
# Parliamentary Debates
**(HANSARD)**

FORTIETH PARLIAMENT
FIRST SESSION
2019

LEGISLATIVE COUNCIL

Tuesday, 3 September 2019

# Legislative Council

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

## FISHERIES — "RECREATIONAL FISHING GUIDE"

*Petition*

**HON KYLE McGINN (Mining and Pastoral)** [2.02 pm]: I present a petition containing 204 signatures, couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia: West Australians love fishing, it is a past time that provides significant social, health and economic benefits to our State. To ensure we can all fish into the future it is critical that our fish stocks are managed sustainably and that we all follow the rules.
>
> The former Liberal–National Government made the short sighted decision to stop printing the *Recreational Fishing Guide* which sets out the rules for WA's recreational fishers. The guide is now only available online. This does not work for many recreational fishers, particularly in regional areas.
>
> To make sure that all fishers are aware of the rules that protect our precious fish stocks, we the undersigned call on the McGowan Labor Government to recommence the printing of the *Recreational Fishing Guide* and that it is made available to recreational fishers in regional Western Australia and your petitioners as in duty bound, will ever pray.

[See paper 2980.]

## SMALL BUSINESS DEVELOPMENT CORPORATION AMENDMENT BILL 2019

*Explanatory Memorandum — Correction — Statement by Minister for Regional Development*

**HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development)** [2.03 pm]: On 20 August 2019, the second reading of the Small Business Development Corporation Amendment Bill 2019 was moved and the explanatory memorandum tabled. I am advised that there was a minor error in the numbering of clauses in the explanatory memorandum and I now table a revised explanatory memorandum.

[See paper 2981.]

## AGRICULTURE — PERTH–JAPAN DIRECT FLIGHTS

*Statement by Minister for Agriculture and Food*

**HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Agriculture and Food)** [2.04 pm]: Although all Western Australians will be excited by the McGowan government's efforts in securing direct flights between Perth and Tokyo, our agricultural industries will be one of the biggest beneficiaries. Direct flights began on Sunday, and cargo on the first and second direct flights from Perth to Tokyo included cut flowers, chilled meat, avocados and live lobsters destined for Japan and other international markets. Western Australia was recently successful in gaining market access for our Hass avocados to Japan. The WA avocado industry is undergoing significant growth. It is now the largest fruit industry in Western Australia, accounting for 45 per cent of the gross value of agricultural production for fruit in 2017–18. Japan is also a key market for Western Australia's chilled and frozen meat exports, with $52.1 million worth of meat—mainly beef, mutton and lamb—exported in 2017–18. Additionally, the value of Western Australia's cut flower exports to Japan was over $2.6 million in 2017–18. The operator of the direct flights, All Nippon Airways, uses Boeing 787-8 aircraft on this route, providing a total capacity of 15 tonnes of cargo for each flight. ANA's domestic network includes over 50 destinations in Japan, with more than 800 passenger flights per day, providing the Western Australian agriculture and food industry access to Japanese cities beyond Tokyo. The addition of direct air access from Perth to Japan can provide new opportunities for the export of perishable, high-value agriculture and food products, from lobsters and abalone to avocado, beef, lamb, truffles and flowers.

## PAPERS TABLED

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

## CONSUMER PROTECTION LEGISLATION AMENDMENT BILL 2018

*Second Reading*

Resumed from 8 August.

**HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development)** [2.10 pm] — in reply: This debate has gone on now for some time, but I think we have identified a few issues which were raised

and which we have not yet dealt with in the second reading debate. Hon Michael Mischin asked questions about the consultation on penalty adjustments. Consultation on penalty levels was not undertaken with the industry because it is generally considered not appropriate to consult those who might be the recipients of penalties about what they might find appropriate. Secondly, Hon Michael Mischin asked why no separate penalties have been provided for offences by body corporates. No separate penalty has been prescribed for a body corporate as there is now a capacity to impose a higher penalty on corporations under section 40 of the Sentencing Act. Hon Michael Mischin also asked about the purpose of the amendment to the Fair Trading Act 2010. The purpose of this amendment is to confer on the Commissioner for Consumer Protection, for the purposes of the Charitable Collections Act, the suite of investigative powers that apply to other licensing and registration acts administered by Consumer Protection.

Hon Michael Mischin also asked questions about the rationale for the changes to the penalties in the Real Estate and Business Agents Act that would be effected by this legislation. I am advised that penalties across various jurisdictions were examined and a range of penalties were found. For example, under clause 62, we can see that the current penalty in Western Australia is $20 000. Across most jurisdictions, penalties were considerably higher, with the highest being in Tasmania, and we decided to establish a middle range. We have generally taken the approach of looking at what has been imposed for similar offences in other jurisdictions and have determined a middle range. Hon Michael Mischin also asked about penalties in the Settlement Agents Act. The penalties and licensing arrangement proposed in this bill are the same as those that will be made for real estate agents. The Australian Institute of Conveyancers WA is represented on the Property Industry Advisory Committee and has not raised any concerns about these amendments.

Hon Michael Mischin asked a question about penalties for street collections. The penalties have been increased. Although there are no directly relevant offences in other jurisdictions, penalties for similar public fundraising offences range up to $20 000 in Victoria. Consumer Protection engages in regular consultation with the industry regarding the administration of legislation with the Charitable Collections Advisory Committee, which meets each month. There were also questions about whether it is common for real estate agents to fail to comply with the prescribed education requirements. In response to that inquiry, I was advised that between 2014 and 2018, in excess of 70 real estate and business agents failed to satisfy that requirement each year. Over that same period, the figure for real estate and building sales representatives tended to go between 56 and 64. It is interesting that the figures are fairly consistent. Between 85 and 90 settlement agents each year failed to meet their continuing professional development requirements.

Hon Rick Mazza asked whether a child has to be living in a property to give rise to an entitlement to bolt furniture and how "child" is defined. The provision will not specifically require a child to live at a property or define an age for a protected child, but in the case of a dispute, the tenant would have to satisfy the magistrate of a genuine intent to protect a child in the circumstances of a tenancy, which would be difficult to maintain if there were no likelihood of a child being at the premises.

Hon Rick Mazza also quoted correspondence from the Real Estate Institute of Western Australia suggesting that amendments concerning apportionment of utility charges represent a policy shift in the ability of the lessor to recover supply fees. As members noted in the debate, the proposed amendment to section 49A of the Residential Tenancies Act at clause 68 of the bill does not make a material change to the current provision. It is intended to clarify the definition of "consumption" to avoid current confusion. The correspondence from REIWA quoted by Hon Rick Mazza initially incorrectly described this amendment as a significant policy shift. A meeting was held with REIWA and the Commissioner for Consumer Protection to clarify that the proposed amendments did not make a material change to the current provision. The fact that REIWA was unclear of this current requirement highlights the need for the clarification of this provision to eliminate confusion for lessors and tenants.

The amendments in 2013 that inserted section 49A into the RTA were in response to an increasingly common occurrence of property managers and landlords including additional fees when passing on utility accounts to tenants. Such fees included photocopying charges, charges for the landlord or property manager to calculate the pro rata share, postage for sending the account and credit card surcharges. It was because of all these additional charges that the RTA was amended—again, I stress—in 2013 to limit it to being a charge for consumption only. I understand that REIWA accepts that.

We note a further question. Hon Rick Mazza quoted a letter in which REIWA complained of a lack of consultation in the development of the bill. The Department of Mines, Industry Regulation and Safety strongly disputes the suggestion that REIWA had no notification of the proposed changes. Following the receipt of a letter on 1 November 2018 in which REIWA complained of lack of consultation prior to the tabling of the bill, the Commissioner for Consumer Protection met with REIWA on 2 November to discuss the proposed amendments and detailed consultation that had taken place, including a briefing to the Property Industry Advisory Committee on the proposed contents of the bill on 23 February 2018 and progress reports at the June and September meetings. On 7 November 2018, REIWA wrote to the minister again, stating that REIWA had received additional information and clarification around many of the proposed changes and is now largely satisfied with what had been proposed. The only outstanding issue described in that correspondence was about the imposition of a potential penalty of imprisonment for trust account defalcation.

In that regard, the Real Estate Institute of Western Australia's primary concern was that an agent may be at risk of imprisonment for an offence committed by an employee. The Department of Commerce was subsequently able to provide reassurance to REIWA that that is not the case. By letter of 29 November, the then minister, Hon Bill Johnston, wrote to REIWA advising that the proposed amendment would not result in a risk of a prison sentence when an agent was not directly involved in the commission of an offence. Any disciplinary action against an agent for failure to provide effective supervision would be commenced in the State Administrative Tribunal under section 103 of the Real Estate and Business Agents Act that does not provide for the penalty of imprisonment.

Hon Rick Mazza raised the issue of a builder taking a deposit without first obtaining home indemnity insurance and the consumer being exposed to risk of loss of the deposit should the building become insolvent. I understand that section 25C(2) of the Home Building Contracts Act 1991 prohibits a builder from demanding any money from a consumer, including a deposit, before the home indemnity insurance policy is taken out on behalf of the client. Builders who breach the requirement face the maximum penalty of $100 000 as well as potential cancellation of registration. The current reform project on the WA home indemnity insurance scheme being undertaken by the department will consider alternative options for compensating consumers, including the creation of a compensation fund.

Hon Martin Aldridge acknowledged that amendments to section 49A of the Residential Tenancies Act do not alter current policy. However, he suggested that consideration should be given to changing the policy to permit lessors to recover the daily supply charge. He queried the current policy for how fixed costs for public utilities are treated. We note the member's comments and that in his view there may be some justification for reviewing the ongoing requirement of this provision. This Consumer Protection Legislation Amendment Bill was not the place for such a review because it would reflect a significant policy change and require consultation and consideration. The broader policy question of who should pay for utilities will be canvassed as part of the review of the Residential Tenancies Act. A consultation paper will be released in the second part of the year.

A variety of issues were raised by Hon Alison Xamon, and I think she has generally supported these changes and we look forward to support generally for this bill. I thank the members for all their contributions and I look forward at some point to completing this important legislation.

Question put and passed.

Bill read a second time.

*Chamber Timing Mechanism — Malfunction — Statement by President*

**THE PRESIDENT (Hon Kate Doust)** [2.23 pm]: Members, before you move into the committee stage, I advise you that you may have noticed on the screens that the timing mechanism has failed today. We will not be able to rectify it until the dinner break because that will require shutting down all lights in the chamber. Unless you want to work in the dark, which I am sure you do not, we will put in some temporary measures. As you go into committee, there will be a timer that will run for 10 minutes for each speaker, and you will be given a one-minute warning before your 10 minutes is due to expire. Hopefully, we will be able to get through the afternoon until the dinner break working through with this system.

*Committee*

The Deputy Chair of Committees (Hon Martin Aldridge) in the chair; Hon Alannah MacTiernan (Minister for Regional Development) in charge of the bill.

**Clause 1: Short title —**

**Hon RICK MAZZA**: I have a couple of questions about a few aspects of the bill—one is the Auction Sales Act 1973. In my contribution to the second reading debate, I alluded to the fact that currently the Auction Sales Act is administered by the Magistrates Court, which I think is a waste of court time. I wonder whether the department is looking at bringing the administration of the Auction Sales Act into the department itself.

**Hon ALANNAH MacTIERNAN**: Thanks, member. I think generally, given the number of different acts that are being amended, it is probably useful for us to deal with them as those provisions come up. However, I will say that the Minister for Commerce is reviewing the Auction Sales Act quite extensively at the moment. He anticipates that the review will cover that issue as well. That is under active consideration.

**Hon RICK MAZZA**: Thank you for that, minister; I am very pleased that the minister is considering changes to the Auction Sales Act to take its administration out of the Magistrates Court.

I note that clause 7 of this bill provides for a number of changes to penalties, some ranging from the current penalty of $500 to $50 000, which is a 100-fold increase. In section 25(1), the penalty of $1 000 is to be increased to $50 000. In section 30(2), a penalty of $500 is to be increased to $10 000. They are very significant increases in penalties that can be applied to breaches of those acts. Are the current penalties extremely deficient and have not been reviewed for a very long time or are the proposed penalties, perhaps, excessive? I imagine the Department of Commerce is bringing things up to date more than anything else; nonetheless, there is a massive difference between the current and proposed penalties. Instead of bringing acts back to the house to increase penalties, has the

Department of Commerce considered a penalty unit system whereby a number of penalty units per breach is quoted within the act, and then an amount for each unit can be adjusted quite easily by regulation, as occurs in other jurisdictions? I think the commonwealth has a penalty unit of about $180 and some of the other jurisdictions have varying amounts. Tasmania has a penalty unit of $157 and in Victoria it is $155.46. That method is a way of keeping penalties up to date simply by changing the penalty unit rather than having to change all the acts, which, obviously, become quite outdated.

**Hon ALANNAH MacTIERNAN**: I could not agree more with Hon Rick Mazza in principle. I will certainly take that up with the Attorney General. Such an approach would need to be looked at by the Attorney General to see what we would need to do to incorporate that. There is very clear logic in that proposal. In the conventional approach we find ourselves in, a variety of legislation has outdated penalties. I understand Hon Michael Mischin, in his role as Attorney General or Minister for Commerce —

**Hon Michael Mischin**: Possibly a bit of both.

**Hon ALANNAH MacTIERNAN**: This review of penalties commenced in 2014 and was subsequently given drafting approval, but work did not progress sufficiently to introduce the legislation during the term of the last Parliament. Quite clearly, there was recognition that in some instances the penalties had not been adjusted for 50 years. In some cases, there has been significant changes to the industry. For example, the charity sector has evolved from a small volunteer base to include large and very sophisticated businesses that partner with government. Attempts were made to standardise penalties across the sector. Some penalties for unlicensed trading and property industries have increased significantly to provide some consistency across property industry licences regardless of whether a person is a real estate agent, a settlement agent, a land valuer or an auctioneer, and there have been attempts to improve consistency with other jurisdictions as we move towards a national market and mutual recognition of occupational licences. This work has been in train for the last five years. Could we perhaps address this in a more in-depth way? I certainly think there is merit in the penalty unit idea. I am certainly prepared to raise that with the Attorney General, but at this point I do not think that members would want to stop this amount of progress, recognising that there is merit in the member's general position.

**Hon RICK MAZZA**: Thanks for that, minister. I am not in any way suggesting that we make amendments to this bill. We are on clause 1 and some of this information is quite good to discuss.

The other question I have is about the Charitable Collections Act 1946. Again, the bill provides substantial increases in the breaches of that act, with penalties significantly increasing from $100 to $20 000. Charitable collections seem to be more and more prevalent these days. People have only to walk through the central business district of Perth to see that people are collecting for various charitable organisations. What surveillance of the Charitable Collections Act is currently underway to identify anomalies when people collect moneys?

**Hon ALANNAH MacTIERNAN**: Can I suggest that it would be more appropriate to address this issue when we reach the clause that deals with charitable collections because it does not relate to the general principles of the bill. I am happy to deal with it at that stage.

**Hon MICHAEL MISCHIN**: Some of the questions I will ask may relate to particular pieces of legislation and this one relates to the Auction Sales Act 1973; however, it is in the same sense as Hon Rick Mazza's question of a more general nature. If I wait until we reach the clause of the bill that deals with that, I will be criticised for straying out of its terms so I will raise it now. I thank the minister for acknowledging that the previous government did some work on auctions. One facet of that was to see whether there was a rationale for licensing auctioneers in the first place given that although it is a particular skill, of course, auctioneers do not generally hold trust accounts but act on behalf of someone else. We have a variety of measures to control the conduct of auctions but I query the need for a licensing system for stock auctioneers, general auctioneers and the like. Many of those may not require a particular licence. It may be just a skill that is built up through experience. Real estate agents who acquire that particular talent may be governed by other provisions so far as their function as a real estate agent is concerned but whether they need an auctioneer's licence is a question that needs to be considered. Has there been any progress with that? I know that by the time we lost government, significant consultation had been conducted with the industry, but it was still a work in progress. Is the Minister for Commerce pursuing that as a discrete area of inquiry; and, if so, what is the status of that work?

**Hon ALANNAH MacTIERNAN**: As I said, I certainly would not criticise members if they raise these issues when we reach the clause in which the particular legislative reform is addressed. This will generally progress in a more orderly fashion if we deal with the particular pieces of legislation. The member has questioned the need to license auctioneers. I understand that the minister is addressing that specific issue as part of the review of the Auction Sales Act. Obviously, as the member would imagine, people who have that licence often see it as valuable but whether a positive comes from that and whether it needs to be regulated is certainly being considered by the minister. There has been discussion of the notion of negative licensing because generally people are not required to be licensed but if they perform an unlicensed task in such a way that it breaches standards, they can be subsequently banned. That work is being considered. I think the minister is hoping to have that dealt with maybe by the end of this year.

**Hon MICHAEL MISCHIN**: I thank the minister for that. As I recall, towards the end of the last term of the previous government, reforms were made to the licensing system but one area that proved rather more complex than first thought was transferring the licensing system from the Magistrates Court directly to the Commissioner for Consumer Protection.

**Hon Alannah MacTiernan**: Which licensing system?

**Hon MICHAEL MISCHIN**: For auctioneers. I take it that the general review is looking to regularise or standardise the licensing process generally by giving the authority to deal with these things to the Commissioner for Consumer Protection rather than the Magistrates Court, which always struck me as being a bit of an odd process. At one stage, it caused considerable confusion because notices reminding auctioneers that they needed to renew their licence came from the Department of the Attorney General rather than the former Department of Commerce. I take it that all that will be part of a comprehensive review of the auction sales regime, hopefully by the end this year. Has a discussion paper that sets out the areas that are being considered been issued so that we can get an insight in advance of the presentation of legislation and conduct our own consultation as necessary?

