a premises without 24 hours' written notice, but at the same time it will give people an opportunity to be heard. Of course, all of that points the industrial inspectors down to the notice requirement, the 24 hours' written notice, and I do not think that is onerous on anybody.

The other matter that I have left till last, because there is significant consternation around this, is the issue around the declaration of an employer to not be a national system employer. As I said at the outset, we acknowledge that the minister not only can do this, but also is authorised by the commonwealth Fair Work Act 2009 to so do. We also know that currently 121 of the 139 local governments and seven regional councils operate within the federal industrial relations system. The president of WALGA and Mayor of the City of Wanneroo, Councillor Tracey Roberts, and representatives from WALGA have spoken and written to me on many occasions. They are fundamentally opposed to this government forcing local government back into the state industrial relations system. They point out that they have been in the federal system since the 1990s and that they would like to maintain the certainty and stability that the system gives.

When local government went to the federal system in the 1990s, we were using the old interstate nature of a dispute—I think the minister has used the term "interstatedness"—to find a nexus to get certain groups into the federal commission rather than the state commission. We are now using the corporations power and that is why the federal government envisaged this clawback provision. We understand that. The power exists to do that.

Mr W.J. Johnston: No. The point is that they can't go into the federal system.

Mr P.A. KATSAMBANIS: That has never been determined. If it cannot be in the federal system, it would not be in the federal system. The minister is trying to enliven the mechanism of section 14(2) of the Fair Work Act of the commonwealth, and he is entitled to do that. We are not stopping the minister from doing that. But there are further protections in the Fair Work Act. Once a state minister makes a declaration, that declaration needs to be endorsed by the federal Minister for Industrial Relations before it can take effect.

As I have said, I have written to the federal minister, who said —

> I have engaged in previous correspondence and discussions with the Hon Bill Johnston MLA regarding this matter and have informed him that, in relation to any endorsement process, I would be interested to have available:
>
> - details of the consultative process adopted by the WA Government to date and proposed to be undertaken in the future;
> - the nature of concerns advanced by the local government bodies through the Western Australian Local Government Association (WALGA) regarding the proposal to exclude Western Australian Local Governments from the Fair Work Act; and
> - the extent to which the WA Government has addressed opposition to the proposal.

That is what the federal minister said he is going to look at, which is great. But WALGA has said that it believes the federal system is far superior to the state system. It is more contemporary to a workplace in relation to minimum conditions of employment and clear processes for managing enterprise agreement negotiations, industrial claims and other matters before the Fair Work Commission.

We need to listen to this important sector when it says that it does not need to be dragged back in. The minister can have the power, but if a person is unilaterally forcing a sector to do something, it is not a good way to endear themselves to that sector. In consideration in detail, we propose to move an amendment that essentially requires a minister seeking to declare an employer to not be a national system employer to make that declaration with the consent and agreement of that employer. We think that is fair and reasonable.

If the minister thinks it is unconstitutional for local government to be in the federal system, he should make that sort of application. If the minister wants to drag the 121 local government authorities in this state that are satisfied with the federal industrial system back into the state industrial system against their wishes, that is unfair and unreasonable. If, as the minister interjects, local governments hate and want out of the federal system, we will give the government that opportunity by amending the legislation to ensure that any clawback from the federal system into the state system is done with the consent of the employer who was clawed back. We think that is fair because the local government authorities themselves are saying, "Please don't do this to us."

Mr W.J. Johnston: That's not true.

Mr P.A. KATSAMBANIS: If it is not, the minister has the opportunity to table in this house requests from any of the 121 local government authorities that have asked him to bring them back into the state industrial relations system. If they have asked him, our proposed amendment would not stop that in any way. If the employer consents, happy days! It would also satisfy the dot-point tests that the federal Minister for Industrial Relations set out because the employer is consenting.

If the government has local government authorities saying, "Bring us back into the system", we are not stopping the government. We are saying that there are myriad local government authorities out there that do not want the government to bring them back into the system, so the government needs to give those authorities an opportunity to opt out. If, later on, they want to be brought back into the system, our proposed amendment will allow them to do that. We are not stifling the government's power to do that; we are putting a limitation on it, and we think it is a fair limitation, because forcing someone to do something is not the right way. Doing it with their consent, authority and agreement is the right way, especially with something as fraught as local government. At the crux of it, if a local government is brought back from the federal system to the state system, what will be the impact on the financial circumstances of that local government authority? What will be the impact on rates?

Mr W.J. Johnston: Zero.

Mr P.A. KATSAMBANIS: The minister says zero. I do not know. No-one has done an assessment. Irrespective of that, we think that the best way to go, if the government is going to do this, is to do it by agreement. It should do it with the carrot and not the stick, and we will give the government that opportunity. That is what we suggest is the right way to go. That is something that the local government sector is asking for. It does not want to be forced into it. If it is happy to do it, it should be able to do it, so we will give the government that opportunity.

I could talk about this forever, and if the minister keeps interjecting, he and I could have a conversation for hours and hours at a time. Unfortunately, I do not have that time. As I said, some of these provisions, we support; others, we do not support, particularly in relation to the right of entry of inspectors and trade union officials into people's family homes and what the government is trying to do by force against the will of the local government sector in Western Australia. The amendments that we are suggesting are good and valid, and if the government supports them, we will support the bill. But if the government does not support those amendments, the bill is flawed and we do not think it should be brought into legislation.

MR V.A. CATANIA (North West Central) [8.58 pm]: I rise on behalf of the Nationals WA to voice our opinion on the Industrial Relations Legislation Amendment Bill 2020, and I want to commend the work that the member for Hillarys has done on this bill. He summarised exactly where the National Party believes this bill sits. Although there will be proposed amendments to the bill, the National Party does not support the Industrial Relations Legislation Amendment Bill 2020, and I will outline the reasons why. Firstly, there has been no consultation with industry. We have met with many industry groups. The Western Australian branches of the Pharmacy Guild of Australia, the Master Builders Association, the Housing Industry Association, the Chamber of Minerals and Energy, the Western Australian Local Government Association and many others have voiced concerns about the Industrial Relations Legislation Amendment Bill.

I would like to thank the minister for the briefing by staff from his office; I appreciate that. There are some good things in the bill, which I will also highlight. Knowing that the government will not change its view on some of the more important points, the National Party cannot support this legislation. This bill will introduce significant changes that will impact on business operations and will provide greater imbalance to individuals in associations, particularly the trade unions here in Western Australia. At a time when job creation is key to getting through the

COVID-19 crisis, the industrial relations bill seems to have the opposite effect by implementing strong regulatory and penalty-focused provisions without creating any support or opportunity for businesses to increase job and compliance opportunities. It also creates uncertainty and confusion around the awards. Unions can be classed as a national system employer, especially around what jurisdiction the system will have over the WA and national system employers.

I will outline the National Party's key issues. Our major concern is that there was no consultation with these industries. The bill details significant changes in the Industrial Relations Act without any consultation with industry about the provisions or any sufficient evidence about the benefit of these changes. The changes will incur significant costs to businesses and taxpayers in regulatory compliance and procurement penalties. There is little to no evidence to demonstrate the need for these changes, especially during the COVID-19 pandemic. Many of the proposed changes are unclear in their application and will be confusing for both employers and employees to understand and apply.

As the member for Hillarys outlined, proposed section 37D applies to private sector awards in general. Aside from the complete lack of consultation, the primary concern with the industrial relations bill relates to proposed section 37D; that is, the ability of the Western Australian Industrial Relations Commission to make changes to the scope of an award on its own motion with regard to private sector awards. That would have a significant impact on those employees who are covered by an award, especially in the COVID-19 climate. There are wide-reaching ramifications related to the Western Australian Industrial Relations Commission being afforded the power to undertake this kind of exercise, including the associated costs and obligations that may be imposed on employers. I will give one example. These powers could mean that the Western Australian Industrial Relations Commission may see fit, for example, to declare all pharmacist assistants come under the award of their choosing, such as the Shop and Warehouse Award, without consultation and without regard to the financial implications on an employer of the change.

Looking at the increased compliance and obligations and pecuniary penalties without appropriate support mechanisms, the proposed penalties represent increases of 30 to 300 times what is currently in place. The introduction of such significant changes to the Industrial Relations Act, compared with increased compliance and obligations and associated penalties at a time when we need to focus on increasing jobs and supporting the economy, simply does not make sense. These provisions will do the opposite. The focus on business will not be on job growth. For at least the next 12 to 18 months it will be on trying to understand how to apply and comply with the new provisions. This means industry will not be able to grow their business as much as possible at this time, when jobs stability is most needed.

Given most state employers are small to medium-sized businesses, with a significant population of mum-and-dad businesses, these proposed increases pose a significantly higher and disproportionate burden. When the minister talks about the introduction of bullying and general protections in this jurisdiction, bullying is currently a matter addressed under the work health and safety legislation and regulated by WorkSafe. The industrial relations bill proposes to introduce bullying into the industrial relations jurisdiction, doubling up the work in the health and safety jurisdiction, increasing the cost of regulation and allowing individuals to "decision shop". Why is there a need to introduce bullying into the industrial relations jurisdiction? Is there a perceived benefit that the change will have on dealing with bullying matters? In fact, a review of the federal bullying jurisdiction shows that consistently over the last few years there have been low numbers of bullying applications, and only 10 per cent of those applications have been resolved by the Fair Work Commission.

The industrial relations bill also seeks to adopt the Fair Work Act's general protections and adverse action–type provisions, which constitute another significant change to the state's industrial jurisdiction. As experienced in the federal jurisdiction, these provisions are highly legal and complex. Our expectation would be that consultation occurs prior to significant change with the broad implications being proposed, especially in light of the high proportion of small and medium-sized businesses in the Western Australian jurisdiction. WALGA is obviously opposing this legislation. Only 10 local governments out of 139 are in the state industrial relations system.

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

Mr V.A. CATANIA: There are 21 000 local government employees who would have to switch, if this legislation is passed. I know that the minister has had several debates with the Western Australian Local Government Association. It has relayed its concern over the cost to local governments as a result of this transfer. The government has imposed a rate freeze on local governments. When a local government is not able to increase rates, the costs associated in making these changes will impact on local governments. A lot of the smaller local governments that have already been impacted by COVID-19, through their income sources, will have the added burden of changing their system. As I said, there are 21 000 local government employees who would have to switch, if this legislation is passed. A survey showed 87 per cent of WA local governments were against the transfer.

Another issue is equal remuneration orders. The industrial relations bill proposes new provisions to give the Western Australian Industrial Relations Commission powers to reclassify work; establish new career paths; implement changes to incremental pay scales; provide an increase in remuneration rates; and reassess definitions and descriptions of work to properly reflect the value of work. These provisions seem to remove the commission from being an objective decision-maker to basically having a human resources function. These provisions go much

further than those provided at the national level and have not been justified or otherwise explained. Like I said, there has been a lack of consultation. The Industrial Relations Legislation Amendment Bill proposes numerous changes to the industrial relations framework, including federal instruments, and seeks to introduce part IIAA, which allows the regulations to provide that employers can be declared not to be national system employers for the purpose of the Fair Work Act. These changes constitute an attempt to bring more employers into the state industrial relations system. The regulations may provide that an award, including federal awards, agreement or order specified in the regulations applies to the employees of a declared employer. The explanatory memorandum states that this is intended to cover local government. However, this is not specified and carved out in the legislation, so the application will be much broader.

As the member for Hillarys also pointed out, one of the big issues that we have here is a proposed change that will affect all employers in Western Australia, and that is the proposed change that will allow unions to enter workplaces and take photographs, films and audio, video or other recordings. I know the minister will say that they cannot do that at the moment, but that is happening already. We all know that social media is instantaneous. When people enter the workplace, take videos or photos and post them on social media, by then the damage is done. The damage is done by that social media post, which, as I said, is instantaneous. Obviously, the employer has the right to challenge that—I am not sure what the mechanism is—and get the footage taken down, but the damage is done as soon as it is posted.

Mr W.J. Johnston: Are you saying that's happening today?

Mr V.A. CATANIA: Yes. I am not defending some of the actions that some employers or companies take that obviously —

Mr W.J. Johnston: I am just wondering, given that that is happening today, what does this have to do with that.

Mr V.A. CATANIA: This legislation will allow unions to have the powers of an inspector or regulator by allowing the unions to come into a workplace and take footage.

Mr W.J. Johnston: But you're saying they're doing that now.

Mr V.A. CATANIA: But there is no penalty in place.

Mr W.J. Johnston interjected.

Mr V.A. CATANIA: No; the minister will have his opportunity. The issue is allowing unions to become an inspector or regulator and allowing them to go into a workplace or home, take footage and photos and post them on social media. That is not the role of a union. It is not an inspector or regulator. When we have right-of-entry breaches, that is misuse of powers, and I would say that putting video footage or photographs on social media is an abuse of power. That is what is concerning to a lot of employers and businesses and, like I said, a lot of organisations that we met with.

They are some of the changes that we oppose, and I know that the member for Hillarys will be moving amendments to try to amend this legislation. I fear that the opposition in this place will not be successful in making those changes, and that is one of the reasons we have taken a strong stance to say that the National Party does not support this legislation because of the lack of consultation and discussion with industry groups. However, like I said, there are some good things in the legislation. That is why I urge the government to reconsider this bill and perhaps go back to the drawing board and have that consultation with industry.

As I said, there are some benefits in this legislation. It implements the recommendations from the 2018 ministerial review of the state industrial relations system and the 2019 inquiry into wage theft in Western Australia. That is one benefit of this legislation; another relates to employment records and pay slips. It amends the single set of record keeping required under the Industrial Relations Act to include the following additional records required to be kept by an employer: the employer's name and ABN; incentive payments, penalty rates or loading; superannuation being paid; employee termination details, including how and by whom; records of cash payments, a copy of which must be given to employees; supported wage agreements and agreements to cash out annual leave. Details are prescribed for pay slips, and an employer must provide an electronic or hard copy within one working day. The prohibition on knowingly giving false or misleading records of pay slips is another good part of this legislation. Obviously, under the Long Service Leave Act, all paid leave will count towards an employee's period of continuous employment. There is also the inclusion of provisions clarifying casual and seasonal employees' and apprentices' continuous employment.

There are some good parts of this legislation, and we support some of the clauses, but, overall, the National Party, through its consultation with industries that have not been consulted by this government, will not be supporting this bill. The National Party says that the government should go back and consult with the major industries, as small businesses are often impacted by some of these changes. It is easier for larger corporations to make those changes, but for small businesses—Western Australia's economy is driven by a huge number of small businesses—at this time, this bill will impose a framework that will inhibit businesses from growing, especially as a lot of businesses have suffered over the last three to four months and are continuing to suffer. Those businesses need time to recover. Now is not the time to introduce these changes to the Industrial Relations Act, because there has not been any

consultation with those industries I have mentioned. Many employers and massive businesses in Western Australia that employ a lot of people will be affected by this legislation. I urge the government to reconsider and go back to these industries to have full consultation and understand their concerns, especially with the right of entry, which would enable unions to go into private residences, and the impact that it could have on businesses by allowing unions to go in, film and photograph and post it on social media, with basically no consequences whatsoever.

The National Party does not support the Industrial Relations Amendment Bill 2020. I look forward to hearing some of the amendments that the member for Hillarys will move, and we will consider those amendments in time, but we will be opposing this bill at the second reading.

MR S.J. PRICE (Forrestfield) [9.18 pm]: It gives me great pleasure to contribute to the debate on the Industrial Relations Amendment Bill 2020. As the minister outlined in the second reading speech and the explanatory memorandum, this bill has come about in response to reviews that the minister instigated when we were elected. The first was the ministerial review of the state industrial relations system, which was conducted by Mark Ritter, SC, ably assisted by myself. The second was the 2019 inquiry into wage theft in Western Australia, which was conducted by former Chief Industrial Relations Commissioner Tony Beech. He is an outstanding industrial relations advocate with a long history of being involved in the state commission and industrial relations.

To recap where this legislation has come from, in September 2017, the Minister for Mines and Petroleum; Commerce; Industrial Relations and a few other things announced the ministerial review of the state industrial relations system. The review was long overdue, but very complicated. The state industrial relations system was certainly severely impacted by the impact of the federal system's implementation of WorkChoices. As outlined at the beginning of the report, the number of employees covered by the state system was not easily defined or ascertainable. The figures were based on some great work done by the secretariat. It was estimated that between 21 and 36 per cent of employees in the state were covered within the state jurisdiction. When we started the review, it was announced that Mark Ritter, SC, would be the lead person to conduct the inquiry. Mr Ritter is a very experienced and well-respected local barrister, who was admitted to the Supreme Court of Western Australia in 1985 and the High Court in 1986. From 2005 to 2009, Mr Ritter was the acting president of the Western Australian Industrial Relations Commission. Between 1995 and 1998, he was a part-time judicial registrar at the Industrial Relations Court of Australia. He has a long history in industrial relations and was certainly a very suitable choice to conduct the inquiry. Like all things, inquiries do not happen by themselves. I would like to acknowledge and thank the minister, Hon Bill Johnston, and his ministerial staff and especially the secretariat who were there to assist us through this very lengthy process. To Lorraine, Liz and Cara—thank you. You did some amazing work during that inquiry.