**Hon ALANNAH MacTIERNAN**: Yes, member. The department is in the final stages of preparing a decision regulatory impact statement for consideration by the minister. Once we have an agreement on the regulatory impact statement, it will be made publicly available. The member will get advance notice, before this legislation comes in, of the sorts of matters that have been considered, and the issue of whether this thing should be in the court or taken back to the department is certainly one of the considerations. I think the member will find that the thinking is not very different from his thinking during the time he was minister.

**Hon MICHAEL MISCHIN**: Thank you. Finally, on that point, can I just clarify: is it the decision regulatory impact statement or the legislation that we can expect by the end of the year? I take it that we have not yet got as far as seeking approval to draft or print if we are still trying to compile a decision regulatory impact statement.

**Hon ALANNAH MacTIERNAN**: We anticipate that this will be available by the end of the year. It is possible that it might be a bit earlier than that; it might be within the next quarter, depending on the progress of business. But a lot of work has been done in this space and it is quite advanced, but obviously the minister needs to make the final decision on the impact statement. Work is well advanced, and I imagine that this is something we would perhaps see within the next three months.

**Hon Michael Mischin**: The impact statement?

**Hon ALANNAH MacTIERNAN**: Yes.

**Hon Michael Mischin**: Not the legislation?

**Hon RICK MAZZA**: I want to ask a few questions around the amendments to the Home Building Contracts Act and —

**Hon Alannah MacTiernan**: Member, can I just ask: can we do this when we get to the particular clause?

**Hon RICK MAZZA**: I thought clause 1 was about general questions in relation to the bill.

**Hon MICHAEL MISCHIN**: Can I perhaps assist? If the minister is prepared to deal with questions generally regarding those particular acts when we get to the relevant parts of this bill, that might be the way to go. My only concern is that, for example, the questions I asked about the Auction Sales Act went beyond the specific amendments in this bill, although they were about the scheme itself. What I was conscious of avoiding, as perhaps was Hon Rick Mazza, was asking about the Auction Sales Act generally and what is going on in the background and then being told, "Hang on, there's nothing about that in part 2 of the bill; that just deals with the increase in penalties."

**Hon ALANNAH MacTIERNAN**: I am certainly happy to give that undertaking, but I am getting the sense from Hon Rick Mazza that he is actually talking about the detail of what is involved there. I am more than prepared to give an undertaking that I will take questions more broadly on the policy schema relating to each of the sets of amendments to those acts, but I just think it would be a lot more orderly if we were to raise the member's detailed concerns about particular penalties when we come to those provisions.

**Hon RICK MAZZA**: I thank the minister for that. Just to be clear on this, it is my understanding that under clause 1 we can put questions of a general nature. Is the minister proposing that, at the beginning of each act as we go through them, we can ask questions generally?

**Hon ALANNAH MacTIERNAN**: In relation to the particular area that is being legislated, yes.

**Hon MICHAEL MISCHIN**: Just as an example, when we get to clause 3, which states, "This Part amends the Auction Sales Act 1973", that will be a sort of quasi clause 1–type scope?

**Hon Alannah MacTiernan**: Yes.

**Hon MICHAEL MISCHIN**: Yes. That will be helpful.

**Clause put and passed.**

**Clause 2: Commencement —**

**Hon MICHAEL MISCHIN**: Clause 2 provides for part 1 to come into effect on the day on which the legislation receives royal assent, but the rest of the legislation comes into effect on a day fixed by proclamation, and different days may be fixed for different provisions. Is there any reason, for example, that the provisions under part 2 relating to the Auction Sales Act 1973, which are simply increases in penalties, do not seem to require any drafting of regulations or any further work? Why can certain parts of the legislation not come into operation on the day after royal assent rather than on a day to be fixed by proclamation? I use the Auction Sales Act as an illustration, but it seems that quite a number of the amendments to statutes are fairly straightforward and involve increases in penalties or corrections of terminology and the like and are not dependent on any further work being undertaken by the department or the government.

**Hon ALANNAH MacTIERNAN**: I know this is a hardy perennial from the member. As the member will be aware, regulations will be required for a range of these things. The member has indicated that some will not require regulations—that is correct—but the view is that it makes more sense for industry to have a clear start date rather than to be in a position in which something starts on one date and then another set of things commence later, creating a whole sequence of start dates. As the member will be aware, this is a pretty standard approach. Although we acknowledge that there are a few things that will not require regulations to be developed, we believe it is better to commence those, where possible, on the same day on which the bulk of the changes take place.

**Hon MICHAEL MISCHIN**: Just on that point, can the minister give some idea as to when the amendments that do not require further work from the government are likely to come into operation, and how much warning will be given? For example—simply because it is convenient—in part 2, which provides for increases in penalties under the Auction Sales Act, is it intended that the minister will issue a communiqué to say that the legislation has been passed and has received royal assent, and that the increases in penalties will come into operation in a month or two months' time, or by a particular date? Is that how it will be, or will it simply be gazetted?

**Hon ALANNAH MacTIERNAN**: As the member is aware, we do not commence the drafting of regulations until legislation has passed. That is a well-established principle, and that will continue. Once this legislation is completed, it is anticipated that it will take about three months to complete the preparation of the regulations. Obviously, once the bill has passed, the industry will be informed of that. The industry will be notified that further work is being done on the regulations. Of course we want the industry to be informed. We are not going to gazette this legislation to take effect before the industry is informed. That would be completely and utterly unreasonable. There will be a process. Once the regulations are ready for gazettal, industry will be advised and will be given sufficient time to get their house in order. A couple of sections might be delayed. They may take further time, but we are not wanting to necessarily delay the whole legislation package because of that, particularly the commencement of clauses 52 and 81. Those clauses involve the introduction of a new option of imprisonment for some offences, which will require some amendments to the integrated court management system in consultation with the Department of Justice. We are hopeful that the remainder of the provisions will commence by the end of the year. I can assure the member that we will be keeping industry informed of that progress.

**Hon MICHAEL MISCHIN**: Thank you for that. If I understand it rightly, the commencement of those parts that do not require the making of regulations will be delayed until the bulk of the bill is ready to take effect. By "parts", I mean the parts of the bill that deal with specific statutes.

**Hon ALANNAH MacTIERNAN**: Yes. We think it would be much easier for industry to do it in that way.

**Clause put and passed.**

**The DEPUTY CHAIR (Hon Martin Aldridge)**: Members, can I have an indication of clauses before clause 67?

**Hon MICHAEL MISCHIN**: I do not know whether anyone else has general questions on the Auction Sales Act, but given the way we are approaching it, it seems we ought to go to clause 3 and have a "clause 1 debate" in respect of that; likewise with respect to clause 8 of the Charitable Collections Act and the like.

**The DEPUTY CHAIR**: Sure.

**Clause 3 put and passed.**

**Clause 4: Section 28 amended —**

**Hon MICHAEL MISCHIN**: I have more of a general question about clause 4, which also covers clauses 6 and 7. The minister mentioned that the penalties are being increased because the current penalties are out of date, and substantially so in some instances. They are substantial increases. It has been said that some of these increases are also based on equivalent provisions in other jurisdictions. For example, in proposed section 28(5) of the Auction Sales Act, a penalty of $25 000 is being introduced. A penalty of $25 000 and the like is also being introduced to proposed section 29, but some of the penalties, such as that for proposed section 6(6), is an increase from $500 to $50 000. Can the minister give us an idea of the equivalent penalties in other jurisdictions? Another example is proposed section 25, promoting or conducting a mock auction, in which the penalty has been increased from $1 000 or 12 months' imprisonment to $50 000 or 12 months' imprisonment. That is obviously more than

inflation. What was used as a touchstone for what would be an appropriate penalty for that sort of conduct? If it were some interstate provision, can the minister give us an idea of what the equivalent penalties are in that other jurisdiction or jurisdictions?

**Hon ALANNAH MacTIERNAN**: It is important to understand that there have been no increases in penalties in the Auction Sales Act since 1973. Just the compound inflation would get the figure up quite some way. We are trying to bring the penalties into line with other legislation administered by the department. I think I made this comment in my second reading reply. The idea is having a look at "like" offences in different industries. We have looked at the inflation aspect. As members can imagine, the inflation aspect would be pretty significant here, given that it is 45 years since there has been a review of the penalties. We have also looked at an equivalent provision, trading without a licence for example, in other areas that are administered by the department to give a sense of equivalence. It is noted that while the increase in CPI has been about 10 times, property values over the same period have increased from a median price of $17 000 to $500 000. We are dealing with issues of considerably greater value. For auctioneers to be licensed, for example—looking at some of the other states' penalties—in Queensland it is $24 000, in South Australia it is $5 000, and in Tasmania it is $157 000. We thought the Western Australian figure was fairly moderate. We are recommending $50 000. There has been a very big leap in property values over that same time, which gives some idea of the potential losses. I want the member to understand that at the same time that we are putting this in place, a broader body of work is going on. We are dealing with not just the penalties, but indeed the whole structure of the auction sales industry. Given that it has been 45 years since this has been dealt with and given the body of work that was started during the member's time, we felt it was appropriate to deal with these penalty issues while the larger issue of the structure of the industry was being revised.

**Hon MICHAEL MISCHIN**: I understand that it is not a science, but it is rather more than inflation. I understand that that ought not to be the simple measure of what an appropriate penalty is, but I observe that an increase from $500 to $50 000 suggests that $1 back in the day—the sort of thing that I would try to crib from my parents as pocket money—is the spending equivalent of $100 today and, likewise, according to clause 25, $1 is the equivalent of $50. But, still, one learns the value of money in retrospect.

**Clause put and passed.**

**Clauses 5 to 7 put and passed.**

**Clause 8: Act amended —**

**Hon RICK MAZZA**: My understanding is that at the beginning of each bill, we can ask some general questions. One of the questions I asked earlier was about the Charitable Collections Act 1946. It is now becoming more prevalent for people to collect money on the streets on behalf of various charities. What surveillance is currently taking place to monitor collections and ensure that these people comply with the act?

**Hon ALANNAH MacTIERNAN**: The member is quite right; this industry has changed quite considerably. Indeed, many of the people who approach us on the streets are paid or receive a commission. That then arguably drives very different behaviour from that time, and probably the first three or four decades of the charitable collections legislation, when it was overwhelmingly done by volunteers. Each charity that is registered to undertake collections needs to provide audited annual reports, so there is that level of surveillance. The department also has an officer who takes complaints from the public and those complaints are investigated. An industry advisory board has been established and it brings to the department's attention conduct that it believes is not in keeping with the letter and spirit of the legislation. Anything that appears to be sharp practice and exceeds the approval of the charity in question is brought to the attention of the department through this board. Of course, there is an interest in members of that board ensuring that there is a degree of integrity in the industry, because, as we know, if there are cases of sharp practice, fraud or money being improperly diverted, it brings the whole industry into disrepute and makes it more difficult for other members of the industry to collect. There is a level of enforcement. There are annual audited reports, there are officers who investigate complaints from the public and there is the industry advisory board that discusses these issues on a regular basis.

**Hon RICK MAZZA**: I thank the minister for that. She is quite right; there has been quite a change in the way that charitable donations are collected, and many are very much commission driven. I am interested to know how many people have been prosecuted under section 6 of the act for not holding a licence.

**Hon ALANNAH MacTIERNAN**: Because the penalty regime has been so inadequate, it generally has not been the practice to prosecute. What has been done rather is the licence has been cancelled. We do not have those figures, but I am happy to provide them later. There have not been a lot of prosecutions because the penalty is completely inadequate. The enforcement mechanism that the department has used has been the cancellation of the licence.

**Hon MICHAEL MISCHIN**: I thank the minister for that information. How many prosecutions have been conducted under section 6(2) of the Charitable Collections Act 1946? The minister said that there had not been many. Have any prosecutions been conducted over, let us say, the last 10 years?

**Hon ALANNAH MacTIERNAN**: We do not have those figures to hand, but we can certainly provide them later. It is fair to say that the numbers would be very low. Because the penalties are so inadequate, that action has not

been taken. We are happy to provide that information, but I think we need to accept that in this area, there probably have not been the number of prosecutions that there should have been. Hopefully, once we get an adequate penalty regime in place, there will be some point in doing that. I am happy to separately get the figures on prosecutions to date as I do not have them to hand, but there are not many.

**Hon MICHAEL MISCHIN**: I understand that. I recollect that the Department of Commerce was doing some work on charitable collections; I cannot bring to mind precisely what that was now, but it was looking at reviewing the operation of the legislation. I note that this proposes to continue the traditional prosecution regime rather than to introduce anything by way of infringement notices. Does anything in this legislation come under the Fines, Penalties and Infringement Notices Enforcement Act? Will there be a provision to issue infringement notices rather than to bring a prosecution by way of a charge or the like?

**Hon ALANNAH MacTIERNAN**: I understand that it is possible that prescribed penalties will be made by way of regulation. I am advised that that will be considered during the development of regulations, so we will have that option of an infringement regime.

**Hon MICHAEL MISCHIN**: I take it, though, that there has been no provision for that until now, so prosecution for an offence under section 6(2) of the Charitable Collections Act will still be limited to a risible maximum penalty of $100 rather than an infringement notice with a penalty of $100 as a modified penalty.

**Hon ALANNAH MacTIERNAN**: The modified penalty is generally 20 per cent of the penalty, so that would be $20. That is laughable. That again reinforces the need to make these penalties meaningful. Indeed, moving towards a high penalty regime is the rationale and the point of a modified penalty regime, because 20 per cent of $20 000 is a meaningful sum, whereas $20 is not.

**Hon MICHAEL MISCHIN**: I understand that in the enforcement that has been exercised to date, having regard to the small penalties that are available for the prosecution of an offence and the resources that would be required to mount a prosecution, the default has been to use a withdrawal of licence mechanism. How many licences have been withdrawn over the last, say, 10 years, even if it is just a ballpark figure?

**Hon ALANNAH MacTIERNAN**: I understand that some have taken place, but I cannot quantify that at the moment. We can seek to get that information for the member. However, of course, it is compounded by the problem that, as it stands, the penalty for operating without a licence is quite meaningless. So, in a sense, we cannot give any grunt to the system until we start to raise the bar of all the penalties. We need this uplift to give some substance to the regime. The member was asking more generally about what work is being done. As he knows, in the last couple of years the commonwealth has moved into this space more generally. I understand that work is being done to work out a regime that perhaps fits better with the federal regime to reduce the burden on charities that are required to also comply with the federal regime so that there is some alignment between the two bodies of legislation.

**Hon MICHAEL MISCHIN**: I have one further question along this line. Notwithstanding the constraints about meaningful enforcement action and any meaningful sanction, does the Commissioner for Consumer Protection receive any regular complaints about the Charitable Collections Act? Can the minister give us some idea how many complaints from the public would be received in the course of a year or a couple of years regarding infringements of the act, the character of those complaints and what sort of action tends to be taken?

**Hon ALANNAH MacTIERNAN**: Regular complaints or issues are raised by the public. Indeed, I remember spending quite a bit of time in opposition focusing on this very issue. I remember a very questionable charity, the Margaret and Shane Foundation, had been taking 93 per cent of the moneys raised for administration.

**Hon Michael Mischin**: Expenses.

**Hon ALANNAH MacTIERNAN**: Expenses. This has obviously been an issue. My advice is that each week there are complaints or queries. Often those queries come from people wanting to know whether the group that they have been approached by is a legitimate and registered charity, so some of it is by nature of inquiry. Some of the issues may not be dealt with under the Charitable Collections Act, but become consumer protection issues if there is a question of whether deceptive or misleading conduct has taken place.

**Hon Michael Mischin**: Fair Trading Act–type.

**Hon ALANNAH MacTIERNAN**: They are Fair Trading Act–type provisions. Often, those matters will not be brought to a resolution under the Charitable Collections Act, but will be resolved under fair trading–style provisions. However, there are queries and complaints from the public at least weekly about the legitimacy and conduct of various charities.

**Hon RICK MAZZA**: We have spoken about how collecting for charities has changed. However, it is important that these amendments go through so that people can trust that the money they donate to certain organisations is going to a good cause. Quite often some obscure charity will be collecting money at the front of a shopping centre and people will be wondering whether the money is going to that charity or being used to fund someone's weekend. I am very pleased to see that we are going from a fine of $100 to $5 000 for not having a licence.

**Hon Alannah MacTiernan**: I think it is going to $20 000.

**Hon RICK MAZZA**: It is $20 000 for operating without a licence, which is a good thing. Of course, unless we have some enforcement regime besides complaints, many of these people might still fly under the radar. A lot of these charitable collections now are commission driven and are commercial industries in some respects. Is there a maximum percentage of commission that can be paid when a donation is made? If someone gives $100 towards a charity—some well-known charities use commissioned collectors—is there an upper limit to the percentage of commission that can be paid to the collector?

**Hon ALANNAH MacTIERNAN**: Member, this matter is not directly dealt with, but if there is concern about the percentage that is going into the charitable work, an inquiry can be made for revocation of the licence. A licence can be revoked if it is considered —

> (b) that the amount of any money or goods received by the person, society, body or association and applied towards charitable purposes or to be so applied is inadequate in proportion to the total amount so received; or
>
> (c) that remuneration at a rate which is excessive, in relation to the part of any money … received by the person, society … and applied towards charitable purposes, has been, or is likely to be, paid to any person from the money or goods so received;

That is, basically, the provision that deals with the amounts paid to a fundraiser. There is no set percentage. This matter would go to the advisory committee. The commissioner will express concern and ask the advisory committee to do an analysis and decide whether there is a problem in either the amount of money that is paid from the collection to the fundraiser or indeed the amount that ultimately goes to charitable purposes. The committee can make a recommendation and the commissioner, as the delegate of the minister, can decide whether to revoke the licence. The member may think that not having some upper limit on it is perhaps a little open-ended, and I think that would be understandable. Maybe this issue has to be taken up, given the prevalence now of that commercial fundraising. I am certainly happy to take that matter forward to the minister, but there is a mechanism. Again, once we start getting a decent penalty regime, we can start really putting some oomph into this regulation. Whether we need to look further afield and provide a greater degree of clarity about what is the maximum acceptable will be a matter of debate and consideration. I am sure that the minister will be happy to contemplate it. He is very keen to reform errors.

**Hon RICK MAZZA**: I thank the minister for the answer. I am glad that the minister recognises that the definition of an excessive commission seems very rubbery. I think anybody who donates $100 would be horrified to find out that $90 was going to commission and only $10 to the charity. It would be good if the Minister for Commerce would consider tightening it up and giving some definition to what percentage is acceptable and not acceptable. Consultation could be done on whether there should be guidelines depending on what the charity is. I am glad the minister has recognised the fact that it is quite a rubbery and longwinded mechanism and, hopefully, we can get a more specific upper limit.

**Hon ALANNAH MacTIERNAN**: I am told that some modern legislation would be nice in this regard. New South Wales has a more prescriptive regime. I understand that that has been found to be quite difficult to enforce, but who knows? This might be a good matter for an upper house inquiry into charities.

**Hon MICHAEL MISCHIN**: On the subject of tin rattlers who may not hold a licence seeking funds from people, have any cases been passed on to the police for enforcement under the general fraud provisions of the Criminal Code, given that someone presenting themselves as collecting for a charitable purpose when they are not would be a fraud offence? Are there occasions when, after having received a complaint, the Commissioner for Consumer Protection has simply referred it to the police to deal with the problem and perhaps move people on if they are not doing the right thing?

**Hon ALANNAH MacTIERNAN**: The creation of a nuisance is generally dealt with by local councils. The department does not recall taking action because people have been creating a nuisance. That is generally when we see action by local government.

**Hon MICHAEL MISCHIN**: It is a bit more than just a nuisance because it is a fraud, I would have thought. If someone rattles a tin and purports to be collecting for some kind of charitable institution—such as, to pick a line from a *Seinfeld* episode, the "Human Fund: Money for People"—but the money goes into their pocket, it goes a little beyond a nuisance and something for local government and is potentially a fraud on the public. I take it that the commissioner does not, as a rule, refer complaints of this character to the police, and deals with it as a bit of antisocial behaviour and a nuisance that is controlled by rangers.

**Hon ALANNAH MacTIERNAN**: I will just clarify an earlier query about prosecutions for unlicensed charitable collections: there have been nil prosecutions since 2011. Apparently, the records go back only to 2011. In respect of the cancellation of licences, 25 licences have been cancelled in the last five years. As I have said, I think that shows the importance of us having some very significant increase in the penalties because, really, these people generally have not been prosecuted; they have simply had their licence cancelled because of the meaninglessness of the penalties. Obviously, once we get meaningful penalties, it will make sense to not just cancel their licence but also prosecute them. The member is right: if these people are operating unlicensed, we would presume that they are, effectively, perpetrating a fraud. It depends. They might be giving the money to charity. They might be engaging in charitable activity, so I suppose it is not necessarily conclusive of fraud. We do not have any advice

that the commissioner, as a matter of practice, has been referring these matters to the police. Obviously, this is a complex area that is operating under an old piece of legislation. This work to modernise the penalties will go some way to improving this. There is certainly an argument that we should we be going further, but, at this point, at least getting the penalties in order enables us to go forward with a bit more of a sledgehammer, which is an important way of trying to deal with this issue. I have also been advised that the department apparently does work with the police when it identifies misleading and deceptive conduct.

**Hon MICHAEL MISCHIN**: Is the minister able to tell us whether the police have laid any charges for any of that? Do the police report back to the department about the outcome of their inquiries and either write them off or commence prosecution action of some sort?

**Hon ALANNAH MacTIERNAN**: There is regular dialogue with police, but at this point we do not have any access to information on what prosecutions the police have taken. I am advised that, apparently, there has been one case in which there was a discussion with the police and it was agreed that the action would be taken by the department under the consumer law. There is ongoing dialogue, but, again, in the context of a completely inappropriate set of penalties, little progress has been made. Obviously, there are penalties under the consumer laws. I presume that we can inquire of the police as to whether there is some data on any action that has been taken and, indeed, how many cases the department might have taken action on under the consumer law.

**Hon MICHAEL MISCHIN**: I thank the minister. I conclude my inquiry on that. By way of an observation more than anything else, I notice that there is some rather quaint terminology in the Charitable Collections Act that has not been attended to. It is unfortunate that it has not. For example, I refer to section 5 of the act and the definition of "war fund", which means —

> … a fund lawfully established under the *War Funds Regulation Act 1939*.

The War Funds Regulation Act was repealed by the Charitable Collections Act. There is provision for the allocation of funding and for the transferring of moneys by the Governor for various purposes. The act also speaks of "purposes connected with the present war", which is defined as meaning —

> … the war in which His Majesty was engaged commencing on 3 September 1939.

I do not know whether those funds still exist or there is any operation left for that, but it seems to me that the act could use some updating.

**Hon ALANNAH MacTIERNAN**: Yes, there are certainly some very antique provisions in the legislation. The focus was largely on the penalty regime. Presumably, these provisions were there during the member's time in government as well. Certainly, we could well see these provisions removed from the legislation on one of those bring-out-your-dead Repeal Days. As the member would know, that work is done from time to time. I am sure that as Hon Michael Mischin has raised that issue here now, our friends from the entity that does the Repeal Day legislation will take that on board and make sure that that is brought into consideration.

**Clause put and passed.**

**Clauses 9 to 15 put and passed.**

**Clause 16: Section 15 amended —**

**Hon RICK MAZZA**: I am interested in proposed section 15(2), under which a collector must keep their collection records and retain them for seven years, subject to a penalty of $5 000. Proposed subsection (3) states —

> The Commissioner may require in writing that a collector, within a specified time —
>
> (a) give the Commissioner … access …

Under proposed paragraph (b), there is scope for an audit. What concerns me with these proposed changes is that even though a collector may be required to keep records for seven years, if an anomaly occurs within the collector's records, the damage could be well and truly done before it comes to the attention of the commissioner. It does not appear to me that there is any requirement for an audit to occur on a yearly, two-yearly or five-yearly basis to assess the collector's records. There were recent allegations involving a fairly high-profile charity whose funds had been misused for personal use. Is the minister considering more regular compulsory audits of charitable collection funds?

**Hon ALANNAH MacTIERNAN**: We are seeking to recognise the development of the federal government entity, the Australian Charities and Not-for-profits Commission. Eighty-five per cent of charities in Western Australia are subject to the ACNC. We are seeking to create a requirement whereby they keep records. The reports to the ACNC will be forwarded to us by the ACNC. We are trying to ensure that the other 15 per cent provide a similar report to the state minister. This is a mechanism to enable us to pinpoint those that we need to respond to us directly—that is, the 15 per cent that are not covered by the federal legislation. Effectively, in practice, all charities will be required to provide these records to the minister each year. However, this exempts those that provide records to the ACNC from providing them to us, but we will get them directly from the ACNC.

**Clause put and passed.**

**Clauses 17 to 20 put and passed.**

**Clause 21: Act amended —**

**Hon NICK GOIRAN**: Part 4 seeks to amend the Debt Collectors Licensing Act 1964. The second reading speech appears to be silent on the reason for this act requiring amendment. Why are these amendments needed?

**Hon ALANNAH MacTIERNAN**: I thank the member for the question. Again, as with many of the other areas of the legislation, this seeks to update the penalties. I understand in this case—I thought the other one was pretty incredible—they have not been upgraded for 45 years. However, my advice is that the penalties in the Debt Collectors Licensing Act, have not been increased since 1965. The sheer fact is that it is now over 50 years since the penalties have been updated, which is a joke, and this is one of the areas identified in the review that took place in 2014 that needed to be dealt with. However, there is also growing recognition in recent years of the need to provide adequate protection to vulnerable consumers in this area.

Again, we looked in part to have some sort of consistency across jurisdictions. The $25 000 that will apply to most offences under this act is consistent with that in Queensland and New South Wales, the two jurisdictions that have equivalent offences. At the moment, the penalty for provision of false information is $100, which is clearly inadequate in this environment, so we are proposing to increase it to $20 000.

**Hon NICK GOIRAN**: Thank you, minister, for that comprehensive explanation. I agree; it is quite something that this has not changed since 1965. Certainly, there is a compelling case for change. The minister indicated that a review had been done in 2014. I am mindful that that is now five years ago. Did the review in 2014 suggest, for example, that this penalty in clause 22 be changed from $100 to $20 000 or has the decision to go to $20 000 been a more contemporary decision in 2019?

**Hon ALANNAH MacTIERNAN**: A decision was made to set that figure in 2015. The member may have been away on urgent parliamentary business when we discussed that review before. I think the change to the penalties received cabinet approval but did not get sufficient drafting priority to be dealt with under the term of the last government. We could have an argument about 2015: should we go back again and review it four years later? The fact is that it is 54 years since the penalties were set, so rather than reviewing all that again immediately, a decision was taken to accept the work that had been done and to see this as representing considerable progress; it is important to get on with it.

**Hon NICK GOIRAN**: I agree, minister. Thank you again for that useful and comprehensive explanation. The minister mentioned that part of the decision-making process was to look to consistency with other jurisdictions. The minister mentioned Queensland and New South Wales in particular. The provision we will look at in a moment under clause 22 is the one the minister quite rightly identified as an unacceptable level of $100. A decision has been made to increase that to $20 000.

**Hon Alannah MacTiernan**: What provision are you looking at now?

**Hon NICK GOIRAN**: Clause 22, which the minister indicated currently imposes a $100 fine. I agree that the $100 fine is plainly ridiculous in 2019. The bill proposes that the maximum fine be $20 000. The minister indicated that that was set by way of the 2014 review, and the decision to get to the level of $20 000 was made in 2015. The idea was for the penalties to be consistent with those in Queensland and New South Wales. What is the penalty at the moment—in 2019—in Queensland and New South Wales?

**Hon ALANNAH MacTIERNAN**: The comparison was done during that review. I cannot tell Hon Nick Goiran whether there have been changes in the other states. We suspect that there has not been, because, as we can see with what has happened in Western Australia, it takes a long time to deal with these matters. Those comparatives were done in 2014–15. We have not sought to go back and look, but certainly we are not aware of changes made in other jurisdictions since 2014–15. We looked at two things. We looked at consistency with other like provisions within our legislative regime while also taking some cognisance of what was happening in other states.

**Hon NICK GOIRAN**: It is regrettable that no-one has taken the time to look at what the Queensland and New South Wales jurisdictions have done in 2019, given that the basis of the bill is consistency with those two jurisdictions. Be that as it may, the minister indicated that another criterion that the government used in coming to this decision was to look at like provisions in the Western Australian regime. What are those other Western Australian provisions that attract a $20 000 penalty, which the government has decided is appropriate as the penalty in clause 22?

**Hon ALANNAH MacTIERNAN**: We never said that we were talking about an exact equivalence with other states. We recognise that there is a variety of penalties in different states, but they are all set very much higher than the penalties in Western Australia. Indeed, we are 55 years out of date with this provision. The penalties for real estate agents and settlement agents are set around the $20 000 level. We do not in any way think that it is inappropriate that we took that body of work and brought it to a conclusion. We did not think we should throw it out and start again, given the parlous length of time in which these acts have failed to be updated. We absolutely think that the right thing to do was to take that body of work and move it forward. We have no reason to believe that significant changes have been made in the other states, but, in any event, the most important thing for us to do after all that time was to progress that body of work and set a regulatory regime with some rough equivalence for all consumer provisions that are fundamentally designed to ensure that consumers are protected by various licensing regimes with requirements around the conduct of people who operate in those spaces.

**Hon NICK GOIRAN**: I recall the minister mentioning earlier that no-one in government has looked at the provisions in Queensland and New South Wales in 2019 and she explained in part the reason for that. She also explained that at no stage were we trying to be the same —

**Hon Alannah MacTiernan**: We are talking about an order of magnitude—being somewhere within that ballpark.

**Hon NICK GOIRAN**: I agree. What was the level in Queensland and New South Wales—not now, because the government does not know the answer to that —

**Hon Alannah MacTiernan**: In relation to which matter?

**Hon NICK GOIRAN**: Clause 22 and the $100 example that the minister gave us. What was the level when the decision was made in 2015?

**Hon ALANNAH MacTIERNAN**: I refer to the penalty for a general offence provision under the debt collectors regime and I hope that we have got this right. There are two classes. The first is the offence of being unlicensed. The penalty for operating without a licence was $55 000 in New South Wales and $24 000 in Queensland. Attached to both of those was a term of imprisonment. The penalty in South Australia was $50 000, so we recommended $50 000 for that. That is the licensing offence. Not every act has the same precise definition of "offences", but generally the range in New South Wales was between $5 500 and $22 000, and in Queensland it was $22 770 or two years' imprisonment. Our recommendation is $25 000.

**Hon NICK GOIRAN**: A couple of things arise from that. For example, the minister mentioned the $50 000 penalty that Western Australia is looking to set. Do I understand correctly that that is the $50 000 that we see in the table in clause 26?

**Hon ALANNAH MacTIERNAN**: Proposed section 5(2) provides for the penalty, which is currently $200 for an individual and $400 for a body corporate, to be increased to $50 000.

**Hon NICK GOIRAN**: That is found under clause 26, and I appreciate that we are taking the liberty of asking questions relating to parts under clause 21, so the minister has my assurance that I will not pursue this further when we get to clause 26. My point is that the minister indicated that New South Wales has a penalty of $55 000; it certainly did in 2014, five years ago. We are not sure what the level is at the moment. South Australia was $50 000 and, of course, as the minister indicated, that is a reasonable ballpark for us to set the level at $50 000, albeit it is a ballpark from five years ago. What struck me as interesting in the information that the minister provided to the house is that Queensland seems to have chosen a different approach, or it did five years ago. It was $24 000 there, but the minister also mentioned imprisonment. What was the rationale for Western Australia choosing not to impose imprisonment as one of the options?

**Hon ALANNAH MacTIERNAN**: We made the decision that a substantial fine was great progress, and that seemed to be an adequate way forward. There has never been imprisonment in these provisions, so a determination was made that was developed by the previous government. I can absolutely guarantee the member that the penalty regime proposed in this legislation is much more like those of New South Wales and Queensland as they are now than the current regime in Western Australia. We currently have a $200 fine regime for the Debt Collectors Licensing Act; we think increasing that fine to sums of $25 000 and $50 000 will be much more like the legislation in New South Wales and the other states, if that is the member's primary concern. As I said, we took the body of work that was developed under the previous government, but that did not make it to the legislative queue in Parliament, and we have proceeded with it. We are not contemplating imprisonment at this point. We think that increasing the penalties will give us adequate control over modernising the impact of this legislation.

**Hon NICK GOIRAN**: The minister says she is confident that the levels we are setting here are much more consistent with those of New South Wales and Queensland than they are with the current levels in Western Australia. I say respectfully that the minister does not actually know that, because no-one has looked for the last five years —

**Hon Alannah MacTiernan**: Do you think they might have actually reduced their fine levels? Is that what you're thinking?

**Hon NICK GOIRAN**: I am saying to the minister that no-one has looked at this for five years, so we do not actually know what New South Wales or Queensland's current levels are; they could be $100 000 or $250 000. Unfortunately, no-one has looked at them for the last five years, so we are none the wiser today. That is the only point I am making.

I move on to a new and final area under this part. The minister has pointed out that we are looking to increase these penalties very substantially, and she has my support on that because, as she has identified, no-one has done anything on this for 54 years, so it is absolutely time for something to happen. My question is: in recent times, what is the prevalence of these penalties actually being applied?

**Hon ALANNAH MacTIERNAN**: I understand that this is not an area in which there have been any prosecutions in the memory of the advisory team, so it is obviously not an area that has been actively pursued. One would hope that perhaps, with some more reasonable penalties, we might see a bit more action in this area.

**Hon NICK GOIRAN**: This is indeed interesting. We have had no prosecutions within the memory of the advisers and the minister indicates that one would hope that there might be something happening. Can we lift this above

the level of hope? Does the government have a plan as to how we are going to enforce these provisions? I am with the minister; I think it is ridiculous that this has not been looked at for 54 years, and the minister has my support in lifting to $50 000 penalties that are at the moment in the realm of $200. But there is actually no point in us having this debate and this discussion if nobody is going to enforce these penalties moving forward. What resources are being applied by government to ensure that the work we are doing at the moment is not fruitless?

**Hon ALANNAH MacTIERNAN**: I understand the member's concerns. This is obviously an area that has not been rigorously pursued. We understand that the advice that came out of the review was that if we were to provide significant penalties, it would help drive a regime in which there is more active oversight of this area. It would put the industry on notice that it will need to take the law more seriously than it does now. We do not have more information than that. Do we have a perfect system? Probably not, but the work that came out of that review and the work we are now trying to bring to fulfilment says that these pieces of legislation have, in many instances, effectively fallen into disuse because the penalty regime is so antiquated as to be meaningless. Let us get on and get this body of work done, and then we can have an incentive for more rigorous enforcement.

**Hon NICK GOIRAN**: Under clause 22, we will lift the current penalty of a fine of $100 to $20 000. Who within government will be commissioned with the task of prosecuting these offences?