Not a lot of people are aware of the Western Australian industrial relations system and the role it plays. Two different industrial relations systems operate within Western Australia. The Fair Work Commission sits over the top of the national system for those companies and corporations that are covered by the federal system because they are considered trading corporations. The state system applies to particular businesses and their employees depending on the type of arrangement within the state jurisdiction. The following explanation of the state system was taken from the Department of Mines, Industry Regulation and Safety website. The Western Australian industrial relations system covers the following employers and their employees: the state government and other public sector bodies, sole traders, unincorporated partnerships, unincorporated trusts, and incorporated associations that are not foreign trading or financial corporations. This could also include some not-for-profit organisations. At the time, there was some question about where local government sits, which has been addressed under the provisions in this legislation.

Members may not be aware that the ministerial review of the state industrial relations system was quite a lengthy process. We published an interim report with some of the findings and considerations about some of the recommendations that we were going to make, and also a final report in June 2018. It states in the final report that it was important to set out the contents of a media statement published by the minister in 2017 when he announced the review into the industrial relations system. I quote the final report—

> The State system has not been comprehensively reviewed and updated since 2002, and the industrial relations and employment environment has changed significantly since then.
>
> The aim of the review is to deliver a State industrial relations system that is contemporary, fair and accessible.
>
> It will also develop a process to modernise State awards for private sector employers and employees.
>
> …
>
> Stakeholders will be consulted and given the opportunity to make submissions…
>
> The McGowan Government is pleased to announce the delivery of its election commitment to review the State industrial relations system.
>
> The State system needs to be updated to address the changed employment environment and to meet the need to its constituents—predominantly small business employees and employees, and the public sector.
>
> We are committed to ensuring the State industrial relations system is modernised and the review will provide a blueprint on how best to do this.

It is appropriate to mention that our industrial relations legislation meant that we did not meet our obligations under the anti-slavery covenant of the International Labour Organization protocol of 2014. This has been addressed previously so I will not repeat it.

Historically, industrial relations in Western Australia changed significantly with the introduction of WorkChoices in 2005, which came into effect in 2006. It used the powers of section 51 of the Constitution to essentially include all companies that were designated corporations under the federal jurisdiction—a constitutional incorporation into the federal jurisdiction. This had a significant impact in Western Australia. However, more importantly, the state industrial relations system has not been updated since 2002. I will read out a section of the interim report —

> On 30 June 2009 the then State Government, through the Minister for Commerce, the Hon. Troy Buswell MLA, appointed Mr Steven Amendola to conduct a review of the Western Australian Industrial Relations System. Mr Amendola prepared and submitted his "Final Report" to the Government on 30 October 2009 (Amendola Report). There was a considerable degree of inaction following the receipt of the Amendola Report. The Amendola Report was not published by the Government until 6 December 2010. At that time, then Minister for Commerce, the Hon. Bill Marmion MLA, announced by media statement that stakeholders would be consulted about "taking the recommendations forward" and the Government "plans to introduce legislation to Parliament in 2011". This did not, however, eventuate. No legislation was introduced and on 6 July 2011 then Premier the Hon. Colin Barnett MLA said the Government was not intending to act on any of the recommendations of the Amendola Report.
>
> In 2012, the State Government tabled in Parliament a draft Bill for public comment. This was the Labour Relations Legislation Amendment and Repeal Bill 2012, commonly called "the Green Bill". The tabling of the Green Bill was for the purpose of allowing stakeholders and other interested parties to make submissions to the Government about the contents of the Bill. The Green Bill contained some of the recommendations of the Amendola Report. There was, however, no further published report based upon an analysis of the comments about the Green Bill, nor any subsequent legislative action prior to the election of the present State Government in March 2017. Thus, whilst the State system was "reviewed" in 2009, as stated by the Minister, it was not "updated" in the seven years that passed, after receipt of the Amendola Report, up to the election of the present Government.

Here we have a lot of commentary from the opposition behind me over industrial relations when those members had eight years in government and did not touch it. Here we have a minister who is prepared to look at it, listen to all the feedback from consultation that occurred over a long time and make the necessary amendments. I will touch on the methodology engaged by the review, because those opposite said that there was no consultation with anyone along the way.

I will go through some of the methodology as outlined in the interim report and the final report. Following a public announcement of the review, the minister wrote to stakeholders to advise them of the review and the opportunity to make submissions. On 30 September 2017, the reviewers published an advertisement in *The West Australian* and *The Australian* setting out the terms of reference and where additional information could be obtained online and said that written submissions could be sent to the secretariat. In addition, the reviewers sent 215 letters to employer associations, industrial agents, law firms, not-for-profit organisations, public sector departments, unions and other people they thought might be interested in the review. The reviewers corresponded and had meetings with Chief Commissioner Scott, Senior Commissioner Kenner and Registrar Bastion of the Western Australian Industrial Relations Commission to obtain statistics, information and opinions about the way the state system operates. The secretariat also asked a number of stakeholders whether they would like to meet with the reviewers to discuss the terms of reference prior to finalising written submissions. Numerous stakeholders took up this opportunity. There were 13 meetings held between 13 November 2017 and 20 December 2017. The reviewers then received 65 sets of written submissions from bodies, institutions and individuals. In addition to stakeholder meetings, there had been informal private meetings and correspondence with people who have knowledge of, or past or present involvement with, the state industrial relations system. Invitations for submissions, comments or meetings about the interim report were sent out to interested stakeholders, organisations and individuals. The reviewers then considered and analysed all the submissions and other information provided and then put that into the interim report. Once the interim report was published, it was made public and all stakeholders were informed about the interim report and provided with the opportunity to make submissions in response to some of the proposed recommendations contained in the interim report. In particular, the reviewers wrote to each person, bodies and organisations that had provided a written submission to the reviewers prior to publication of the report to advise them of the publication and the opportunity to make further submissions. More meetings were held with representatives from the commission and through the secretariat, a number of stakeholders were asked whether they would like to meet with the reviewers again to discuss the interim report. Eleven meetings were held, which were very productive. On top of that, 49 written submissions were also received in response to the interim report from the bodies, institutions and individuals, and eight submissions were provided in reply to other stakeholders' submissions. That is a really important part of it when we talk about consultation. Submissions were received in response to the interim report, but people could also make submissions on the submissions received. We got a very clear view of what people thought about

what was contained within the interim report before we published the final report. To come here and say that there was no consultation with certain organisations that are part of the state industrial relations system is dishonest, misleading and disingenuous.

I will quickly turn to the Industrial Relations Legislation Amendment Bill now and touch on a few of the key elements of it. As outlined by the minister in the explanatory memorandum, it is really telling where he states —

> The new laws, based principally on these recommendations, seek to protect vulnerable workers, tackle wage theft and ensure a level playing field for Western Australian employers.

The intent of these changes is to look after those vulnerable workers who need looking after, deal with some of the scourges of wage theft and ensure that businesses and employers within Western Australia are playing on a level field. The ministerial review of the state industrial relations system as outlined in the amendment bill touches on a number of areas. Some of these are extremely significant, and members may or may not really appreciate how important they are. The removal of the exclusions from the definition of "employee" is very long overdue. We are talking about exposure of the most vulnerable employees who do not have any protections. The introduction of a workplace bullying jurisdiction within the state Industrial Relations Commission is absolutely significant.

[Member's time extended.]

Mr S.J. PRICE: Unfortunately, that is an issue that is continuing to become more and more significant within the workforce. The introduction of an equal remuneration jurisdiction for the commission, once again, is long overdue and very important for workers within Western Australia. Other areas that go to, I suppose, the functionality of the commission include the ability to vary the scope of private sector awards. Modernising the Long Service Leave Act and introducing penalties for noncompliance is significant for employees and a number of other aspects in that area.

When we touch on the inquiry into wage theft, we find that wage theft is one of those events we hear about only after the event, predominantly only if there has been some sort of positive outcome. However, introducing a prohibition especially on sham contracting arrangements is very significant for all sorts of workers in different occupations. Once again, legislating for those who are most vulnerable within our workforce and our society is a significant step forward and a very positive change to the current system.

I will talk about equal remuneration quickly and touch on a couple of issues. This means equal remuneration for men and women for work of equal or comparable value within the state. The policy objective underpinning the equal remuneration amendments is to help reduce that gender pay gap in WA. Unfortunately, WA has the worst gender pay gap in Australia; it is currently sitting at about 22 per cent. That means on average that a woman earns 78¢ for every dollar a man earns. The current national average is 14 per cent, and this is unacceptable. As a father of four daughters, I would love to see equal remuneration for them as they grow up and get into the workforce. Given the fact that the gap still sits at 22 per cent within the industries in WA and the financial capacity within those industries, surely we can deal with this.

The stop bullying provisions are also a significant improvement to the state jurisdiction. When the federal jurisdiction brought in the stop bullying aspect of the Fair Work Act, it had a profound impact on business behaviour and people within workplaces. The good thing about the provision is that if it is there as a deterrent to stop people from behaving inappropriately, people also have the ability to seek protection and recourse. It is also a protection, which is a great improvement. As the second reading speech states, the overarching objective is to prevent harm to workers' health and safety due to workplace bullying, which, unfortunately, is increasingly an occupational health and safety issue in the workplace.

The removal of exclusions to the definition of "employee" is a really significant change. We put a lot of time and effort into consideration of the recommendations we made about the issue of right of entry into the workplace, knowing full well people's concern about having someone come into what is their house. At the end of the day, though, those workers are some of the most vulnerable and do some of the most important work in our society, and they need to be protected. Just because their workplace happens to be somebody's house does not mean that they should be excluded from the protections afforded to people in other workplaces. The proposals put forward in the recommendations and the provisions contained in the bill address that. I think they are well thought out and will have a positive impact for people who work in that sector. The removal of exclusions goes further than that. It includes not only people who work in domestic services, but also people who work on commission, work on piece rate, receive disability support pensions, are employed through an employment service, are appointed as wardens or are volunteers. As we have said, Western Australia is the only jurisdiction that excludes such people from the definition of "employee" and leaves them without employment protections.

The final point I will touch on is local government. I was working for a union at the time local governments decided that they were all constitutional corporations. Local governments are the third level of government. There is local government, state government and federal government. They are not constitutional corporations. The definition of a constitutional corporation is how it earns its income. Constitutional corporations earn their income through the sale of a service, as opposed to the provision of a service. It is different.

Mr W.J. Johnston: They're taxing bodies.

Mr S.J. PRICE: That is correct. It is not right to say that local government fits into the federal jurisdiction. When the Fair Work Act came in, a lot of local governments were directed that way by their representatives to take them out of the state jurisdiction and put them into the federal jurisdiction. It is interesting that some states have kept local governments in their state jurisdiction. Around the same time, I happened to spend a bit of time in Queensland. Over there, the approach to managing industrial relations was completely different from over here. This provision takes away the ambiguity and makes it very clear where they sit. Once again, to say that this will create confusion is disingenuous and wrong. This will do the exact opposite; it will give people clarity. There is a transitional proposal for how local governments can do that.

Mr W.J. Johnston: Which was drafted by WALGA!

Mr S.J. PRICE: Thank you, minister. It was drafted by the Western Australian Local Government Association, which was very engaged during the review. There were a lot of discussions about this. It is a very positive step forward for all those local government employees within Western Australia.

Once again, I would like to thank the minister, his staff, the secretariat, Mark Ritter and all the contributors to the industrial relations review that I was part of. A significant number of organisations contributed, including not-for-profits, employer representatives, unions, individuals and the social work sector—the Western Australian Council of Social Service. Everyone across the community was represented and had the opportunity to make a contribution and they all took it up. To say that there was no consultation on the recommendations that were put forward and resulted in these proposed changes in the bill is wrong. Significant consultation took place and significant opportunity was given to people to provide feedback, including on other people's submissions. It was completely open and transparent.

I will finish by quoting the minister. He said that the bill is the result of significant consultation and seeks to protect vulnerable workers, tackle wage theft and ensure a level playing field for Western Australian employers. I say thank you to everyone who participated in both of the reviews, and I commend the bill to the house.

MR S.A. MILLMAN (Mount Lawley) [9.45 pm]: I do not propose to make a lengthy contribution to the second reading debate on the Industrial Relations Legislation Amendment Bill 2020, but it would be remiss of me not to make a contribution about this important legislation, given my history in employment law before I entered this Parliament. I will start by commending the minister for bringing this bill before the house. I particularly commend the member for Forrestfield for his contribution, both to the debate this evening, and also in the extraordinary amount of work that he did, not the least of which was in consultation with stakeholders and with the eminent Mark Ritter, SC. For what it is worth, I had the opportunity to appear with Mr Ritter on a number of occasions in the Industrial Appeal Court and before the Full Bench of the Industrial Relations Commission. Mr Ritter is not a partisan. He is a thoughtful, considerate and deliberate person who would have brought an academic rigour to the analysis of this problem and formulated the best way to introduce the necessary legislation to bring our industrial relations system up to date.

We need to locate this legislation in the broader industrial relations context in which it sits. This point needs to be made for members opposite so that they can appreciate the work that this bill is designed to do. The industrial relations legislation governs the industrial relationship between employers and employees. The workers' compensation legislation, which is also being reformed by this minister, governs the circumstances of suffering an injury at work. The work health and safety legislation provides for safe workplaces. This is a triumvirate of legislation, which needs to operate in concert. That is why it is important that the terms used are consistent throughout the three pieces of legislation. The objects of the legislation are similar and are guided towards the same principle. It is entirely appropriate that over the course of the fortieth Parliament, this minister has brought forward legislation that amended the workers' compensation legislation, the work health and safety legislation and now the Industrial Relations Act.

A number of members have spoken about the effects on the economy of the pandemic. I can tell members that the McGowan government's number one priority is jobs, but we need to make sure that when we create jobs, we are creating good, well-paid, long-lasting jobs. We need to create the jobs of the future, which are governed by an equitable industrial relations system, which is not only fit for purpose in the twenty-first century, but also levels the playing field for employers and employees. I have heard members opposite note that they are prepared to support a number of provisions in this legislation, but I say that members should provide this legislation with unconditional support, for no other reason than that it brings our state's industrial relations system into the twenty-first century. The other problem that members opposite have is that they do not really understand what this bill is about or what it does. I do not plan to go through this in great detail, but the member for Hillarys raised section 40B and started to cast some quite bizarre aspersions over the independence of the commission and what the consequences of these amendments might be. In fact, this very power to bring awards before the commission on the commission's own motion is a power currently located in the legislation. Please, before the member for Hillarys attacks this legislation and picks out pieces of it that he is not happy or comfortable with, he should do his homework and understand precisely the powers the commission currently exercises and see how the powers proposed by this minister are reasonably and appropriately adapted to the circumstances we confront here in Western Australia.

The member for Hillarys talked about exceptional circumstances. He knows this very well, and I do not know why he needs telling this, but the absence of a definition of "exceptional circumstances" works to the benefit of the people involved so they know precisely the cases that need to be run in order to demonstrate the exceptional circumstances by which someone can enter a workplace. This legislation now updates workplaces for the twenty-first century. As we move towards more domestic services, as we move towards the gig economy, a responsible Parliament, a responsible legislature, is taking the necessary steps to make sure that its statute book reflects the requirements of a modern society. This legislation does precisely that. We must still wrestle with difficult things proposed by the gig economy and how we reconcile the way we regulate that. That will be for another day, but if the minister is responsible for introducing that regulation, it will have my support, because it will be exactly as this legislation is—thoughtful, well considered and appropriately adapted.

I want to finish on one more point, because I promised I would keep my contribution brief. It concerns the bizarre submissions that have been made by members opposite about the extension of the state industrial relations system to local government. This is just a bit of a history lesson, picking up points that the member for Forrestfield, Mr Acting Speaker, made. When WorkChoices was introduced, the federal Parliament was required to rely on section 51(xx) of the Constitution, which is the corporations power. It is the power to make laws with respect to constitutional corporations—that is, trading and financial corporations, BHP, Woodside or Rio Tinto, and not the Shire of Cue, the Shire of Westonia or the Town of Cottesloe. These are organisations that have statutory effect by virtue of the Local Government Act and then engage in the provision of services for ratepayers. The clever arguments brought by their lawyers to enliven the commonwealth jurisdiction and avoid their responsibilities under the state Industrial Relations Act have had their time. Those arguments are over now. This legislation will provide clarity and certainty. I accept that the opposition might have spoken to probably all 125 local councils, although it might have just spoken to the Western Australian Local Government Association, but there are 25 000 local government employees, every single one of whom will benefit from this legislation coming into effect and local government being brought into the jurisdiction of the state Industrial Relations Commission. They will be given clarity and certainty. They will know exactly where they can bring an employment dispute without having to worry about high-priced lawyers paid for by their employers and WALGA making technical constitutional arguments in order to try to avoid their legitimate responsibilities to their employees. This is a very simple, straightforward reform, and it should have the full-throated, wholehearted support of this entire chamber and this entire Parliament, because it makes sense. If there are technical advantages to be gained by WALGA, it should not be the first priority of Parliament. We should act in the best interests of the people of Western Australia, and if that means providing clarity and certainty to people's employment relationships, that is our obligation; that is what we should do. That is why I am so keen to support this bill.

I turn to other things this bill does, which are unarguable. I turn to the equal remuneration order. Are opposition members opposed to the equal remuneration? If so, they should hang their heads in shame. There are penalties for breaches. Will we allow people to get away with breaching industrial law? If so, opposition members should hang their heads in shame. The bullying regime mirrors the Fair Work Commission. It is a bullying regime designed to provide remedies for people in their employment when they are being bullied. That is a noble and worthy aim.