**Hon ALANNAH MacTIERNAN**: The unlicensed trading provision would be dealt with by the Consumer Protection division taking action in the State Administrative Tribunal.

**Hon NICK GOIRAN**: I am guessing that somebody from the Consumer Protection division of the department would brief the State Solicitor's Office and maybe they would make an application before the State Administrative Tribunal, and somebody at the tribunal would consider the penalty and could impose a penalty of up to $20 000. Is that how it will work?

**Hon ALANNAH MacTIERNAN**: The Consumer Protection division has its own legal team. It does not need to go via the State Solicitor.

**Hon NICK GOIRAN**: This legal team within the Consumer Protection division already exists and we know it has not been prosecuting these offences—when was the last time it was consulted on the level of resources it needs to enforce these penalties?

**Hon ALANNAH MacTIERNAN**: It is not a question of the resources of the legal team. Obviously, there are the officers who receive the complaint and process it. It is then sent to the legal officers. I do not think there is a question here of the resources of the legal officers. These matters are dealt with by the complaints personnel or the personnel who deal with complaints, and the decision is made by the commissioner. That then goes to the State Solicitor's Office to take action.

**Hon NICK GOIRAN**: This enforcement team within the Consumer Protection division, as I understood the minister, consists of two parts—the complaints team and the legal team. What is the current composition in terms of the full-time equivalent or headcount of the complaints team compared with the legal team?

**Hon Alannah MacTiernan**: I do not have that material.

**Hon NICK GOIRAN**: Do the complaints and legal teams pursue and prosecute other matters in the State Administrative Tribunal, but not these particular provisions? If that is the case, why are they investing their efforts in prosecuting those offences and not these ones? Is it simply because of the magnitude of the penalty?

**Hon ALANNAH MacTIERNAN**: It is one factor that is taken into account and it is a fairly significant factor. The member would be aware that very practical decisions have to be made on a day-to-day basis about where best to allocate resources.

**Hon NICK GOIRAN**: I agree, minister. It is not a great use of resources for people within the Consumer Protection division to be investing time in a legal team to prosecute cases in which the fine will be $100. I concur with the minister. Could the minister give some assurance that some consultation with those individuals will occur to ensure they have the necessary resources to pursue these matters? The minister mentioned there are two teams—the complaints team and the legal team. Even though a decision has been made not to prosecute these matters, which I can well understand, what volume of complaints received was it decided not to pursue?

**Hon ALANNAH MacTIERNAN**: We do not have that information at this point in time.

**Hon MICHAEL MISCHIN**: I want to clarify something. Perhaps I misunderstood an answer the minister gave to Hon Nick Goiran when she said that prosecution action is taken in the State Administrative Tribunal in respect of these matters. I am wondering where the jurisdiction lies in that, or maybe I misheard.

**Hon ALANNAH MacTIERNAN**: That was a very interesting question, member! Different advice has now been given. For some reason or other the advice has changed on the disciplinary processes, which appear not to include trading whilst unlicensed. I apologise because I was advised that trading whilst unlicensed was a matter that went to the SAT. It turns out that is not correct. In fact, all these matters are taken to the Magistrates Court. The size of the penalties indicate it will be the Magistrates Court. I apologise for that misleading advice.

**Hon MICHAEL MISCHIN**: That is fine. I am glad that it has just been clarified. It confused me. I take it that if the commissioner withdrew the licence and there was some argy-bargy about that, the proceedings on the forfeiture of licences and things of that nature would go before the State Administrative Tribunal for resolution. That is the sort of thing that would go before the State Administrative Tribunal for resolution but prosecuting people for unlicensed trading and the like would not.

**Clause put and passed.**

**Clauses 22 to 25 put and passed.**

**Clause 26: Various penalties amended —**

**Hon MICHAEL MISCHIN**: Clause 26 bears the heading "Various penalties amended" and purports to amend provisions listed in a table set out in that clause. I refer to section 5(2). We are told that it is proposed to delete the current penalty provision, which is —

> Penalty: For an individual, $200. For a body corporate, $400.

That is to be replaced with —

> Penalty for this subsection: a fine of $50 000.

I do not blame the minister for this, but the second reading speech itself was rather slight on the detail of how things were being approached in this bill. I do not recall any specific mention of the Debt Collectors Licensing Act, let alone this provision. The explanatory memorandum tells us —

> Clause 26 makes the following amendments to penalties:
>
> - Penalty for a contravention of any provision of section 5 (the requirement to hold a licence) is increased from $200 for an individual and $400 for a corporation to $50 000.

During my second reading contribution, I asked the minister to assist—I am sorry if the minister addressed it specifically in her reply, but I may have been distracted while that was going on—by putting on the record for the house how that will work. I presume it is through a more general provision in the Sentencing Act but I think it is important to have that explained and also an explanation for why we have removed a specific penalty for a corporation rather than favour a generic provision. If that in fact is the case, I have a question after that on other provisions in the Sentencing Act.

**Hon ALANNAH MacTIERNAN**: I thank the member for that question. As a result of the operation of section 40 of the Sentencing Act, it is no longer necessary for a different penalty to be prescribed for a corporation. Because of legislative change since 1965, when this act was introduced, that is no longer required. It is basically because of the operation of section 40 of the Sentencing Act. That is the reason we have not needed to provide two sets of penalties.

**Hon MICHAEL MISCHIN**: I thank the minister for that. I take it that that is the provision in subsection (5), which refers to up to five times the amount of the penalty for an individual or natural person, and that brings it to $250 000 as the potential penalty.

**Hon Alannah MacTiernan**: That's correct, member.

**Hon MICHAEL MISCHIN**: If that is right, it is not very clear in the explanatory memorandum, which tells us that it has increased from $200 for an individual and $400 for a corporation to $50 000. It is $50 000 for an individual and $250 000 for a corporation.

**Hon Alannah MacTiernan**: I take your point.

**Hon MICHAEL MISCHIN**: Section 40 also provides that a court sentencing an offender may also make a disqualification order—I do not think that any particular one is applicable here—and, significantly, a court can also make a reparation order under part 16 of the Sentencing Act. Otherwise, do other penalty provisions of the Sentencing Act apply generally to these regulatory statutes; and, if so, even though the penalty for some of the offences that we are dealing with may be absurdly low, is there not a benefit to be obtained from time to time by instituting a prosecution action to get a significant amount of reparation for damage caused in particular cases, and has that ever arisen in any other acts that we are dealing with?

**Hon ALANNAH MacTIERNAN**: We are not aware of other provisions of the Sentencing Act that could be exploited here. The advice from the Parliamentary Counsel's Office was simply that we no longer needed a two-pronged penalty regime because of the provisions of the Sentencing Act. No other particular provisions of the Sentencing Act were drawn to our attention in making a decision on this legislative package, which, I remind the member, was developed when he was at the helm.

**Clause put and passed.**

**Clauses 27 to 29 put and passed.**

**Clause 30: Act amended —**

**Hon RICK MAZZA**: Part 6 of the bill deals with the amendments to the Home Building Contracts Act 1991. These amendments basically provide some exclusions to the requirement for home indemnity insurance in certain circumstances, particularly for painting contractors and other work that is not so much building related. It also provides for relevant circumstances. I have a more general question about the home indemnity insurance scheme and it is something that has bugged me for quite a long time. My understanding is that when a client or a customer wishes to enter into a home building contract with a builder that is outside the exclusions proposed in this bill, the builder is required to take out home indemnity insurance at a certain point in the building contract, but not at the point at which the client pays the deposit. Currently, there is a limit on the deposit of 6.5 per cent of contracts valued at between $7 500 and $500 000. If someone is looking to build a house and the building contract is for, say, $300 000, the builder can require them to pay a deposit of $19 500, which they hand over. Unlike with a settlement agent or a real estate agent, that money is not put into a trust account; it is put into the builder's general operating account. Until such time as the contract gets to a certain point, which is pretty much before the commencement of the contract, the home indemnity insurance policy is not taken out and therefore the $19 500 in the example I have given is at risk if the builder becomes insolvent during that time. That is my understanding of it and the minister can correct me if I am wrong—I hope I am wrong. However, if I am correct, is the department looking at closing that loophole whereby consumers are significantly exposed to paying large sums of money because they have paid a deposit and the money is paid into the general account of the builder but no insurance is in place at that point?

**Hon ALANNAH MacTIERNAN**: Yes, the member is right; that is a potential problem. Builders obviously are required to have insurance in place before they demand any money. Theoretically, the way the legal system works is that the builder is prohibited from taking money before the insurance is in place. There is a penalty for that of $10 000, as well as the builder potentially having their registration cancelled. If a builder does that, they will have breached the law. There is a disincentive for builders to do that because they could face a significant penalty or, alternatively, have their registration cancelled. The situation the member is referring to, though, is when they have breached the law but it is before it has been brought to the attention of the regulators and they have gone broke, the deposit is lost and the consumer is unprotected during that period. I totally understand that that is a problem. The department is currently doing a very comprehensive review of the whole home building insurance area and, indeed, whether there are alternatives to insurance that would provide better coverage, such as establishing a compensation fund. The department is well aware of this problem. A penalty is imposed on people who do that, but the practical problem is that this often does not come to the attention of the regulator until such time as the builder is about to go bust, in which case the builder will lose their licence anyhow and will not be in a financial position to pay the fine. We understand that problem and we are having a comprehensive review of whether home building insurance is the best mechanism or whether there are alternative provisions.

**Progress reported and leave granted to sit again, on motion by Hon Alannah MacTiernan (Minister for Regional Development).**

## QUESTIONS WITHOUT NOTICE

### STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES — FIFTY-FIFTH REPORT — EMAIL ACCESS

**926. Hon PETER COLLIER to the Leader of the House representing the Premier:**

I refer the Premier to his response to question without notice 884 on Wednesday, 21 August 2019, in which he stated that he could not provide an answer on whether the network account of any current member of Parliament or their electorate office had been accessed because —

> These are matters before the Standing Committee on Procedure and Privileges, and it would not be appropriate to continue to comment on this matter.

I remind the Premier that the Standing Committee on Procedure and Privileges is dealing with former members, not current members of Parliament.

I also refer the Premier to the budget estimates hearing of the Department of the Premier and Cabinet in 2018, in which Hon Tjorn Sibma asked —

> … has a member of Parliament's network account or their parliamentary electorate office's email account been accessed by DPC staff without the knowledge of the member or their staff?

The response of the director general of the Department of the Premier and Cabinet, Mr Darren Foster, was —

> As a matter of principle, it is not something I would authorise for any member of Parliament because I think it sets a very dangerous precedent. I can assure you that it has not happened in the time that I have been director general.

(1) Why was a response provided to the question asked during the 2018 budget estimates session and not to question without notice 882 asked on Wednesday, 21 August 2019?

(2) Will the Premier now confirm whether the network account of any current member of Parliament or their electorate office's email account has been accessed by DPC staff or any other government agency without the knowledge of the member or their office staff; and, if not, why not?

**Hon SUE ELLERY replied:**

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

(1)–(2) I refer the honourable member to the answer the Premier gave in the other place on 28 August 2019, and I quote —

> I rise under standing order 82A. In response to the member for Moore's question, I can advise that the Department of the Premier and Cabinet has not read or accessed any past or present member of Parliament's emails. Any emails that are subject to a current Corruption and Crime Commission inquiry have not been read by any person who works in the Department of the Premier and Cabinet.

**The PRESIDENT**: I give the Leader of the Opposition the call.

**Hon PETER COLLIER**: So he misled the house last time he answered my question?

**Hon Sue Ellery**: I don't think I've misled the house, but if you think —

**Hon PETER COLLIER**: You go back and have a look.

**Hon Sue Ellery**: If you think that, you know what you need to do.

**Hon PETER COLLIER**: I certainly do.

**The PRESIDENT**: All right, it is question time.

## LANDGATE — ADVARA

**927. Hon PETER COLLIER to the minister representing the Minister for Lands:**

I refer to Landgate's 2019–20 statement of corporate intent.

(1) Can the minister confirm whether Advara has been sold?

(2) If yes to (1), on what date was it sold and how much was it sold for?

(3) If no to (1), why does Landgate's statement of corporate intent state —

> The 2018/19 financial statements include gains on the sale of Landgate's shareholding in PEXA Ltd and Advara Ltd.

**Hon ALANNA CLOHESY replied:**

On behalf of the Minister for Environment, the following information has been provided by the Treasurer.

(1) As the Treasurer flagged in Parliament on 21 March 2019, yes.

(2) As advised to Parliament on 21 March 2019, the sale price was $7.2 million. The transaction was completed on 23 May 2019.

(3) Not applicable.

## STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES — FIFTY-FIFTH REPORT — EMAIL ACCESS

**928. Hon MICHAEL MISCHIN to the Leader of the House representing the Premier:**

I refer to the Premier's responses to questions concerning the fifty-fifth report of the Standing Committee on Procedure and Privileges.

(1) Why does the Premier say that it is not appropriate for him to provide information to Parliament regarding his knowledge of specific events when public servants are the subject of investigation by the standing committee?

(2) Is that stance based on legal advice; and, if so, from whom and when was it obtained?

(3) Why does the Premier refuse to tell Parliament whether emails of current members of Parliament have been accessed by his department when public servants are the subject of investigation by the standing committee over matters concerning former members?

(4) Is that stance based on legal advice; and, if so, from whom and when was it obtained?

(5) Given that the Premier will not provide the information sought by those questions asked by a member of Parliament, will he undertake to answer them if asked by the committee; and, if he will not so undertake, why not?

Several members interjected.

**Hon SUE ELLERY replied:**

I appreciate the support for the question. I advise the member that I do not have that in my file. I have not signed an answer to that question today; I have not seen it.

**Hon Michael Mischin**: It is 22 August.

**Hon SUE ELLERY**: I will check. I am sorry, but I do not have it. I have not signed off on it today.

**Hon Michael Mischin**: By way of assistance, it is C921.

**Hon SUE ELLERY**: Thank you.

CHILD PROTECTION — CHILD SEXUAL ABUSE — GOLDFIELDS
FOSTER CARERS
CHILD PROTECTION — CASEWORKERS — CASELOAD

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

I refer to the answers to my questions without notice 822, 865 and 888.

(1) Will the minister now inform the house how many referrals have been made to Centrecare's child sexual abuse therapy program in the goldfields region this calendar year?

(2) Will the minister table the two most recent briefing notes received by the minister regarding concerns raised by Foster Families South West and the Foster Care Association of Western Australia?

(3) Will the minister inform the house of the number of cases currently being handled by the caseworker with the largest number of cases?

(4) If yes to (1) or (3), what are the respective numbers?

(5) If yes to (2), when?

(6) If no to any of (1)–(3), why not?

**Hon SUE ELLERY replied:**

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

(1) The Department of Communities has confirmed that the recent report was received. I expect to be able to provide a response when the report analysis has concluded. I refer the member to question without notice 822 for the 1 January 2019 to 30 June 2019 referral numbers.

(2) Yes. These will be tabled today. I am not sure why they are not part of the answer, but I do have papers that I will table at the end of question time.

(3) I refer to my response to question without notice 888. I am endeavouring to have a response for the member as soon as possible.

(4) Not applicable.

(5) Refer to (2).

(6) Refer to (1)–(3).

PATIENT ASSISTED TRAVEL SCHEME — MINING AND PASTORAL REGION

**930. Hon JACQUI BOYDELL to the parliamentary secretary representing the Minister for Health:**

I refer to claims by patients who are constituents in the Mining and Pastoral Region that they are being detained in Perth overnight awaiting cheaper airfares home under the patient assisted travel scheme.

(1) Does the WA Country Health Service apply a policy or guideline that requires patients to remain in Perth longer than is required to access cheaper commercial airfares?

(2) If yes to (1), please table the policy or guideline and advise the date of its effect?

(3) What is the airfare cost cap that is applied to regional PATS flights?

(4) How does the WA Country Health Service consider the high flight cost versus the additional accommodation costs borne by patients required to stay overnight awaiting cheaper commercial airfares?

**Hon ALANNA CLOHESY replied:**

I thank the honourable member for some notice of the question. I am advised of the following.

(1) The patient assisted travel scheme policy, or guideline, does not require patients to remain in Perth longer than is required to access cheaper commercial airfares.

(2) Not applicable.

(3) No airfare cost cap is applied to regional PATS flights; however, the cheapest flight of the day of required travel is recommended.

(4) High flight cost is not considered in determining a requirement for patients to stay in Perth to await cheaper airfares.

NORTH DANDALUP RESEARCH CENTRE

**931. Hon COLIN HOLT to the Minister for Regional Development:**

I refer to the ongoing development of the North Dandalup Research Centre by the C.Y. O'Connor ERADE Village Foundation.

(1) What state government funding has been provided to the development and functioning of this facility?

(2) If state funding has been provided, what is the funding for?

(3) Will the minister table a funding proposal or business case?

(4) What has been the involvement of the Peel Development Commission in this project?

**Hon ALANNAH MacTIERNAN replied:**

I thank the member for the question. Unfortunately, I had not seen the answer before now, but it looks okay.

(1) Through the Peel Development Commission, approximately $120 000 was provided to support initial site analysis, design and cost–benefit analysis. No state government funding has been provided for the construction or functioning of the facility.

(2)–(3) Not applicable.

(4) The Peel Development Commission officers worked with project stakeholders during the planning phases of the project. In 2018, the Peel Development Commission board was approached to support a funding request for the construction of a facility, and, after extensive consideration, the board declined to support the request.