I turn to the underpayment of wages. The member for Hillarys made a point about contrition shown. I take that point, but when employers routinely complain about the award rates of pay and then use them as a business model in order to preserve their businesses, it is exactly the sort of provision we should be tackling—that wage theft and underpayment of wages—and we should hold them to account to the full force of the law.

The final thing is the increasing use of domestic work. Although this is a difficult issue, because it is hard for us to grapple with, it is an abrogation of our responsibility as legislators if we do not tackle it. This legislation balances the competing interests of everybody concerned to make sure that it is reasonably and appropriately adapted to very difficult circumstances. This government knows how to get on with doing the hard work of legislating in difficult times and in difficult circumstances. That is why this government and this frontbench has my full-throated support and that is why this legislation has my full-throated support. With that, I commend bill to the house.

MS J.M. FREEMAN (Mirrabooka) [9.55 pm]: I, too, briefly rise to talk about the Industrial Relations Legislation Amendment Bill 2020. In particular, I thank my colleagues for giving such a broad and detailed assessment of why this is a great bill before us tonight that has many aspects that we should see introduced. It is a great disappointment to hear that the Liberal Party and the Nationals WA do not support this bill.

I particularly want to talk about the equal remuneration orders in division 3B. I absolutely applaud the state government for bringing in these provisions. Indeed, this is an enactment of the existing order that the commission does. As my colleagues were speaking, I was reminded that I worked on the order as the assistant secretary of UnionsWA when I was doing the state wage case for the chief commissioner bringing in those principles. It is really important that we all recognise that despite decades and generations of women in the union movement, the public sector and leadership of this state prosecuting and arguing for equal remuneration and how women's work needs to be valued, despite the fact that there were historic cases in the late 1960s, in 1969, and then in 1974 to have equal remuneration in the Australian and our jurisdictions, we still have an unacceptable and absolutely shameful pay equity gap in Western Australia of around 22 per cent. That cannot be explained away by saying that women enter

into different professions. That cannot be explained away by saying that the work is of a different nature. When the whole concept of women's work had to be considered somehow of lesser value than men's work and when in equal pay cases women's work had to be compared with men's work to be able to increase the value of women's remuneration, it was a shameful period.

It is important to note that this remuneration order provision will be based on the provisions of the Queensland act, as I understand, and that has been in place for many, many years. It has seen very thorough and good investigation in cases around equal remuneration. I recall that one of the major cases in Queensland was the dental assistants' case. I stand corrected if that was a federal case, but I am pretty sure it was in Queensland. It was able to take in and assess the work done by and the competencies, skills, capacities and delivery of dental assistants to establish a proper classification of wages for that profession. This is a very important and integral part of seeing a long-term injustice addressed in our community. I commend the bill.

MR W.J. JOHNSTON (Cannington — Minister for Industrial Relations) [9.59 pm] — in reply: I want to address some of the issues raised tonight. I think one of the issues was that the two opposition speakers were not familiar with the Industrial Relations Act 1979 because many of the issues that they raised complain about provisions in the existing legislation, which I will come to in a minute.

I will start with a discussion of the response to the forced labour convention. I will read briefly from a media release issued today by Be Slavery Free and Freedom United, titled "WA Parliament called on to pass changes to Industrial Relations Laws; Shaping the future with lessons from the past". In part, it says —

> Earlier today, **Western Australian Minister for Industrial Relations Bill Johnston**, received a petition calling on the Western Australian Parliament to pass the changes in the Industrial Relations Legislation Amendment Bill 2020 which brings Western Australia in line with the requirements of the International Labour Organisation's Forced Labour Protocol of 2014 (P029) and will allow the Commonwealth to ratify the Protocol.

It goes on to outline who Be Slavery Free and Freedom United are.

[See paper 3580.]

Mr W.J. JOHNSTON: The point is that people around the globe are watching us. I will also table an online petition from Freedom United and Be Slavery Free, signed by 102 891 global citizens, including 12 904 Australians calling on the Western Australian Parliament to pass the changes in this bill. It states —

> To: The Honorable Members of the Parliament of Western Australia,
>
> Freedom United, the world's largest anti-slavery community, with Be Slavery Free (an Australian coalition focused on ending modern slavery) are urgently calling on the government of Australia to support the International Labour Organisation's Forced Labour Protocol (P029). **102,891** actions have been taken around the world calling on governments to ratify the Protocol and take a united stand against forced labour.
>
> In order for this to occur, the Western Australian Parliament must pass the changes in the ***Industrial Relations Legislation Amendment Bill 2020*** bringing Western Australia in line with the requirements of the International Labour Organisation's Forced Labour Protocol (P029).
>
> Forced labour is a serious and growing global issue. Modern slavery affects 40 million people worldwide and generates billions of dollars in profits every year.
>
> We need governments to meet international standards and create measures to protect workers from slavery and to create a level playing field for business.
>
> The Forced Labour Protocol helps to bring an end to modern day slavery by creating measures for prevention of abusive practices, protection of victims, and justice for perpetrators.
>
> **102,891** actions have been taken worldwide calling on governments to ratify the Protocol.
>
> **We urge the Parliament of Western Australia to make the necessary changes to support the Protocol and end modern-day slavery.**

[See paper 3581.]

Mr W.J. JOHNSTON: Everybody is watching us; this is not just a Western Australian issue. I want to address the question that somehow the ability for the Industrial Relations Commission to act on its own motion ends the impartiality of the commission. I suggest that members read the existing legislation. Section 40B allows the commission to vary on its own motion any aspect of any award in the state. That is a power that exists today. This bill does not produce a new power to the commission. In respect of the scope clause, this bill allows the commission to start a process to modernise the scope of the award, which is why everybody I speak to in industry supports it.

Let me address the question of consultation—what a ridiculous comment! We had two inquiries. The member for Forrestfield outlined in detail the lengthy process that the inquiry went through, the number of submissions and the

opportunity to comment on other people's comments, not just on their own comments. This was consulted to death! Even then it took us some time, as the member for Hillarys quite rightly pointed out, for us to bring the legislation forward because we had to digest this extensive report. Let me make it clear, many of the elements regarded the public service and intersected with the Public Sector Management Act 1994, which therefore had to be deferred off to a separate process because I am not the Minister for Public Sector Management and the review did not deal with the Public Sector Management Act. I did not want to bring the response to the Ritter review forward until after the government had fully considered all the implications of the outcomes of the inquiry—likewise with Tony Beech's inquiry, which, again, involved hundreds of submissions and dozens of opportunities for consultation. Anybody who suggests that there was no consultation in preparing this bill is not telling the truth.

Let me make a point about the Western Australian Local Government Association. After we announced our intention to legislate, I met with the leadership of WALGA and it did not object to the process that I proposed. I agree that WALGA has subsequently raised objection, but when I met with WALGA, it did not oppose the process that I was proposing. We formed a task force with the union, WALGA and the department to draft the transitional provisions to make sure that they were fair and reasonable. On a number of occasions when there was no consensus between the union and WALGA, I was asked to make the decision on whether the union submission or the WALGA submission be supported and on each occasion I agreed with WALGA. On each occasion I accepted WALGA's position over that of the union; therefore, WALGA has been intimately involved in the preparation of this bill. Furthermore, no valid federal awards cover local government in Western Australia. WALGA knows that, because on occasions when there are unfair dismissal claims, WALGA representatives say to the employee seeking restitution that if they proceed with their claim and do not accept the offer, WALGA will argue in the tribunal that the award is invalid. That is WALGA's position. That is what WALGA members do.

Everybody in the industry knows that local governments are not constitutional corporations. We know that. The former Liberal government knew that because it passed a law that brought every local government's chief executive officer under the coverage of the Salaries and Allowances Tribunal. The member for Hillarys says that that was not a valid execution of the powers of the Parliament. He says that it is not valid to exercise the authority of the Parliament to regulate the employment of local governments. Why did that member do it when he was in government? That is the question.

WALGA is an important organisation in Western Australia, but I am disappointed that the Liberal Party has abandoned the authority of Western Australia and given up the rights of this Parliament to the Parliament in Canberra. The Liberal Party used to be the party of state rights. It used to represent the interests of Western Australia and now it has given it up and has given it all to Canberra. What a disgrace! The argument that this bill will somehow increase costs is rubbish. Show me a clause in the bill that increases cost for WALGA. The transition provision, which WALGA knows about because it helped write it, says that the current federal awards will become state awards. That is what it says. On every occasion that there was a dispute in the task force that could not be resolved, I, as minister, agreed with WALGA's submission, so this idea that there was somehow no consultation is rubbish!

Regarding the equal remuneration provision, there is a 22 per cent gap in the wages of women in Western Australia and I do not want to stand for that. The provision we are inserting is in the form of the general order that has been agreed between UnionsWA, the Chamber of Commerce and Industry of Western Australia and the state on behalf of —

Mr P.A. Katsambanis interjected.

Mr W.J. JOHNSTON: That is why we want to make sure it is in there. I do not want to have this eating around the edges. This is an important piece of legislation to bring our legislation up to date.

The member for Hillarys said that it is outrageous that an inspector will have the right to enter a house that is being used for industry. I would suggest the member read the current legislation. I make two points about that. Firstly, the word "industry" is already defined in the act. We do not have to define it in the bill because it is in the act. It would have been helpful if the member had read the legislation before he came in here.

Mr P.A. Katsambanis: Which clause?

Mr W.J. JOHNSTON: In the definitions clause. I will look it up for the member, if he wants.

Ms S.E. Winton: Do his homework for him!

Mr W.J. JOHNSTON: I will. It is ridiculous that he holds himself out as the shadow Minister for Industrial Relations but he has not read the Industrial Relations Act. The definitions are in the act. I assume it is section 5, but I will make sure that I am not reading the wrong section. Section 7, "Terms used", defines "industry". Go and read it. It would have been helpful if he had done that.

Mr P.A. Katsambanis: Read it to me.

Mr W.J. JOHNSTON: For crying out loud, member!

Mr P.A. Katsambanis: Where is it in section 7?

Mr W.J. JOHNSTON: It is in alphabetical order. I know that could be trouble for you!

Mr P.A. Katsambanis: It is not there.

Mr W.J. JOHNSTON: Of course it is there!

The SPEAKER: Member, you had a chance to talk before.

Mr W.J. JOHNSTON: It is there. We will come to it tomorrow, if he wants. Let me make it clear: the word "industry" is already defined in the act. It is in there in alphabetical order after "industrial" and all those things. Go and read it!

I will make a further point here: at the moment, an inspector for the department has an unfettered right to enter a home that is a workplace. We are bringing in a new limit. This is the absolute opposite of what the member argued when he was on his feet. He argued that we were introducing a provision that would allow an inspector to do something that they cannot do now. No; that is not correct. Everybody recognises that the number of homes being used as workplaces is increasing. It is on page 12 of the act, if the member cannot find it, under "Industry includes each of the following", and it goes on.

Mr P.A. Katsambanis: Where is the term "carrying on an industry" defined?

Mr W.J. JOHNSTON: It is in the legislation.

Mr P.A. Katsambanis interjected.

The SPEAKER: You have had your chance to talk.

Mr W.J. JOHNSTON: You cannot be that silly. You hold yourself out as a lawyer but you do not understand how to read a bill.

Mr P.A. Katsambanis interjected.

The SPEAKER: Member for Hillarys, that is enough.

Mr W.J. JOHNSTON: As I say, he then complains that we are giving an inspector the right to enter a house, but that is not correct—we are limiting the right of an inspector to enter a house.

The member asked about a union official going into a home. Of course we need to make sure that is properly regulated. That is why it will be allowed only under exceptional circumstances, and only if the commission has provided authority for it. That means no union official has a right to enter a workplace unless it is specifically authorised in exceptional circumstances by the Western Australian Industrial Relations Commission. If the member wants to provide a further limit, I would be interested to see what he thinks would be a further reasonable limit, but that is what we are trying to do; we are trying to limit the right of entry.

Look at what happened in South Australia with that sad case of a woman who was not cared for in her own home and died. She perished in a chair that, apparently, she had not left for over 12 months. The idea that bad things do not happen in workplaces is not correct. I do not get why the Liberal Party does not want enforcement procedures. Remember, a union official cannot just turn up. They can go only in in exceptional circumstances, with the approval of the commission. I am happy to hear a suggestion that narrows that further, but it is ridiculous to say that workplaces should be free from enforcement procedures.

Mr P.A. Katsambanis: I did not say that.

Mr W.J. JOHNSTON: That is the effect of what the member has asked for. He also said that only employers are part of industry. The member went on at some length about how it should be the choice of an employer—being the Western Australian Local Government Association or local governments—whether they are covered by federal or state awards. I have had a long period of engagement in industrial relations. Industry are the social partners—that is, the employers and the employees together. It is not half of the industry. Employers do not make unfettered decisions. It is not right. It is completely unacceptable that the Liberal Party would come into this place and argue that employers should make decisions on behalf of employees. That is unacceptable. I do not know why the member put that proposal. I cannot believe that the member put that proposal. That is a ridiculous idea.

The member also raised concerns about the economic impact of this legislation. There is no economic impact of this legislation because it does not authorise any increase in costs. No element of this bill leads to higher expenses for anybody—none at all. All we are doing is fixing a number of defects in the current legislation because it has not kept up to date with the need for change.

The Nationals objected to the penalties. Penalties apply only when a person has breached the rules. If a person does not breach the rules, there is no penalty to apply. Indeed, I will go further and point out that, actually, for the first time, we are providing for undertakings rather than enforcement action as an option for the inspectorate, which is available to the Fair Work Ombudsman but not to the industrial inspectorate here in Western Australia. We are

actually giving a concession to employers through this legislation so that now they will not have to be prosecuted, which is the only enforcement tool available to the inspectorate here in Western Australia. What the member for North West Central read out is actually not correct; it does not reflect the nature of this bill.

All we are doing with the penalties is matching the state penalties to the federal penalties. These penalties already apply to industry in Western Australia. It is not an increase in penalties; it is an increase in the arrangements if an employer has not met their obligations under the act. The most important change here is in fact the change to the scope clause for awards. There are about eight awards. The member for Forrestfield pointed out that 35 per cent of employees in Western Australia are covered by the state system. Of course, most of those are in state government employment; so about 15 or 20 per cent of the private sector workforce—no-one can be completely sure—are covered by the state system. They are covered by common rule awards. There are approximately eight common rule awards, which represent about 90 per cent of those employees.

At the moment, the scope clause of an award is established on the day the award is created. It is established by the nature of the industry that the employer's respondent to the award are, plus the named callings. I will use an award that I am very familiar with—the Shop and Warehouse Award. That award was created in 1976 and came into effect in 1977. The scope of that award was established when it was created in 1976. Now, 44 years later, when it is to be enforced, if there is a dispute about the coverage of the award, we have to find evidence about what the coverage of the award was 44 years ago. Literally, people may have died and we cannot provide evidence of what was happening in the workplace 44 years ago. I think the Metal Trades (General) Award was created in 1947. Members can understand the challenge that we have in enforcing the entitlements of employees and employers. The scope clauses are almost completely ineffective. We are proposing an arrangement to update the scope so that now the scope will be described by the definition of industries and callings. The employers are proving what happened at Boans in 1976: it ceases to be a challenge for the enforcement of the award.

We could go about that arrangement in two ways. We could get the parties to the awards to make applications or we could get the so-called section 50 parties—that is the Chamber of Commerce and Industry of Western Australia, UnionsWA and the minister—to be given responsibility for updating the awards, or we could have it like we were proposing as was done in the 1990s by the Kierath legislation, to have the commission do it on its own motion. Why is it being done by the commission on its own motion? The Chamber of Commerce and Industry is not really relevant anymore for most of those awards because its members are no longer covered by those awards. Very, very few unincorporated businesses are members of industrial organisations—organisations of employers. Likewise, very few members of unions are now covered by state awards in the private sector. There is no incentive for either party, either the union or the employer party, to update the awards.

We have had that problem for nearly a decade now. The awards have not been kept up to date. That is not a criticism of either the employer or employee associations; it is a fact of the economic force of the federal system. We are trying to create a system that will allow those awards to be updated for the benefit of employees and employers in the industry. Most of them do not belong to either the employer associations or the employee associations. We have to have a mechanism. As I say, we actually considered whether it should be the section 50 parties, because we have a complete right to ask to intervene in all matters before the commission. That is one way of doing it, but we did not want the government in charge of updating awards in the private sector. We thought it would be properly done by industry partners, not by government. We, therefore, provided a mechanism for the commission at its own motion to bring those matters forward. But that still needs to be argued by the industry partners. They still have to respond. There will have to be a hearing, just as there was in 1990s when, under the Kierath legislation, we had to put dispute settlement provisions into awards. There still has to be a hearing. There has to be an applicant, a union party and an employer party. They still have to come in and make submissions and discuss the implications of what is happening, but somebody has to kick off the work. If we leave it to the industry partners, it will not happen. We know it will not happen because it has not happened. If it was going to happen, somebody would have done it.

I remember being at the Shop, Distributive and Allied Employees Association in the 1990s and we updated our scope clause. I did not do it; Joe Bullock, who was the assistant secretary of the union, did it. Unfortunately for us, when he lodged the application with the registrar, the registrar said, "Do you understand that this does not change the scope clause. Whilst you are changing the named parties, the scope was set in 1976 and so this won't actually change the scope. You still have to prove what happened back then." This is a cost-effective, sensible way forward. The only other way forward would be to have the section 50 parties do it, which is the minister, because we know UnionsWA and the Chamber of Commerce and Industry will not do it because they have not. Quite frankly, if that is what the Liberal Party wants it to be, then it is the minister who effectively decides to bring the application forward, so be it. I do not object to that. I just do not think it is sensible. What we are suggesting is a much more sensible procedure. It is a much simpler procedure because it keeps the industry parties being the ones who will have to do the work rather than the government deciding what occurs in these awards.