FISHERIES — NON-NATIVE SPECIES

**932. Hon RICK MAZZA to the minister representing the Minister for Fisheries:**

I refer to the 23 August 2019 media statement, "Freshwater fishing licence-free weekend a special treat for Father's Day", which explained TroutFest, an event that allowed the community to hand-release a few thousand trout into Drakesbrook Weir.

Can the minister advise whether consideration is being given to stock freshwater species such as Murray cod, bass and bream in freshwater dams in the south west to enhance the recreational fishing experience?

**Hon ALANNAH MacTIERNAN replied:**

I thank the member for the question. The Minister for Fisheries has provided the following information.

Currently, no proposals are under consideration to stock new non-native species into WA water bodies. The consideration of any new fish stocking proposal requires a risk-based translocation assessment that considers impacts of the proposed introduction on the local environment, including endemic finfish species and the highly valued recreational marron fishery. The translocation of any non-endemic aquatic species can be considered only when adequate physical and environmental controls are in place, with ecological risks mitigated.

HEALTH STAFF — ASSAULTS AGAINST — PARAMEDICS

**933. Hon AARON STONEHOUSE to the parliamentary secretary representing the Minister for Health:**

I refer the minister to his recent Stop the Violence Summit in response to aggression against frontline health staff, and particularly to the media release issued by his office on that subject on Sunday, 11 August 2019.

(1) Will the minister provide the most recent figures for assaults on paramedics here in Western Australia, alongside comparison figures for the past five years?

(2) Will the minister confirm what portion of the $5 million funding boost he announced in his media release he anticipates allocating specifically to paramedics to better protect them as they go about their life-saving work?

**Hon ALANNA CLOHESY replied:**

I thank the honourable member for some notice of the question. I note that this question was submitted on 22 August 2019 and the information contained was correct, I am advised, as of that date.

(1) St John Ambulance has advised that the number of assault incidents reported across the past four financial years are as follows. The information is not available for 2014–15 and would require significant resources to undertake a manual audit. For 2015–16, it was 98; 2016–17, 140; 2017–18, 142; and 2018–19, 115.

(2) The allocation of the $5 million is still to be finalised, but it will include initiatives concerning additional security, alcohol and other drug specialist staff and a public awareness campaign. Other initiatives have already commenced such as cooperation with the WA Police Force, reviewing equipment and developing system-wide training. Additional funding to St John Ambulance is not anticipated. All frontline staff will benefit from the measures being adopted to improve staff safety.

SOUTHERN FORESTS IRRIGATION SCHEME — BUSINESS CASE

**934. Hon COLIN TINCKNELL to the Minister for Regional Development:**

I refer to the federal funding required for the southern forests irrigation scheme.

(1) Has the state government sent a business case to the federal government for funding of the southern forests irrigation scheme?

(2) If yes, can the minister please provide the date it was sent and when we can expect the business case to be published; and, if not, why not?

**Hon ALANNAH MacTIERNAN replied:**

I thank the member for the question.

(1)–(2) The initial business case was lodged with the commonwealth National Water Infrastructure Development Fund on 14 January 2017, before we were in government. A revised business case was developed and lodged with the commonwealth government on 1 April 2019. As I have advised previously to questions by Hon Diane Evers, there is some commercially sensitive material, obviously, in this business case, but I want maximum disclosure, so we are working with the commonwealth government and the Southern Forest Irrigation Co-Operative to facilitate the release of as much of this document as we can. On balance, I think this is a very good scheme. I understand that it has very much divided the Manjimup community. I have gone over it and over it again and I still think that it stacks up. I think it is important that we get as much information out as we can, so I am hoping that over the next couple of weeks, we are able to land on how much of the latest business case we can disclose.

BANKSIA HILL DETENTION CENTRE — EDUCATION SERVICES

**935. Hon ALISON XAMON to the minister representing the Minister for Corrective Services:**

I refer to the answer to my question on notice 2268, answered on 22 August 2019, which indicated that the amount allocated for the delivery of education services at Banksia Hill Detention Centre for 2019–20 is approximately $475 000, or 16 per cent less than the net cost of the delivery of these services last financial year.

(1) Have any staff positions or programs in education at the detention centre been cut?

(2) If yes to (1), which staff positions or programs have been cut?

(3) If no to (1), where have the savings been made?

**Hon ALANNA CLOHESY replied:**

On behalf of the Minister for Environment, the following information has been provided by the Minister for Corrective Services.

(1) No.

(2) Not applicable.

(3) Budget savings were expected from a reduction in the number of casual teachers employed. It was subsequently agreed to open the school over the school holidays for both remand and sentenced children. Therefore, savings on casual teachers are unlikely to eventuate. The forecast expenditure is anticipated at similar levels as the 2018–19 financial year.

WATER QUALITY — COORINJINNA POOL — PILBARA

**936. Hon ROBIN CHAPPLE to the Minister for Environment:**

I understand someone else will answer this question.

I refer to the photographs of pollution at Coorinjinna Pool and sampling taken at that site showing extremely elevated levels of copper and other heavy metal pollution adjacent to crown reserve 18301 vested in the City of Karratha.

(1) Will the department investigate—or has it investigated—this pollution?

(2) Does the department have the power to prosecute for this type of water pollution?

(3) If the perpetrator of this pollution is identified, will the department prosecute?

**Hon ALANNA CLOHESY replied:**

I thank the honourable member for some notice of the question. On behalf of the Minister for Environment, the following information has been provided. I note the question was lodged on Tuesday, 20 August, so the information is correct as at that date.

(1) Yes. The Department of Water and Environmental Regulation is investigating this matter.

(2)–(3) Once the investigation is finalised, the Department of Water and Environmental Regulation will identify whether there has been a breach of the Environmental Protection Act 1986; and, if so, it will take appropriate action in accordance with the department's compliance and enforcement policy.

PUBLIC TRANSPORT — BUS FLEET

**937. Hon SIMON O'BRIEN to the minister representing the Minister for Transport:**

In each of the last three financial years, what was the total number of buses in the Transperth fleet and how many new buses have been purchased for Transperth?

**Hon ALANNAH MacTIERNAN replied:**

I do not represent the Minister for Transport, so I do not have that.

**Hon Sue Ellery**: We just checked the file of Minister Dawson, who does represent the Minister for Transport, and it doesn't appear to be there either. If it comes in, we'll give you the answer.

**Hon Simon O'Brien**: Yes. It is shown as C935.

GST DISTRIBUTION — IRON ORE PRICE

**938. Hon Dr STEVE THOMAS to the minister representing the Treasurer:**

I refer to the answer to my question without notice 13 asked on 12 February 2019, in which the minister told the house —

> A scenario where the average price of iron ore remains at $90 a tonne has not been modelled, as this assumption is highly unrealistic.

I refer also to my question without notice 656 asked on 13 June 2019.

(1) What is the current international price for iron ore in US dollars per tonne?

(2) On what date in 2019 did Treasury observe that price to drop below the $90 a tonne identified in question without notice 13?

(3) For how much of 2019 to date was the iron ore price therefore above $US90 a tonne?

(4) Given the budgeted price of iron ore of $US62 a tonne for 2018–19 as per the 2018 state budget, and $US73.50 for 2019–20 in the 2019 state budget, how much additional iron ore royalty revenue above budget estimates has the state received so far in the 2019 calendar year?

(5) Given that this is currently an unbudgeted windfall of revenue, what will the government spend this windfall on?

**Hon ALANNA CLOHESY replied:**

I thank the honourable member for some notice of the question. On behalf of the Minister for Environment, the Treasurer has provided the following information.

(1) The iron ore spot price as at 2 September 2019 was $US91.20 per tonne.

(2) The iron ore spot price fell below $US90 per tonne on 13 August 2019.

(3) Since 1 January 2019, the iron ore spot price has been above $US90 per tonne for 99 days.

(4) The 2018–19 *Annual Report on State Finances*, to be published in late September 2019, will detail actual revenue and expenditure for the 2018–19 financial year and differences with budget estimates. Updated estimates for the 2019–20 financial year will be published in December in the 2019–20 *Government Mid-year Financial Projections Statement*.

(5) There will always be a number of changes to revenue and expenditure expectations between the delivery of a state budget and the conclusion of a financial year. The government does not make expenditure decisions based on changes to a single revenue stream among thousands of items of revenue and expenditure. I also note that no amount of additional revenue in a single year can repay the mountain of debt accumulated between 2008 and 2017 by the former Liberal–National government.

WESTPORT TASKFORCE

**939. Hon TJORN SIBMA to the Minister for Ports:**

I refer to question without notice 772 asked on 8 August and the recent release of *Westport Beacon* issue 5 titled "Long-term container trade forecasts".

(1) Given the significant public interest in this matter, will the minister release the Deloitte Access Economics modelling that underpins the work being done by the Westport Taskforce?

(2) If no to (1), will the minister explain why she intends to keep this important information secret from the people of Western Australia?

(3) In accordance with section 28 of the Financial Management Act, did the minister refer the previous refusal to provide information to the Auditor General; and, if not, why not?

**Hon ALANNAH MacTIERNAN replied:**

I think we must be living in parallel universes. There has been no occasion on which I have refused to provide that data. I certainly suggest the member go and read the answer I gave to that previous question. I propose to release information on the estimated container forecast within the next fortnight.

VOLUNTARY ASSISTED DYING — PROSECUTIONS

**940. Hon MARTIN ALDRIDGE to the parliamentary secretary representing the Minister for Health:**

I refer to concerns relating to the Voluntary Assisted Dying Bill 2019 and potential for prosecutions under sections 474.29A and 474.29B of the commonwealth Criminal Code Act.

(1) Has the commonwealth Attorney-General's Department corresponded with the state Department of Health on this issue?

(2) If yes to (1), please table that correspondence.

(3) Has the minister sought legal advice in relation to this matter; and, if so, from whom?

(4) Please table the legal advice received or a summary of that advice.

**Hon ALANNA CLOHESY replied:**

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

I have been advised by the Department of Health that further time is required to answer this question. The information will be provided to the member as soon as it is available.

GERALDTON HEALTH CAMPUS — REDEVELOPMENT

**941. Hon COLIN de GRUSSA to the parliamentary secretary representing the Minister for Health:**

I refer to the state government's planned redevelopment of the Geraldton Health Campus.

(1) Has the state government had any communications or consultation with emergency services organisations in Geraldton and the midwest about the redevelopment of the Geraldton Health Campus; and, if so, will the minister please table this correspondence?

(2) Given the local emergency service organisations' desire for an emergency rescue helicopter to be based out of Geraldton, will the state government include a heliport as part of the Geraldton Health Campus redevelopment to ensure safe and efficient patient transfers?

**Hon ALANNA CLOHESY replied:**

I thank the honourable member for some notice of the question. I have been advised as follows.

(1) WA Country Health Service Midwest has formally invited the WA Police Force, the Department of Fire and Emergency Services, St John Ambulance and the Royal Flying Doctor Service through the Geraldton Health Campus redevelopment stakeholder reference group. It is expected that engagement will increase during the design development phase.

(2) There is no helipad currently included in planning for stage 1 of the Geraldton Health Campus redevelopment.

I table the attached correspondence in relation to part (1).

[See paper 2982.]

ONE MILE JETTY — CARNARVON

**942. Hon ROBIN SCOTT to the Minister for Regional Development:**

I refer to the closure of the Carnarvon One Mile Jetty.

(1) Are there currently any plans by the government to restore the jetty?

(2) Has the minister looked into the cost of restoring the jetty; and, if so, how much will it cost; and, if not, why not?

(3) Has the minister considered and costed cheaper alternatives for resolving the issue—for instance, bringing the jetty up to a safe standard only for pedestrians?

(4) Was the government's $2.8 million investment in the heritage interpretive centre merely a token effort to distract people from the fact that the government never intends to reopen the jetty?

**The PRESIDENT**: Minister for Regional Development, I think that last part of the question might be seeking an opinion, so I do not think you need to answer that one.

**Hon ALANNAH MacTIERNAN replied:**

I thank the member for the question, and I thank you, Madam President, for your advice.

(1)–(4) The member is completely way off beam. The decision to develop an interpretive centre has been around since the time of the previous government. It was a project that we thought was important, so we continued with it. This whole project was devised well before the problems emerged with the jetty. We are going back many, many years in terms of a decision on the interpretive centre.

The Shire of Carnarvon has established a working group to look at options to reopen the jetty, and the Gascoyne Development Commission is part of that group. A desktop study was completed in 2017, which

indicated that the cost of keeping the jetty safe and maintained would be in the order of multiples of tens of millions of dollars. A range of options are being considered by the working group, including restoring the jetty to walking standard only. Any funding contribution from the state will require a business case and will be considered in the budget process, against all the other excellent projects that we are considering.

GREENHOUSE GAS EMISSIONS POLICY

**943. Hon TIM CLIFFORD to the minister representing the Minister for Energy:**

I refer to the Minister for Energy's comments on 6PR on Thursday, 29 August, following the release of the McGowan government's greenhouse gas emissions policy.

(1) Will the minister confirm that Western Australia's emissions are likely to be higher than the 2005 levels by 2030?

(2) Will the policy commit Western Australia to reducing its greenhouse gas emissions by any particular percentage by 2030; and, if so, will the minister please table it?

(3) Has the minister or another representative from the McGowan government discussed with the federal government how Western Australia is expected to contribute to the national emissions reduction target; and, if so, will the minister please table it?

**Hon ALANNA CLOHESY replied:**

I thank the honourable member for some notice of the question. On behalf of the Minister for Environment, the Minister for Energy has provided the following information.

(1)–(3) The commonwealth Department of the Environment and Energy provides annual projections of Australia's greenhouse gas emissions to 2030 to assess how Australia is tracking against its emissions reduction targets. These projections do not include state-based projections.

As the Minister for Energy, Hon Bill Johnston, MLA, observed in his remarks last week that environmental approvals for new major resource and energy projects, including approvals by the commonwealth government under the Environment Protection and Biodiversity Conservation Act 1999, are expected to lead to increases in Western Australia's greenhouse gas emissions in the short to medium term.

The McGowan government acknowledges the commonwealth government's target of reducing greenhouse gas emissions to 26 to 28 per cent by 2030, and commits to working with the commonwealth to achieve this goal. Opportunities to transition Western Australia to net zero emissions by 2050 in an environmentally and economically responsible manner will be considered in the state climate policy, which is currently under development.

FOREST PRODUCTS COMMISSION — CONTRACTS OF SALE

**944. Hon DIANE EVERS to the minister representing the Minister for Forestry:**

I refer to the Forest Products Commission contracts to supply native forest logs in excess of 10 000 tonnes per annum to sawmills.

(1) Do the contracts require 100 per cent domestic processing of logs supplied by the FPC?

(a) If no to (1), please advise the percentages and tonnes for each sawmill.

(2) Are all sawmills required to value-add 100 per cent of the logs they receive?

(a) If no to (2), what percentage is each sawmill required to value-add?

(3) Are any sawmills permitted to onsell logs to other native forest sawmills or processors?

(4) Are any sawmills permitted to chip or split whole logs into woodchips or blocks and onsell them?

(a) If yes to (4), to which sawmills can they onsell them and under what conditions?

**Hon ALANNAH MacTIERNAN replied:**

I thank the member for the question. The Minister for Forestry has provided the following answer.

(1) Yes. All current contracts in excess of 10 000 tonnes per annum require domestic processing.

(a) Not applicable.

(2) No.

(a) The requirement to value-add varies up to 70 per cent of the log timber received depending on the customer and the grade of log supplied.

(3) Sawmills are not permitted to onsell logs unless authorised in writing by the Forest Products Commission.

(4) Yes.

(a) The contracts for the supply of sawlogs prescribe a minimum level of domestic processing for sawlogs. Other than those contracts with value-adding restriction, there are no restrictions on the

type of product that can be produced. It should be noted that sawlog prices encourage the recovery of sawn timber and higher value products. Low-value logs are available to processors that choose to split or chip logs.

POLICE — TELECOMMUNICATIONS BLACKOUT — KIMBERLEY

**945. Hon KEN BASTON to the minister representing the Minister for Police:**

I refer to the ABC online Kimberley news article "Telstra outage causes 20hr communications blackout affecting mobile phones, internet in northern WA", which was published online on 16 August. In the event of a similar mobile network outage, has the WA Police Force identified alternative ways in which people can directly contact their local police station?

**Hon ALANNA CLOHESY replied:**

On behalf of the Minister for Environment, I advise that the following information has been provided by the Minister for Police.

The Western Australia Police Force advises that police stations can be contacted on telephone landlines. Landlines were not affected by recent mobile phone and internet issues in northern Western Australia. Additionally, station opening hours can be extended, and messages can be put out on local radio stations and social media advising alternative methods of contact.

COMMUNITY DENTAL HEALTH VAN

**946. Hon JIM CHOWN to the parliamentary secretary representing the Minister for Health:**

I refer to the response given in this house to part (2) of question without notice 899, in which the minister stated, "There has been no change to the visiting schedule."

(1) How is it that Kate McCreery, president of the Kalannie Parents and Citizens Association, received formal correspondence stating that the community dental van would like to notify parents that the van will no longer be visiting Kalannie Primary School?

(2) Is the information received by the president of the Kalannie P&C correct or incorrect?

**Hon ALANNA CLOHESY replied:**

I thank the honourable member for some notice of the question. I am advised that the previous advice provided by the Department of Health in answer to question without notice 899 was incorrect. I am now advised of the following.

(1) In August 2019, community dental unit staff informed parents from Kalannie Primary School that they will not be visiting the school until further notice and students could continue to receive dental care at Dalwallinu District High School, which is located 50 kilometres from Kalannie Primary School, when the dental van is visiting. A notice was also placed in the Kalannie Primary School newsletter advising the school community of the change of delivery to dental services. Dental Health Services senior management was not informed of changes to the dental van schedule at Kalannie Primary School.

(2) The information is correct.

## FOSTER CARERS

*Question without Notice 865 — Supplementary Information*

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [5.06 pm]: I have some information about Hon Nick Goiran's question without notice 865 that was asked on 20 August, which I table.

[See paper 2983.]

## QUESTIONS ON NOTICE 2242, 2304, 2316, 2331, 2336 AND 2351

*Papers Tabled*

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

## WESTPORT TASKFORCE — OPTIONS

*Question without Notice 922 — Answer Advice*

**HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Ports)** [5.07 pm]: During our last sitting week, in response to question without notice 922 asked by Hon Tjorn Sibma on the Westport Taskforce multi-criteria analysis ranking, I undertook to provide information today. Therefore, today I am happy to table a summary of the rankings for each sub-criterion and some supplementary information provided by the Westport Taskforce that will help in understanding the analysis process.

[See paper 2986.]

## PUBLIC SECTOR — INDUSTRIAL AGREEMENT

*Question without Notice 913 — Answer Advice*

**HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development)** [5.07 pm]: I would like to provide an answer to question without notice 913 asked by Hon Aaron Stonehouse on 22 August 2019. I seek leave to have the response incorporated into *Hansard*.

Leave granted.

The following material was incorporated —

**Answer**

(1) There is no financial impact on the forward estimates.

(2) There is no financial impact on the forward estimates.

(3) The Public Sector Commission's State of the Sector Report 2018 indicates that 2.7% of the State's overall public sector workforce identifies as Aboriginal or Torres Strait Islander.

(4) There is no financial impact on the forward estimates.

## HIGH RISK OFFENDERS BILL 2019

*Second Reading*

Resumed from 13 August.

**HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition)** [5.09 pm]: I rise as the lead speaker on behalf of the Liberal opposition on the High Risk Offenders Bill 2019 and indicate that we will be supporting the bill, albeit we will raise some issues about the bill and its possible operation. In due course, I will propose some amendments to the bill and I will foreshadow those amendments in the course of my address. The purpose of the amendments will be to improve the operation of the bill and extend it in a logical direction to improve the protection that it purports to offer the community.

By way of background, the second reading speeches by the Leader of the House representing the Attorney General and the Attorney General made much of the fact that this bill is the fulfilment of an election commitment. I will go into that because what was promised at the time needs to be understood to determine whether the bill meets the expectations that have been made or departs from them in some way. It may also colour the manner in which the legislation ought to be viewed.

I presume the election commitment is around a document published by WA Labor in January 2017, titled "Law Reform Initiatives: A Fresh Approach for WA". Under the executive summary, there is a commitment that states —

> **A McGowan Labor Government will:**
>
> **1. Create a judicial system that is focussed on the victims of crime and will:**

Amongst other things —

> - **Introduce a High Risk Offenders Board.**

I make the observation that there actually is a judicial system in this state, and has been for about 150-odd years, so the government does not really need to create one. The judicial system relates to something slightly different from a criminal justice system or a law enforcement system. Nevertheless, if that is the terminology that we are to be using, so be it. The document states that a McGowan Labor government will introduce a high-risk offenders board and that in itself does not tell us very much at all. Further into the document—I presume this is from where it derived—there is reference to "Post sentence detention for violent offenders". I note that it refers to post-sentence detention—not supervision—but, nevertheless, for violent offenders. At page 4, the policy states —

> WA Labor will initiate a High Risk Offenders Board to initiate action which would work in the same way as orders of detention or supervision apply to serious dangerous sex offenders.

Once again, I will leave aside the grammar. It continues —

> The Supreme Court would receive evidence as to the prospect of further offending including from a psychiatrist and have the power to further detain to prisoner.
>
> - **A McGowan Labor Government will introduce a High Risk Offenders' Board.**
>
> The function of the High Risk Offenders' Board will be to receive reports on prisoners nearing the end of their sentence, who were convicted of offences involving either:
>
> (a) Terrorism offences;
>
> (b) The infliction of serious injury to a victim of the offence; or
>
> (c) Any offence using a firearm during the course of a commission of any offence.

I know that these provisions are not meant to be interpreted as strictly as statutes, but I am surprised about the looseness of the terminology involved—"Any offence using a firearm during the course of a commission of any offence." I take that as meaning the use of a firearm during the course of a commission of any offence. The document continues —

> The High Risk Offenders Board, having assessed someone as being of high risk of re-offending in like manner and therefore presenting a high risk of danger to the community upon release, will ask the Director of Public Prosecutions to seek an order from the Supreme Court that:
>
> - The person is a high risk offender;
> - Should be detained in a State prison until such time as being re-classified as not being a high risk offender; or
> - In the Supreme Court's opinion can be satisfactorily supervised within the community.
>
> These outcomes would be supervised by the Supreme Court in the same way that those for dangerous sex offenders currently are.
>
> This policy would not apply to prisoners serving life terms, as they remain under the control and supervision of the Prisoner's Parole Board —

It is the Prisoners Review Board —

> and the Attorney General for the rest of their life.

That carefully crafted policy leads into another element that is treated as a further policy initiative. It states —

> **Introduce changes to the dangerous sex offender laws to protect the community**

This appears on page 6 —

> WA Labor will strengthen the Dangerous Sex Offender laws to better protect the community by reversing the onus of proof which will require dangerous sex offenders to satisfy the Court that on the balance of probabilities they will comply with each and every condition stipulated by the Supreme Court as part of a community supervision order.
>
> The problem with the current system is that a dangerous sex offender can seek to avoid conviction by pleading not guilty and never admitting the offence, a constitutional right, however, after conviction the dangerous sex offender is not required to participate in any rehabilitation programs, nor admit the offence as a first step on the path to rehabilitation and a dangerous sex offender can sit and serve a full term of imprisonment.
>
> - **A McGowan Labor Government will introduce changes to the dangerous sex offender's laws to protect the community.**
>
> At the expiration of the term the Director of Public Prosecutions may seek a Community Supervision Order or continuing detention. If offered a Community Supervision Order a dangerous sex offender is not required to demonstrate any understanding of abhorrent behaviour, nor convince the Court of any resolve to abide by the conditions of any Community Supervision Order.

That is not strictly right, but we will see whether what is being proposed by the government has gone any further than that and requires a demonstration of acceptance of abhorrent behaviour. It continues —

> WA Labor will move apply a reverse onus of proof so that once the Court has deemed a person to be a dangerous sex offender, who is being considered for a post sentence Community Supervision Order, there will be a requirement or burden upon the dangerous sex offender to satisfy the Court on the lower civil standard, that is, upon the balance of probabilities, that they can be trusted to obey all requirements and provisions of the Community Supervision Order.
>
> Perpetrators who break the conditions of a supervision order are regularly re-released into the community on bail pending the Court's investigation of an alleged breach and a further determination by the Supreme Court.

It might come as a surprise, but courts do not investigate anything. The document continues —

> WA Labor will cease the immediate re-release into the community by providing that there will be no bail applicable to dangerous sex offenders against whom there is a credible allegation they have breached a Community Supervision Order. This means they will remain in custody until the allegation of breach has been dealt with by the Supreme Court.

That is strong stuff. A 26 June media release under the banner of the Premier and the Attorney General—why the Premier thought it necessary to shine in the limelight of this, I do not know, but it seems that whenever there is good news to announce, he wants to be on the media release—is headed "Parliament to consider new laws to keep high-risk offenders behind bars". It states —

> - High Risk Offenders Bill 2019 to be introduced into State Parliament
> - Legislation seeks to deal with serious violent offenders in the same way as dangerous sexual offenders
> - A new High Risk (Sexual and Violent) Offenders Board will be established, delivering a McGowan Labor Government election commitment

> New laws enabling the courts to make orders to keep Western Australia's most violent criminals behind bars beyond their sentence will be today introduced into State Parliament.
>
> The new laws will mean that violent offenders, who are nearing their release date and are deemed likely to pose an ongoing risk to the community, could be issued with a continuing detention or supervision order.
>
> Tough legislation to protect the WA community from dangerous sexual offenders was first introduced in 2005 by the then–Attorney General, Jim McGinty.

It does not mention the fact that, over the last eight years, the then Labor opposition criticised the operation of those laws and said they were not good enough, but anyway. The media statement continues —

> The High Risk Offenders Bill 2019 continues the legacy of the Gallop and Carpenter governments, and delivers on the McGowan Government's law reform agenda to provide comprehensive reforms to the criminal justice system.
>
> The creation of a High Risk Offenders Board was a WA Labor commitment at the 2017 State election.

A lot is said about this high-risk offenders board being a panacea for or a solution to problems with the criminal justice system, and in a little while I will get to that and what it does and does not do. But it seems that the government has set it up as an election commitment: "We will have a high-risk offenders board—but look, we've done it", and it is the dawn of a grand new era in Western Australian criminal justice. A lot has been promised. The media statement continues —

> **Comments attributed to Premier Mark McGowan:**
>
> "Offenders who commit serious and violent crimes, and continue to pose an unacceptable risk of violent reoffending, should remain behind bars.

So "unacceptable risk" equals "remain behind bars". The attributed comments continue —

> "Alternatively, they should be managed in the community subject to stringent conditions until such time as they are no longer an unacceptable risk to the community, as we see happen with serious sexual predators.

So "unacceptable risk" equals possibly being in the community. It continues —

> "Our children, the elderly and law abiding Western Australians have the right to feel safe in their communities.

I totally support that, and some of the amendments I will be foreshadowing will assist in extending that protection in a logical direction in order to meet that worthy objective. It continues —

> The new laws will enable courts to keep the most dangerous criminals behind bars, in line with the community's expectations."
>
> **Comments attributed to Attorney General John Quigley:**
>
> "This new legislation will allow the courts to deal with WA's most dangerous and violent criminals in the same way as dangerous sexual offenders.
>
> "By expanding the current cohort of offenders under the Dangerous Sexual Offenders Act to include offenders who commit serious violent offences, we are making our community safer and protecting the most vulnerable from sexual predators and violent criminals.
>
> "Amongst offenders who are to be included are those convicted of murder, manslaughter, and grievous bodily harm, as well as sexual offences including those involving child exploitation material.
>
> "A new High Risk (Sexual and Violent) Offenders Board will also be established —

And here we get the first hint as to what this board will really do —

> to facilitate the co-ordination of managing the State's most serious offenders."

So it is a coordinating body, or not even a coordinating body—it facilitates coordination. It does not actually manage anyone itself; it does not initiate action, as was promised; and it apparently does not ask the Director of Public Prosecutions anything. The government made a commitment to create a board, but this is not the board that was committed to. That may not matter much in the scheme of things, but I simply point out that there was some very, very large talk and loose terminology about what this bill was intended to do and what was touted as a high-risk offenders board—hence, an important reform in itself—would actually do and achieve. I will come to that in more detail when we get to the bill. But given that this was an election commitment, I would in due course like to know the timetable and chronology for its development; when approval to draft and to print was given; how many drafts were presented to the Attorney General, and when; what consultation took place, and with whom; and what the feedback was on that consultation.

I turn now to the bill itself. The High Risk Offenders Bill 2019 purports to extend the regime that currently exists under the Dangerous Sexual Offenders Act, and has done since about 2003, to other categories of serious offender.

I use that term advisedly, because it is a term of art in the bill and is defined in very specific terms. I should point out that, despite the stress placed on the fact that the legislation was passed by a Labor government, it has undergone significant reform since being passed. The government appears to have ignored the fact that there were reforms in 2011 and 2016 to amend the legislation to give greater emphasis to the protection of victims and to reform certain deficiencies. That is not a criticism of the original legislation; it is simply an observation that things develop over time, problems are noticed and they are addressed. But, apparently, none of that was satisfactory, according to the then shadow Attorney General.

The bill broadly sets out to do three things: it extends the regime under the Dangerous Sexual Offenders Act by embracing other types of offenders, but essentially maintaining that structure; it incorporates dangerous sexual offenders into the new high-risk offenders regime as part of the class of offenders who are subject to the proposed act; and it retains, with some modifications, a provision that was introduced towards the end of the Barnett government for post-sentence supervision orders for certain offenders. The idea there was to give the Prisoners Review Board the ability, in cases in which prisoners who were coming to the end of their sentence and who still posed a risk to the community had not availed themselves of rehabilitative processes and avenues available to them in prison, to extend prisoners' terms through a post-supervision order. This was not designed to keep them incarcerated for longer—because it was recognised that they were coming to the end of the time they had been sentenced to—but essentially to provide them with the supervision that they had eschewed when they did not or could not avail themselves of parole.

At the time the then Labor opposition was quite critical of all that and all sorts of constitutional bogeymen were raised by the then shadow Attorney General. He claims in the second reading speech for this legislation that those issues have been addressed; I will come to that in due course. In any event, that scheme has been preserved for serious offenders—the same categories of offenders that are dealt with by the extended dangerous sexual offender regime, with certain modifications, covering those who do not actually have orders made against them under the act by the Supreme Court. One of the advantages of the original PSSO regime was that it allowed for prisoners who were coming to the end of their term to be relatively inexpensively and expeditiously dealt with by way of the Prisoners Review Board—which has assessed them in the past and will still be assessing them—being able to impose appropriate supervision conditions on them. Under this regime, in the case of serious offenders, there will be a need to seek orders before the Supreme Court. That is quite proper in the case of extending a term of detention, but it will introduce a greater level of judicial involvement and the need for greater legal resources and the like. In due course, I will be seeking some advice from the minister about what planning has been done and what assessment has been conducted to see what resources will be necessary.

I digress for a moment to say that during the course of the briefing I received from departmental advisers, it was suggested that up to 1 100 prisoners may fall within the categories foreshadowed by the bill. To me, that seems a significant number of people who will need to be vetted and for whom briefs will need to be compiled, and that prosecutors or lawyers on behalf of the state will need to deal with before the Supreme Court. I would like to know what sort of resources will be devoted to that. I would have thought that increasing by something like a hundredfold the number of people who will potentially be considered would involve significant resources on the part of the State Solicitor's Office or the DPP, or whomever else the Attorney General decides to brief to conduct those proceedings. Likewise, there will be a need for appropriate legal resources to those who are subject to the orders. In addition, it may take up more court time and facilities.

One of the Labor Party's pre-election commitments in 2017 was that it would introduce a "justice pipeline" model. Some $800 000 or more was allocated to that particular project some budgets ago. The purpose of the justice pipeline model was to gauge the effects on the criminal justice system—or, if the government prefers, the judicial system—in order to determine the consequences of making a change in one area and how that would flow through, and presumably provide for a sensible cost–benefit analysis, and be able to determine what additional resources would need to be budgeted for. We have not seen anything of this justice pipeline model. In answers to questions, we are being told by the Attorney General that it is a work in progress and that he is on the case, but we have not seen anything yet. Significant changes are being made to the criminal justice system that will have repercussions, but we have no information on it.

There is this two-tiered approach to deal with these so-called high-risk offenders. The first tier, set out in part 4 of the bill, provides for those who are found by the court to be high-risk offenders within the meaning of the bill. I will deal with a bit more of that in due course. The second tier is the application of the current regime, albeit modified, of post-sentence supervision orders instituted by the last government in part 5A of the Sentence Administration Act 2003 to those who may not qualify as high-risk offenders but who nevertheless have been convicted of a serious offence within the meaning of that act. For those purposes, "serious offence" is to have the same meaning as it does in clause 5 of the bill.

One area I would like the minister to assist us with in due course is to tell us more about how the offences that were to go into the schedule to the bill were selected and the basis on which they were regarded as "serious". The government has picked up essentially what the previous government had done in respect of a post-sentence supervision order regime and added a couple. If any further investigation of possible offences has been conducted,

that information ought to be included. I have no quarrel with the ones that it has because they reflect those under the old PSSO regime and they seem sound. We are told they are generally offences that carry a penalty of seven years' imprisonment, but what other criteria were used?

I will deal first with second-tier offences. I will come back to the first tier–type offences and applications to have someone declared a high-risk offender. Perhaps I will deal with the PSSO regime. As I have mentioned, the second tier of the government's approach is through amendments to the Sentence Administration Act 2003, and those are affected by division 4 in part 9 of the bill. Essentially, it deletes references to the Dangerous Sexual Offenders Act and replaces it with a reference to what will be the High Risk Offenders Act. It also deletes references to "serious violent offences", which were the basis for orders under the PSSO scheme, and replaces them with "serious offences" as defined by the proposed High Risk Offenders Act. That itself picks up the range of offences that had been prescribed for the purposes of PSSOs and it extends them somewhat.

There are a few other amendments that are worth mentioning. The PSSO regime, under the Sentence Administration Act, required the Prisoners Review Board to have regard to certain PSSO considerations in section 74B of that act. It states —

> … a reference to the PSSO considerations is a reference to these considerations —
>
> (a) issues for any victim of a serious violent offence for which the prisoner is in custody, including any matter raised in a victim's submission;
>
> (b) the behaviour of the prisoner when in custody insofar as it may be relevant to determining how the prisoner is likely to behave if released;
>
> (c) whether the prisoner has participated in programmes available to the prisoner when in custody, and if not the reasons for not doing so;
>
> (d) the prisoner's performance when participating in a programme mentioned in paragraph (c);
>
> (e) the behaviour of the prisoner when subject to any PSSO made previously;
>
> (f) the likelihood of the prisoner committing a serious violent offence when subject to a PSSO;
>
> (g) the likelihood of the prisoner complying with the standard obligations and any additional requirements of any PSSO;

I stress "standard obligations and additional requirements", and contrast that with what was required under the much-trumpeted amendments to the Dangerous Sexual Offenders Act by the Attorney General back in 2017, and as a Labor Party pre-election commitment, when he said that prisoners wanting to be released would need to satisfy the court on the balance of probabilities that they would comply with every condition of a supervision order. In this bill, the Prisoners Review Board can take into account the standard obligations and any additional requirements, which goes a little further. The last paragraph at section 74B states —

> (h) any other matter that is or may be relevant to whether the prisoner should be subject to a PSSO after the prisoner's release.