Only someone who does not understand how the state system works would come up with the idea that this is somehow going to contaminate the independence of the Western Australian Industrial Relations Commission. No-one who knows the Industrial Relations Act 1979 would make that submission, because the commission—not always, but

for 25 years—has had a right to take action on its own motion. I must say, the most recent amendment to the provision at section 40B was in this Parliament in 2011, when the Liberal government was in power and I think the member for Hillarys was working I think Hon Peter Collier at the time.

Mr P.A. Katsambanis: When was that?

Mr W.J. JOHNSTON: It was in 2011.

Mr P.A. Katsambanis: No, I was not.

Mr W.J. JOHNSTON: There you go. Anyway, the point I am making is a Liberal government was actually the last government to amend the right of the commission to act of its own motion, so the idea that it is novel to have the commission take action on its own motion is 100 per cent wrong. I make the point again: it is not as though the commission just wakes up one day and issues an order; it starts the procedure that leads to an order later on. We have to reform the arrangements for the scope clauses because, otherwise, what will end up happening—what is already happening—is that every time an award enforcement matter goes forward to the Industrial Magistrates Court, the first thing that happens is a jurisdictional question about whether the award applies. We cannot have that. We cannot have a system that is unenforceable; we may as well not have a system at all. It beggars belief that anybody who understands the industrial relations system in Western Australia would make any suggestion that somehow it is novel to allow the commission to kick off a piece of work. It beggars belief. Nobody who has any knowledge of the system would make that submission.

What we are trying to do is to make the right of entry reflect the twenty-first century. Everybody walks around now with a camera in their pocket. The member for Hillarys raised the example of a workplace in which one might not be able to have a phone. I have been on many mine sites where phones are not permitted because there are all sorts of radio equipment, explosives and all sorts of things. If that is not adequately dealt with in the current provision, I am very happy to look at that. But all that we are doing is bringing the legislation into the twenty-first century. The member says that a person is allowed to make copies of documents. Yes, but unless we authorise the use of a phone, the document cannot be copied by use of a phone. I will give members an example of what happened when I was a union official. There was a supermarket down in the southern suburbs called Stammers. It has now disappeared; it is now a Woolworths store. I went into Stammers to follow up an underpayment problem. The supermarket was underpaying every single employee in the workplace. I had to note by hand all the information in the wages record, which is ridiculous, because there were hundreds of pages of notes. I came back with my own little transportable photocopier, plugged it in and took photocopies of everything. I saw the manager a couple of days later and he said, "It's lucky I wasn't here, because if I had been, I would not have let you use our electricity." We have to update the arrangements to reflect the twenty-first century, because the problem with the member for Hillarys' submission is that there is no authority to use a camera to copy the documents. We need to provide that authority.

Mr P.A. Katsambanis: But you're not doing that.

Mr W.J. JOHNSTON: No, I know; I am going further.

Mr P.A. Katsambanis: We will discuss it in consideration, because that's not what you're doing at all.

Mr W.J. JOHNSTON: I am absolutely going further. I make what I think is the real point: as the member for North West Central said, people are currently putting up social media posts. People are doing that today. There is nothing in this legislation about people putting up social media posts. Again, I have said this to a number of employer organisations: if they think there is some way of making clear how the evidence that has been collected should be used, I am very happy to do that. But the idea that unions that are able to enforce the rights of workers in their own name should not be able to collect evidence is an unsustainable position. This idea that there are enforcement agencies and unions is not correct, because in the industrial relations system, the union itself is an enforcement agency. A union can take action in its own name; it does not have to take action in the name of its workers. We had discussion in this place previously about the importance of keeping union members' names private in certain circumstances. Again, if there is a better way to regularise the twenty-first century, I am happy to look at it, but to wish the twenty-first century away is not possible. Everybody has a phone in their pocket. Every phone can record. Every phone can take video.

Mr P.A. Katsambanis interjected.

Mr W.J. JOHNSTON: That is exactly what the provision does.

Mr P.A. Katsambanis interjected.

The SPEAKER: Member for Hillarys!

Mr W.J. JOHNSTON: As I said, I am looking forward to seeing his amendment.

Mr P.A. Katsambanis: He was asking me a question.

The SPEAKER: Do not answer it!

Mr W.J. JOHNSTON: The one thing we cannot do is wish away the twenty-first century. We have to have a provision that explains how the twenty-first century applies in twenty-first century workplaces. If the member is saying that that will not be done by this legislation, I am happy to talk to him about that. But the idea that we cannot allow the twenty-first century to come into workplaces is ridiculous. It is like this argument about cameras. Again, as a former shop assistants' union official, go to a Woolworths supermarket and look at the number of cameras. There are literally hundreds of cameras watching every worker in that place. Apart from being in the toilet or in the change room, an employee is on camera the entire time they are at work. Quite frankly, every second a customer is in the shop, they are also on camera. The idea that workplaces do not have cameras in them is just rubbish. They do; look at us here. The question is not how to keep cameras out of workplaces, which is what the member said it should be; the question is: how do we regulate the use of cameras in the workplace. I am happy to have that discussion.

The member for North West Central did not read the annual report of the Fair Work Commission when it talked about the 10 per cent of matters being finalised by the issue of an order. That does not mean the other 90 per cent did not result in action, it just says that it did not result in an order. That means they were probably solved by, in many cases, conciliation, which, of course, is the whole aim of the industrial relations system, to wherever possible solve matters by conciliation. In 2016, the former federal Department of Employment conducted a post implementation review of the stop bullying provision and concluded that on balance, the jurisdiction had resulted in net benefit to the community. It had reduced the incidence of bullying. All we are doing is reflecting the federal system for those parts of industry that are not regulated by the federal system. I do not understand why those Western Australian–based workforces regulated by the state system cannot enjoy the same benefits as those covered by the federal system. It makes no sense to argue that a Pty Ltd company should have a stop bullying provision but an unincorporated law firm should not have an anti-bullying provision. A Pty Ltd company could have three or four employees and a law firm have hundreds of employees, with the law firm not having a bullying provision but the mum and dad business having a bullying provision. That makes no sense at all.

I am pleased, member for Hillarys, that the Liberal Party will move all its amendments to this legislation in this chamber so that I can fully debate and look at them. But, let me make it clear that, firstly, I am not going to agree to badly drafted amendments. If there is something worthwhile doing, I will suggest exactly what I used to do in opposition, which is request the minister to look at them between the house, because 100 to one, the member will not get the drafting they want by doing it outside the Parliamentary Counsel's Office. If he wants proper legislation drafted, he should get it done by the PCO.

Mr P.A. Katsambanis: I am waiting for PCO to draft them. You'll have them in the morning.

Mr W.J. JOHNSTON: We will see.

Mr P.A. Katsambanis interjected.

The SPEAKER: Member for Hillarys!

Mr P.A. Katsambanis: He asked me.

The SPEAKER: No, he did not.

Mr W.J. JOHNSTON: I certainly did not.

I am happy to consider sensible amendments. I am not throwing the baby out with the bathwater. The amendments that we are bringing forward in this legislation are the result of extensive consultation over many years. It started in September 2017. The member for Hillarys will remember it well because I announced in answer to his question during budget estimates that I was commissioning Mark Ritter to do the inquiry with extensive terms of reference. That reported in June 2018.

Mr P.A. Katsambanis interjected.

The SPEAKER: Member for Hillarys, I do not want to hear your voice again. I am not sending you home, because we all want to go home.

Mr W.J. JOHNSTON: In June 2018, we had a further review process internal to government and with outside stakeholders to review the recommendations. As I said, many of the recommendations were to do with the public sector. In addition, the "Inquiry into Wage Theft in Western Australia" was carried out by Tony Beech. As the member for Hillarys said himself, he is deeply respected in the industrial relations community in Western Australia.

This is a sensible piece of legislation. It is very moderate. It tries to do nothing other than bring Western Australia's state industrial relations system into the twenty-first century. There are no provisions that favour one side of the industrial relations system against the other. They are entirely balanced. The only issue of controversy is that the Western Australian Local Government Association wants to argue it is a constitutional corporation covered by the federal legislation when, clearly, it is not. As I said in my second reading speech, WALGA has to understand that it cannot be part in and part out. If it is a constitutional corporation, that means the federal Parliament can legislate how people are elected to councils. WALGA cannot be half in. If it is a constitutional corporation, that means the

commonwealth is responsible for its affairs, not the state Parliament. It is not a constitutional corporation. It taxes and issues tax invoices to people through its rates. It is not possible for WALGA to be considered a constitutional corporation, so it is not covered by the federal act. The question is how to regularise it and bring its industrial relations into proper order, because they are not currently. I understand that is controversial because the executive of WALGA does not support it.