Those will be changed to a degree, but back then the board could then impose a post-sentence supervision order, with appropriate conditions attached, for two years. As I mentioned, it was intended to be an expeditious and relatively inexpensive means of controlling offenders who had not taken advantage of or who had rejected rehabilitation options while in custody serving out their sentence. It was intended to be done on the same basis as the Prisoners Review Board would approach the question of parole, albeit with a few other considerations, bearing in mind that the offender had not met those rehabilitation requirements, and on the basis of the materials that it would ordinarily have available to it in considering parole. There was obvious merit in that and it has been retained but in a much more limited way. Clause 105 of the bill specifically prescribes that pre-sentence supervision order considerations do not include punishment or deterrence of offences. It is claimed that that is necessary to remove any suggestion of it being a punitive element. I would have thought that the criteria were focused on the level of rehabilitation and risk that was posed to the community rather than a further punitive element. Nevertheless, that has been prescribed specifically in new section 74B(2), which says —

> In this Part a reference to the PSSO considerations does not include a reference to considerations relating to the community's interest in punishment or deterrence of offences.

We are told that that is to protect the constitutionality of these provisions. If that is the case, I would like to know a little bit more about that. I do not, as must be obvious by now from dealing with other legislation, have any confidence in what we are told by the Attorney General about his rationale for doing things. He was quite strident in criticising the PSSO regime and claiming that it was unconstitutional. He claimed in the Assembly when delivering his second reading speech that he made it his duty to work all that out to see whether that was the case. He tells us that this will remove any unconstitutional element. He may be right; maybe there was a risk, but I would hope that he would be able to satisfy us that there was such a risk in the first place. I should point out that the original regime

as established in the legislation by the last Liberal government was not done in a vacuum and without the benefit of legal advice, including advice from the then Solicitor-General. It may be that there is a different take on that advice. If so, I would be interested to know how it has come about.

Other changes are being made. As I mentioned, criteria such as that proposed in new section 74B(2) did not exist previously. The discretion of the PRB was in that sense much broader. It had regard to the PSSO considerations in new section 74B, which I have mentioned, and all of them were focused on rehabilitation and the prevention of harm. Now it requires a necessity for the prevention of harm, and this suggests a more limited operation. I have made mention of the Attorney General's comments in the Assembly and what he claimed about it. I have already touched on the point that I would like some more information about that, but he made quite a play of it. Oddly enough, it has not been reproduced in the second reading speech before this place. Indeed, the minister simply said that she was not going to go into any of that sort of detail and omitted to say anything about what had been put up by the Attorney General as a rationale in the other place. What the Attorney General said was —

> Those opposite may recall that I am on the record as having questioned the constitutional vulnerability of post-sentence supervision orders as they were introduced to the Parliament … in 2016. However, post-sentence supervision orders, when stripped of provisions that may result in constitutional vulnerability, serve a legitimate purpose for persons who are not at the highest risk of reoffending, but still present a significant risk of reoffending if not supervised beyond their term of imprisonment.

That particular paragraph was repeated. He then went on —

> When I became Attorney General, I made it my duty to clarify these constitutional questions by seeking advice from the then Solicitor General of Western Australia, which has been heeded and reflected in this bill.

Amongst those alleged vulnerabilities were, firstly, some constitutional risk with the chairperson of the Prisoners Review Board, who was at that stage a District Court judge; and, secondly, what the Attorney General claims may have been regarded as a trespass by the executive, and it will be made clear that a post-sentence supervision order cannot be for the purpose of punishment. As part of that, clause 108 of the bill removes requirements that an offender who is subject to a post-sentence supervision order undertake community corrections activities, seek or engage in gainful employment or in vocational training, or engage in gratuitous work for an approved organisation. These things, apparently, may be considered punitive. Apparently, encouraging someone to get a job after they get out of jail may be considered punitive! I would like some advice on whether there is a legal basis for that and how serious the risk may be. I would have thought that would go towards rehabilitation. Work for the dole, presumably, is punitive. To further reduce the risk of a post-sentence supervision order being construed as punitive, clause 107 of the bill provides the Prisoners Review Board with the ability to make an order for a period between six months and two years, as opposed to the current fixed period of two years. I accept that there may be some benefit in that, but I have to wonder whether someone who has been in prison for an extended period for a serious enough offence and who has failed to achieve or failed to avail themselves of parole will get much benefit from an order for six months. Two years would seem to be a sufficient prompt to try to avail oneself of the opportunities available in prison to seek reform. The idea of a six-month term of supervision in the community being imposed by the Prisoners Review Board seems to me to be a waste of time and resources. I would be interested to know more about how often periods of that short length are used by the courts and whether any benefit has come from them. The whole point of a two-year period was to be satisfied that the person was capable of maintaining themselves in the community and that they would seek rehabilitation and avail themselves of those opportunities, and to satisfy the authorities that they could stay out of trouble for a significant period, not just six months. Be that as it may, I would be interested to know what the alleged advice was that the Attorney General received and the extent to which it is reflected in the bill, as opposed to saying that it is reflected—I would like to know to what degree.

As I mentioned, advice was also sought for the PSSO regime that he derided as being constitutionally unsound. I would not be surprised if his instruction was to look for any possible means of complaining about what was done simply to vindicate himself. I should add that "heeded" and "reflected" can have very many meanings.

That is very different from saying, "I got advice. The advice was X and that has been translated into law in such-and-such a manner."

If we needed further reason to doubt what the Attorney General says about the legislation, I ask members to go back to 2015 and the debate on the amendments to the Dangerous Sexual Offenders Legislation Amendment Bill 2015. Quite apart from being an example of grandstanding, engagement in vicious personal abuse, ignorance of legal principles and attacks on a public servant—the then Commissioner of Victims of Crime—the then shadow Attorney General made trenchant claims about the ability, the power, of an Attorney General under that legislation to take action independent of the Director of Public Prosecutions. If the DPP had refused to take action in respect of a dangerous sex offender, or had made certain decisions, he claimed that there could be appeal grounds for the Attorney General, and that the Attorney General did not simply have a background or, for want of a better term, a reserve power, but actually had plenary powers that he could exercise independently. Interestingly, he does not

accept that position now; he has simply meekly abandoned it now that it does not suit him. In the debate in the Legislative Assembly on this bill, when this matter was raised with him, the Attorney General had this to say. The member for Hillarys mentioned in the course of his contribution —

> We have had this debate—the Attorney General and I have had it, and the Attorney General and the previous Attorney General had it—about some comments the Attorney General made in opposition about marching down to the Supreme Court himself and bringing applications in these matters.

To which our Attorney General replied —

> That was good grandstanding, wasn't it!

One can feel proud of having a first legal officer of the state who misleads the public in that fashion! How did he get it wrong? He did not. He said —

> I have reflected on it and I have come to a new position.

He also said—members might want to take this up to get an idea about whether they should believe anything he says about this bill—when asked whether prisons were starting to look at who is on the list so that once the bill is passed, the job is on and they will be ready to go —

> We're not doing that because the people in the Legislative Council can take a year, and it would be silly to spend our money getting ready now when they're just going to jaw on and jaw on forever up there.

I could understand it if he were talking about Hon Darren West, but given our track record in here of fixing up legislation, or trying to fix it up and then seeing it disappear from the weekly bulletin for six months or more, it is not us he needs to worry about. If he got it right the first time, perhaps we would not have to say so much about it. The Greens will be happy to know that they are irrelevant in this. He said —

> … I know the Liberals in the upper house try to frustrate everything I do, so I don't think this is going to have an easy passage up there.

There you go. As far as the Attorney General is concerned, anyone who is not a Liberal does not manage to achieve much at all. That is his attitude.

The Attorney General is happy to claim that he is supported by legal advice, and he is quick to table it when it supports him or when it is critical of others' views. I seek advice from the minister on whether the Attorney General would be prepared to table the advice in this instance if, as he claims, it supports his views; and, if not, why not? I suspect he will say that it is legal professional privilege—just like the stuff that he has chosen to table in the past, but he will not table it on this occasion. Who knows? Is it because that legal advice does not say what he claims it says? Is it because he does not want to reveal that it is contrary to what he claims?

There are other things I would like to know. In the course of, I think, the Assembly debate he promised some information about the number of offenders who would be eligible for post-sentence supervision orders. I would like to know how many had been found eligible under the current regime and how many have been granted. I would like to know whether any have challenged the constitutionality of what has been imposed upon them; and, if so, how many, and when those challenges took place? If that facility has not been used under the current regime, why not? Is it because there was a direction from the Attorney General or is it through some caution or overcaution on the part of the Prisoners Review Board? If that avenue was available and is not being availed of, it seems to me that that is very unfortunate, because it could have assisted in the control of some of the very people he now claims he is protecting the community from.

I would also like to know whether consideration was given to amend the Sentencing Act in this respect by enabling the declaration of offences as serious offences. An amendment is proposed that will allow it, but I wonder whether any thought has been given to including amongst the offences that will automatically qualify someone to fall within the High Risk Offenders Bill those people who have in the course of their offences used or brandished a firearm? It seems to me that the use of a firearm or weapon in any offence elevates the seriousness of the offence. Although the bill will allow the court when sentencing an offender to declare that offender to be eligible under this regime, it seems to me that there may be benefit in mandating that anyone who uses a weapon in the course of an offence will be considered a potentially high-risk offender and, hence, someone who ought to be considered for orders under this legislation, rather than leaving it up to the courts to decide. I have no objection to what has been proposed, but why can it not be prescribed in the legislation and why not extend "firearm" to weapons generally? I would have thought that use of or threats with a knife can be just as serious as those with a firearm. Will it include pretend or actual firearms? I would like some clarification on why that definition cannot be extended to weapons generally.

I turn now to the High Risk (Sexual and Violent) Offenders Board, which will be established by part 2 of the bill. These sorts of boards—I use the term broadly—are not new. Indeed, in the last year of the Barnett government, consideration was being given to establishing something akin to the Scottish Risk Management Authority model. What is being proposed in this bill is not unlike that; it seems to be akin to it, although I think it could have gone

significantly further. It is a very different sort of a board from that announced as part of the election commitments, and its functions and the limitations on its functions need to be explained. Mr Acting President, you will recall that the election commitment trumpeted, "We will establish a high-risk offenders board", as though that spoke for itself. If we had descended into the detail, we would have found that the high-risk offenders board will initiate action after reviewing the behaviour of prisoners who may fall within certain categories—namely, serious offenders, violent offenders and sexual offenders. It seemed at the time that it was going to be complementary to, rather than replace, the regime under the Dangerous Sexual Offenders Act. However, in any event, it seemed to have some form of executive power. The functions of this board, however, will be quite limited and members might wonder what it is meant to achieve at all. I point out that this board will have a minimum of five members. Clause 17 of the bill states —

> (1) The Board is to consist of —
>
> (a) for each relevant agency —

Clause 3 of the bill states —

> ***relevant agency*** means any of the following —
>
> (a) the Department —

I presume that is the Department of the Attorney General or the Department of Justice as it is now —

> (b) the department of the Public Service principally assisting in the administration of the *Health Services Act* …
>
> (c) the department of the Public Service principally assisting in the administration of the *Housing Act* …
>
> (d) the department designated as the Police Service;
>
> (e) the Police Force of Western Australia —

**The ACTING PRESIDENT (Hon Dr Steve Thomas)**: Member, I am going to interrupt you at that point. Honourable members, noting the time, I shall leave the chair until the ringing of the bells.

*Sitting suspended from 6.00 to 7.30 pm*

**Hon MICHAEL MISCHIN**: At the conclusion of the last episode, I was going through the establishment of the High Risk (Sexual and Violent) Offenders Board in order to raise a number of issues about its composition and function. As I mentioned, clause 17 of the bill states —

> The Board is to consist of —
>
> (a) for each relevant agency —
>
> (i) the chief executive officer or chief employee; or

That term is defined —

> (ii) a member of staff of the relevant agency, appointed by the chief executive officer or chief employee;
>
> and
>
> (b) the Chief Psychiatrist, or a member of the staff assisting the Chief Psychiatrist, appointed by the Chief Psychiatrist; and
>
> (c) any number of community members appointed under section 18(1).

I will get to that in a minute. Clause 3 states —

> ***relevant agency*** means any of the following —
>
> (a) the Department —

I presume that is the Department of Justice —

> (b) the department of the Public Service principally assisting in the administration of the *Health Services Act 2016*;
>
> (c) the department of the Public Service principally assisting in the administration of the *Housing Act 1980*;
>
> (d) the department designated as the Police Service;
>
> (e) the Police Force of Western Australia provided for by the *Police Act 1892*;
>
> (f) any other public sector body designated by the regulations as a relevant agency;

We are looking at a board that consists of at least five, if not six, public servants, plus the Chief Psychiatrist or an appointee, plus any number of community members. That is a large board. Maybe, like the Prisoners Review Board, the idea is that there will be a panel of people who are called upon from time to time to deal with particular cases. However, this board will not deal with particular cases. The board seems to be of a very different character from the Prisoners Review Board. Its functions are set out in clause 15 —

> (1) The functions of the Board are the following —
>
> (a) to develop and promote the development of knowledge, understanding, skills and expertise in all aspects of the assessment and management of offenders;
>
> (b) to facilitate cooperation between and the coordination of relevant agencies in the performance of their serious offender functions;
>
> (c) to facilitate information-sharing between relevant agencies in relation to the performance of their serious offender functions;
>
> (d) to develop best practice standards and guidelines for the performance by relevant agencies of their serious offender functions;
>
> (e) to advise relevant agencies in relation to resourcing, service provision and training relevant to the performance of their serious offender functions.

The board will not actually initiate any applications and will not manage any offenders, which is contrary to the election commitment and what was spruiked about it. On the contrary, it appears to be a board that will pull together various agencies to think about how the management of serious offenders ought to be conducted, to develop standards and guidelines for that, and to give advice. Whether that advice in any way will be binding or definitive is left at large. All these people, including a raft of community members, will be on this board and paid to do all this, but we do not know the selection criteria for the community members—whether it is simply sinecures or what. One of the things that is missing from the legislation, of course, is anything about publishing the board's findings and its learnings. The board is supposed to "develop and promote the development of knowledge, understanding, skills and expertise", but what will it do with that? Presumably, it will come out in guidelines and best-practice standards, but there is nothing in the legislation about sharing this expertise or any research with the rest of the public.

I query whether the expertise that will be acquired and facilitated within the framework of what is proposed in clause 15, and the board as it is envisaged in the bill, will go much further than what has been developed and understood by our Prisoners Review Board and Mentally Impaired Accused Review Board under the Criminal Law (Mentally Impaired Accused) Act. Those two bodies have had an enormous amount of experience over some 20 years or more. The Prisoners Review Board has experience of how to manage offenders dating back to the early 1960s. The next question that arises is to what extent there will be an overlap in membership.

**The ACTING PRESIDENT (Hon Robin Chapple)**: Members, there is a little bit of audible conversation going on. Thank you.

**Hon MICHAEL MISCHIN**: How can I create, Mr Acting President? It is getting unruly in here.

**The ACTING PRESIDENT**: Oh dear. Hon Michael Mischin has the call.

**Hon MICHAEL MISCHIN**: Thank you for your protection, Mr Acting President.

I question what it is that the board will be contributing to the management of these sexual and violent offenders that it is connected with somehow. The legislation does not actually explain this board's relationship with the direct management of any of the people who are caught by meeting the criteria set out under the act as being serious offenders who warrant either a continuing custodial term or a supervision order in the community beyond the end of their sentence. Maybe there is something there that I have not picked up on. I would like some explanation of what this board is going to do, other than to have community members and half a dozen or so departmental officers on it, plus the Chief Psychiatrist or an appointee, and function without any direct input to the supervision of offenders, let alone initiate applications and, in accordance with the policy that was put forward, ask the Director of Public Prosecutions to do something about them. What is the relationship with the Prisoners Review Board and the Mentally Impaired Accused Review Board, given that some of the offenders who will fall within the scope of this legislation are those who are found not fit to stand trial, but may be considered high-risk offenders within the meaning of the legislation?

To whom will the board report, and how will it report? How will the expertise it acquires be communicated? Is there any imperative for that—a requirement to publish its learnings for the benefit of the public or other agencies? Its guidelines and best practice directions are all very well, but will agencies have the benefit of them? Will it share that information with members of the Prisoners Review Board? Will one be answerable to the other, or will they run in parallel without any connection between the two of them, in practice as well as theoretically? There seems to be no relationship between what is proposed under this bill and the boards that have the experience to date, and are operating. The board will have the ability to formulate guidelines and best practice standards, but will it tell agencies what to do and how to do it, or will they simply be advisory? True, there will be members of those agencies on the board, and they will contribute to the process and may have a greater or lesser say in the outcomes, but will these

guidelines and this advice have any impact on them? Again, we come back to the relationship of this board. What will it contribute that the Prisoners Review Board and the Mentally Impaired Accused Review Board cannot do already? Will it be composed of the members of the Prisoners Review Board and/or the Mentally Impaired Accused Review Board? Will there be an overlap of membership?