I finish by saying that I have had lots of conversations with plenty of people who pay rates and are elected to council. Never once have they raised with me that they want to stay part of the federal system, even when I have asked them about it.

I commend the bill to the house.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

PUBLIC HEALTH AMENDMENT (COVID-19 RESPONSE) BILL 2020

Returned

Bill returned from the Council with amendments.

House adjourned at 10.39 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

HOUSING INVESTMENT PACKAGE

6176. Mr A. Krsticevic to the Minister for Housing:

I refer to the Minister's media statement dated 19 May 2020 titled "McGowan Government brings forward housing funds to support jobs in building industry" and ask, in respect of the 70 properties which are being refurbished:

(a) How many of the properties are current public housing stock;

(b) How many properties are currently vacant:

  (i) Please provide a breakdown of how many properties have been vacant for:

    (A) Less than a month;

    (B) Between one and three months;

    (C) Between three and six months;

    (D) Between six months and a year;

    (E) Between one and two years;

    (F) Between two and three years;

    (G) Between three and five years; and

    (H) Longer than five years;

(c) Please list the suburb/town locations of each home;

(d) Please provide a breakdown of the property by type (i.e. 1 bedroom unit, 3 bedroom x 1 bathroom house);

(e) How much expenditure has been allocated for each property;

(f) On what date will the refurbishment works commence;

(g) On what date will the refurbishment works be finalised;

(h) Have contracts/tenders been issued for the works and if so, who will be undertaking the works; and

(i) Are there any intentions to sell any of the properties once refurbishments are complete. If yes, how many properties at what estimated value?

Mr P.C. Tinley replied:

To provide an immediate economic response to the COVID-19 pandemic, in May 2020, the McGowan Government brought forward delivery of its Housing and Homelessness Investment Package, providing a $2 million reflow for immediate maintenance works, making those funds available to flow immediately into the economy.

(a) All properties will be current public housing stock.

(b)–(d) Identification of properties for refurbishment is in progress and will be confirmed in the coming months.

(e) Refurbishment expenditure per property will be based on scope of works required.

(f)–(g) Refurbishment works will occur through 2020–21 and 2021–22.

(h) Contracts or tenders are yet to be issued for the refurbishment component of the Housing and Homelessness Investment Package. Once properties have been identified for refurbishment works, procurement processes will commence and contracts able to be awarded. Communities will be targeting local business as well as ensuring new business who have not previously worked for Government have the opportunity to quote for works.

For the major maintenance component of the Housing and Homelessness Investment Package a total of 87 work orders have been issued to date for properties across the Western Australia totalling $2 million. This includes works in the Goldfields, Mid-West/Gascoyne, Great Southern, South West, Pilbara, Wheatbelt and Metropolitan Perth.

Works were issued to a range of contractors including carpenters, electricians, plumbers and painters.

(i) No.

MINISTER FOR HOUSING — PORTFOLIOS — FAMILY AND DOMESTIC VIOLENCE LEAVE

6193. Mr P.A. Katsambanis to the Minister for Housing; Fisheries; Veterans Issues; Asian Engagement:

In relation to the Minister's department, agency or government trading enterprise, since the introduction of family and domestic violence (FDV) leave in 2018, how many days of FDV leave has been taken for each month of:

(a) 2018;

(b) 2019; and

(c) 2020 year to date?

Mr P.C. Tinley replied:

I refer the Member to the answer to Legislative Assembly Question on Notice 6196.

TAXIS — WHEELCHAIR ACCESSIBLE

6210. Ms L. Mettam to the Minister for Transport:

(1) How many wheelchair accessible taxi vehicles in regional Western Australia were registered as at 1 January 2018, and what was the breakdown by region?

(2) How many wheelchair accessible taxi vehicles in regional Western Australia are currently registered, and what is the breakdown by region?

(3) How many wheelchair accessible taxi vehicles in regional Western Australia are currently operating, and what is the breakdown by region?

Ms R. Saffioti replied:

(1) On 1 January 2018, there were 38 wheelchair accessible vehicles licensed to operate as multi-purpose taxis.

Goldfields – 4; Kimberley – 4; Peel – 8; South West – 11; Wheatbelt – 1; Pilbara – 3; Mid West – 5; Great Southern – 2

(2)–(3) As at 16 June 2020 there are 43 active PTV authorisations whereby the garaging address of the vehicle or the residential address of the PTV authorisation holder is located in regional Western Australia.

MINISTER FOR HOUSING — PORTFOLIOS — RESEARCH, INNOVATION AND SCIENCE PROJECT FUNDING

6263. Mr W.R. Marmion to the Minister for Housing; Fisheries; Veterans Issues; Asian Engagement:

(1) Can the Minister advise for each portfolio agency within their responsibility, what expenditure was incurred in supporting external and internal research, innovation and/or science related projects for the years 2017–18 and 2018–19?

(2) Can the Minister advise for each portfolio agency within their responsibility what funding has been allocated towards supporting external and internal research, innovation and/or science related projects for 2019–20 and 2020–21?

(3) For each of (1) and (2) can the Minister provide a breakdown of expenditure/funding between the following recipient categories:

(a) Universities;

(b) State government agencies;

(c) Private organisations;

(d) Cooperative Research Centres; and

(e) All Other Categories?

Mr P.C. Tinley replied:

The Department of Communities

Please refer to Legislative Assembly Question on Notice 6264.

The Department of Primary Industries and Regional Development

Please refer to Legislative Assembly Question on Notice 6254.

The Department of Jobs, Tourism, Science and Innovation

Please refer to Legislative Assembly Question on Notice 6249.

JOONDALUP RAIL LINE — ESCALATORS

6298. Mr P.A. Katsambanis to the Minister for Transport; Planning:

I refer to the ongoing escalator issues on the Joondalup line, and I ask:

(a) When are maintenance works expected to begin at the Whitfords and Warwick train stations;

(b) What is the anticipated timeframe to complete the works at both train stations;

(c) With reference to the *Joondalup Times* article of 18 June 2020, will costs for these works be met by the contractor;

(d) If no to (c), what is the anticipated cost to the taxpayer to compete the works on the Joondalup line; and

(e) Will there be appropriate signage at each train station notifying patrons of the planned works?

Ms R. Saffioti replied:

(a)–(b) One escalator at each station were repaired in April 2020. Repairs on the remaining machines at Whitfords and Warwick will commence in the coming months.

(c) A Deed of Settlement agreement has been implemented and the issues will be rectified at the cost of the supplier.

(d) Not applicable.

(e) Yes.

CORONAVIRUS — SOCIAL HOUSING RECOVERY PACKAGE

6304. Mr V.A. Catania to the Minister for Housing:

I refer to the $1.7 billion of measures introduced by the State Government in response to COVID-19, and in particular the $319 million in social housing packages, and I ask:

(a) How much of the $319 million has been spent to date;

(b) How much has been spent in Metropolitan Perth and in regional areas? Please provide breakdowns according to Development Commission regions; and

(c) If the full amount has not been spent, why not and when is it expected to be spent?

Mr P.C. Tinley replied:

The McGowan State Government's Social Housing Economic Recovery Package is a stimulus package to aid the State's recovery from COVID-19 and support some of the most vulnerable members of our community. This package will provide $319 million in funding for approximately 250 new social or affordable housing dwellings, refurbishments to 1,500 public and supported residential housing and maintenance to 3,800 regional social housing properties. This is the largest housing maintenance and refurbishment program in our State's history. It is estimated the delivery of the Social Housing Economic Recovery Package will support approximately 1,700 jobs for Western Australians living across the state.

(a) As at 31 July 2020, $302,821 has been awarded for regional maintenance works across 56 properties. Refurbishment works are on track to commence in August and new builds are scheduled to commence in September 2020.

To ensure jobs are created quickly, Communities is currently using its existing procurement levers including its Design and Construct panel, as well as using its Head Maintenance Contractors to issue refurbishment and maintenance works.

Communities is currently establishing a new Design and Construct and/or Refurbishment Panel, and is also working with its Head Maintenance Contractors to ensure new local trades have greater opportunities to quote for works.

(b) Communities is working to finalise the metropolitan/regional breakdowns of each of the Social Housing Economic Recovery Package's streams of work.

It is expected around 75% of new builds will be delivered in metropolitan (including Peel), with around 25% in regional WA.

It is expected around 70% of refurbishment spend will occur in metropolitan (including Peel), with around 30% of refurbishment spend to occur in regional areas.

100% of maintenance spend will occur in regional areas.

(c) The budget allocated to the Social Housing Economic Recovery Package will be spent as works are undertaken throughout the financial years 2020/21 and 2021/22.

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