If we are dealing with what was claimed by the Labor Party's election policy as a judicial system focused on victims of crime—not that this is part of the judicial system, but we will leave that aside, because none of the grammar or the terminology used in the policy statement seems to be consistent or comprehensible—how will it be focused on victims of crime if it does not appear that the Commissioner for Victims of Crime or a delegate is going to be on this High Risk (Sexual and Violent) Offenders Board? Community representatives will be on the board but not the Commissioner for Victims of Crime. By way of a small digression, I recall that in 2015, the then shadow Attorney General went to town on the Commissioner for Victims of Crime at the time, saying that she was not a real Commissioner for Victims of Crime because she was a public servant and not independent. At least she was a Commissioner for Victims of Crime. We have had an acting commissioner for two years, who does not even have the status of being the commissioner. The present incumbent is in an acting position, and presumably will remain acting until they can prove themselves as being amenable to the government of the day. This is even worse than the theoretical problem of having a Commissioner for Victims of Crime who is a member of the department of the Attorney General of the day, and who the then shadow Attorney General, in the most cowardly fashion, criticised in the course of the Assembly debates in a way that she could not defend herself against. Anyway, she is two years gone, and we still do not have a Commissioner for Victims of Crime. Maybe that is why the Commissioner for Victims of Crime is not represented on the board that is supposed to develop these guidelines, standards and the like around an election commitment that is focused on the victims of crime.

I would like to know more about the composition of the board—what is intended; what is planned; whether people have been given some kind of indication to date that, when this goes through, they will be members of this board; who will be on the board; whether it will draw on the expertise currently available in some fashion; and, indeed what is the need for it, since it is not actually making any decisions itself, according to its functions in the legislation, other than being a letterbox and a liaison office, and encouraging the development of expertise and knowledge in this area. That is worthy in itself, but, really, do we need another board for it?

Given that it is not the body that will actually assess and select candidates for high-risk offender applications, as was promised, what will be the selection process for candidates for applications to the Supreme Court to be used by someone representing the state, who will advocate that a particular offender ought to be classified as a high-risk offender within the meaning of the proposed act? In the debate in the Assembly, the Attorney General said that it will reflect current practice. I may have missed it, but I do not think he descended into any detail about what that current practice is. I do not know whether he even knew it. When I was Attorney General, it seemed to work effectively and efficiently, but who knows how it is operating now? Back then, it worked by way of an informal—by that I mean non-statutory—review committee consisting of the Director of Public Prosecutions or a delegate, and representatives of Corrective Services, the police and others, which would consider those coming to the end of their sentences who were potentially capable of coming within the scope of the Dangerous Sexual Offenders Act. The committee would go through the list of them, get the material about the offences they had committed and other information available to them, examine the risk profile for those people and, of the many potential candidates, come out with reasons for why someone should be considered a candidate for an application, or why they should not. I would not want to be quoted on the figures, but of, say, 10 that might come up, we might end up with two who would be considered to fall into the worst category and should be regarded, for reasons that would be explained, as worthy of the attention of the Director of Public Prosecutions to make an application. It would not be definitive. We would be looking at whether there was a prima facie case, or a reasonable prospect of succeeding in an application, having regard to the experience of those involved and the nature of the risk profile presented by that offender.

As I mentioned, we were told at the briefing that there may be as many as 1 100 candidates for the application embraced by the High Risk Offenders Bill. Firstly, as I mentioned, the question of resources arises, but also the consequences for the Supreme Court. More concerning is the manner in which the legislation is structured in terms of who would bring the applications. I have mentioned that back in the day of the Dangerous Sexual Offenders Act, the then shadow Attorney General made a big play about how the Attorney General could make applications himself or herself, and had powers to appeal or to do things independently of the Director of Public Prosecutions, who was charged with the responsibility of bringing matters under the act, and doing things under the act. Here we have a rather more confused process. I know that Attorney General Quigley has resiled from his original view, which I would have thought a first year law student could have explained to him was flawed, because two people cannot act in parallel representing the state. If the responsibility has been devolved primarily to an independent statutory officer, the Attorney General cannot then, as the other representative of the executive, say "I don't agree with the state; I represent the state and I'm going to do something different." That would be ludicrous. But he seemed to think that was a good idea at the time. Jim McGinty—not to his credit—supported that view. However, in a more sober moment, when it came to resolving that particular issue back in 2017 with the Dangerous Sexual Offenders Legislation Amendment Bill, he had changed his mind.

I turn now to who can bring an application under this proposed act. Clause 11(1) states —

> The Attorney General may make applications under this Act, and take other proceedings for which this Act provides, in the name of the State.

Conveniently, it will not be Hon John Quigley, MLA, Attorney General. It will be the state of Western Australia. That is fine. The word "may" is simply an empowering provision.

Clause 11(2) states —

> The Attorney General may authorise the Director of Public Prosecutions to make applications under this Act, and take other proceedings for which this Act provides, in the name of the State.

Clause 11(3) states —

> The Attorney General may authorise the State Solicitor to make applications under this Act, and take other proceedings for which this Act provides, in the name of the State.

The first point is: What level of authority will be delegated by the Attorney General? Will the Attorney General do what is currently the case, in effect, by delegating his authority outright to these two potential applicants? Will it be a qualified authority, which will give the Attorney General the ability to contradict those two potential applicants if he does not like what they have decided or not decided in a particular case? Why do the potential applicants need to be both the Director of Public Prosecutions, who is an independent statutory officer, and the State Solicitor, who is not an independent statutory officer but is the lawyer who acts on behalf of the government? The Attorney General has tried to cover that with clause 11(4), which states that the State Solicitor will be bound by certain provisions of the Director of Public Prosecutions Act, such as those including the relationship with the Attorney General.

However, it still comes down to the question of why this is necessary. Is the Attorney General not able to make up his mind about who ought to run a case on behalf of the state of Western Australia? Why is one of those two applicants proposed to be the State Solicitor? I can say that the Director of Public Prosecutions back in the day was not keen on making these applications, because it is outside the scope of what a prosecutorial officer should strictly do, which is prosecute cases on behalf of the state and make decisions in that respect. The Director of Public Prosecutions would not consider this to be a core function, because the core function of the Director of Public Prosecutions is strictly prosecutorial. However, that is arguable, of course, because we are dealing with people whom the Director of Public Prosecutions, on behalf of the state, has prosecuted in the past and has put behind bars. If the Attorney General believes that the Director of Public Prosecutions is not the appropriate independent statutory officer to deal with these matters, the Attorney General should give that role to the State Solicitor, or some other officer of the state who can bring applications on behalf of the state. It seems odd to me that in this bill, there is a choice between two people. I would have thought that it will depend very much on who will instruct whom to bring these applications, and who will have primary responsibility to be informed by the informal committee that I have outlined, if that committee is proposed to continue. Will it go to the Director of Public Prosecutions as a matter of course, the director having the files and all the relevant information, because they have prosecuted this person in the past, or will it go to the State Solicitor, who is under the more direct control of the Attorney General and will need to acquire the relevant material from the Director of Public Prosecutions? Perhaps the minister can explain the mechanics of how that will work. We know from the terms of the legislation that the High Risk (Sexual and Violent Offenders) Board cannot initiate matters. It cannot explicitly tell, or ask, the Director of Public Prosecutions, or anyone else, to bring an application. Therefore, the filtering process—the triaging of offenders—and the decision about whether an application ought to be made in a particular case will need to be made by someone referring a case to someone else to do it. If that is the situation, would it be referred directly to the Attorney General, who will then pass it on to whoever he sees fit and appropriate to do it, or is authorised to do it? Will it be sent as a matter of course to the State Solicitor, or will it be sent as a matter of course to the Director of Public Prosecutions? How will the decision be made about who ought to appropriately represent the state, in the name of the state, and bring the application? Perhaps the minister can help us out with that.

I have another question that perhaps the minister can clarify. If the Attorney General does not like the publicity that a particular case would expose in the public and the media, will he have the power to override the Director of Public Prosecutions' decision, or refusal to make a decision, or to influence or override the State Solicitor in these cases, and bring a politically motivated application?

I turn now to clause 8, "Objects of this Act", and the criteria for high-risk offenders. It states —

> The objects of this Act are —
>
> (a) to provide for the detention in custody or the supervision of persons of a particular class to ensure adequate protection of the community and of victims of serious offences; and
>
> (b) to provide for continuing control, care or treatment of persons of a particular class.

Except for the use of the term "serious offences", that effectively reflects the objects in section 4 of the Dangerous Sexual Offenders Act. That is the equivalent provision under that legislation, and it has been picked

up and adopted in this bill. The words "persons of a particular class" refer to the new class that has been introduced by the bill of high-risk offender. A high-risk offender is a person who is found by the Supreme Court to be a high-risk offender within the meaning of clause 7 of the bill. That draws on the formula used in sections 7(1) and (2) of the Dangerous Sexual Offenders Act. I say "draws on", because there are some differences. I do not know whether they would be material or significant differences, but they are differences nonetheless. We have had a tried and tested formula for over 15 years. The Attorney General now wants to change that formula. He has said that all he is doing is picking up that scheme and extending it, but with some changes to the formula that will be applied. I am concerned that that may give rise to confusion, further litigation, and potentially lead to a dilution of the stringent criteria that have been adopted and exercised previously.

Clause 7(1) states —

> An offender is a ***high risk offender*** if the court dealing with an application under this Act finds that it is satisfied, by acceptable and cogent evidence —

That is the formula in the Dangerous Sexual Offenders Act —

> and to a high degree of probability, —

Once again, this reflects the formula in the Dangerous Sexual Offenders Act —

> that it is necessary to make a restriction order in relation to the offender —

The word "necessary" is in addition to the formula —

> to ensure adequate protection of the community —

The "adequate protection" is not in the Dangerous Sexual Offenders Act formula —

> against an unacceptable risk that the offender will commit a serious offence.

The Dangerous Sexual Offenders Act has "would" instead of "will". Whether this makes it more difficult to have someone classified as a high-risk offender, I do not know. Presumably, legal advice has been provided in respect of that formula, and whether it is an improvement, a tightening up of the formula, making it more difficult to satisfy or making it easier to satisfy is something that I would like to get some advice on.

The Dangerous Sexual Offenders Act, through a combination of sections 7(1) and (2), involves the Supreme Court finding that a person is a serious danger to the community. That serious-danger-to-the-community formula, that classification, is absent here. We are talking about a high-risk offender, and I will say a little bit more about that shortly. But, as I have mentioned, the Dangerous Sexual Offenders Act states —

> … that there is an unacceptable risk that, if the person were not subject to a continuing detention order or a supervision order, the person would commit a serious sexual offence.

Although the bill picks up on that—it declares a high-risk offender—it introduces the formula of "it is necessary to ensure adequate protection" and "will commit a serious offence". The adequate requirements are absent in the Dangerous Sexual Offenders Act formula, but it does appear in section 17(2) of the Dangerous Sexual Offenders Act, and, in that context, it appears when a court has already found that the offender would commit a serious sexual offence if unrestrained, either by continuing detention or by a supervision order, and the court must take into account the adequate protection of the community as a paramount consideration in deciding whether to choose a detention order or a supervision order. In the bill, however, the adequate protection element is a consideration at a much earlier stage. It is one of the issues that the court must be satisfied of in coming to the decision about whether any order is necessary in the first place. Once that is satisfied, the court need not consider adequate protection any further in deciding whether to have a detention order or a supervision order. The change in emphasis and the placing of it may be material or it may not, but perhaps the government can assist us.

There is a requirement under clause 29(1) of the bill in which the court must be satisfied on the balance of probabilities that the offender will substantially comply with the standard conditions of the order made, affirmed or amended in order that there be a supervision order rather than a custodial order. The onus of proof is said to be on the offender, and that is fine; that reflects the formula under the Dangerous Sexual Offenders Act. What it does not reflect is the election commitment made to the people of Western Australia as to how dangerous sexual offenders ought to be dealt with, and, by extension of that concept, how high-risk offenders ought to be dealt with for serious or violent offences. The requirement that the then shadow Attorney General insisted on—indeed, as I recall, he introduced an amendment at the time our legislation amending the Dangerous Sexual Offenders Act was going through Parliament in about 2015—was that every condition of an order must be satisfied, not just standard conditions and not just substantial compliance. He insisted that that was essential for the protection of the community. He campaigned on that. It is in the Labor Party's election commitment document. It was not in the Dangerous Sexual Offenders Legislation Amendment Bill that was passed in 2017; notwithstanding that in the other place and here, we tried to assist the Attorney General by moving amendments to his amendment bill that would meet the election commitment that he had given the public. He rejected that. The government voted against it.

One of the things that I propose to do is give the government another opportunity to do what it promised the public of Western Australia by moving amendments to ensure that there needs to be a satisfaction on the part of the court that an offender who is seeking to be released on a supervision order will not comply substantially with just the standard conditions, but also what the Attorney General insisted needed to be done, and that he would do, and that is comply with all the conditions of an order. We can go through the argument again about why he will not admit that he raised expectations unreasonably and why he did not do what he promised to do and which he insisted the last government had failed the public in not doing.

Returning for a moment to the question of determining the formula for whether someone is a high-risk offender, both the minister and the Attorney General claim that the bill fully preserves the provisions that apply in the Dangerous Sexual Offenders Act. Indeed, in his second reading speech in the Assembly, the Attorney General went further and said that the bill is not intended to change the test under the DSO act for whether the court makes a continuing detention order or a supervision order, for reasons that are not explained. It does not appear in the Leader of the House's second reading speech; she seems to have resiled from that, so maybe there is, implicitly, a change in the test somewhere there. Perhaps we can explore that further in Committee of the Whole.

I mentioned that I will propose some amendments, which are in the process of being drafted. I hope to settle them overnight, but I am able to assist members by giving an outline of what I have in mind. My amendments are not radical changes to the legislation; they extend the protection that it is said to offer, in a logical way. The Dangerous Sexual Offenders Act 2006 has the benefit of alerting the public about the sorts of offenders that it was being protected from; namely, dangerous sexual offenders who, on acceptable and cogent evidence, suggested to or satisfied a court that they would pose an unacceptable risk of committing serious sexual offences, if not either retained in custody beyond the end of their sentences or under a supervision order with stringent conditions. This legislation does not.

The title of the bill is the High Risk Offenders Bill. High-risk offenders in what way? Petty criminals can have a high risk of reoffending; presumably, the title refers to the high risk of reoffending. But what character of offenders are we talking about that the public is being protected from? That is conveniently hidden. There may be a number of motives for that, but what is patent is that dangerous sexual offenders, as known under the Dangerous Sexual Offenders Act, as well as other categories of violent offenders, will be lumped together under the idea of a serious offence and serious offenders. I propose that the bill's name be more explicit about its purpose to reflect its intent and advise the public and the offenders concerned of the mischief that the bill is intended to cure. In the first place, I will propose to change the name of the bill to the "High Risk (Sexual and Violent) Offenders Act 2019". Given that the name of the board that will be established under the legislation is the High Risk (Sexual and Violent) Offenders Board, I cannot see any harm in doing that to make it explicit what the bill is all about. It seems integral to the purposes of the legislation that the community be protected against sexual and violent offenders of a certain category. If, for some reason, that is thought to be a mouthful, we can always go a little further down the scale and simply call it the "High Risk Dangerous Offenders Act", since that has also been said in second reading speeches and media releases to be the sorts of offenders that the government is hoping to protect the public from. We could call it the "High Risk Violent Offenders Act". At least people would know they are being protected against sexual and other forms of physical violence. Or, if one wants to reflect the criteria that classifies these people as people of high risk who ought to be incarcerated, we can call it the "High Risk Serious Offenders Act". However, the title "High Risk Offenders Act" is simply an attempt, I would think, to ensure that there is no criticism of the government that a high-risk dangerous sexual offender or a high-risk violent offender is at loose in the community as result of its legislation, because they have been put under a supervision order. Maybe that is not the case and it is simply used for the ease of terminology, but I cannot see any harm with calling the act what it actually is intended to achieve.

Likewise, I will propose to amend the terminology used, replacing "high risk offender" with either "high risk dangerous offender", "high risk violent offender" or "high risk serious offender" wherever it appears throughout the legislation rather than simply "high risk offender", which really tells us nothing at all.

I will move amendments to allow the government to meet its election commitment that those who want to be released on supervision orders rather than detained in custody are subject to review sometime in the future and must satisfy the court on the balance of probabilities that they will comply with the conditions of any order, not just substantially—whatever that might be—but, as the Attorney General back in the day urged us, it should be every condition; if they breach one, back inside they go. I cannot see why that would be objectionable. It simply would do what the Labor Party, when in opposition, promised the public.

Proposed section 62(1) is a nod to a "victim focus" dealing with victim submissions regarding high-risk offenders. It says —

> Except as provided in subsections (2) and (3), in considering a relevant application the court may have regard to any victim submission made.

Why "may"? This is a victim-focused piece of legislation that will be part of the creation of a judicial system that is victim focused. I will move to change "may" have regard to "must" have regard. It does not say anything about the weight to be given to a victim submission, which may be none at all, but a court should be obliged to at least give it consideration if only to dismiss it rather than leave it at the court's discretion.

Another thing missing from the legislation that I think would be useful, given that it will extend significantly the operation of the regime under the Dangerous Sexual Offenders Act, particularly in light of the board that will be set up, is a review clause. I will propose the introduction of a review after five years of the operation of the act, in its entirety, with further reviews every five years after that and the tabling of the reports in Parliament so that we can see just what it is doing, whether it is doing it properly and whether it needs reform.

Lastly, I will propose an amendment to the schedule to introduce a further category of offence, being burglary. It is thought by most people that burglary on its own is simply a property offence, but it is much more than that; it is the invasion of a sanctuary when it is a premises, a building, and, at the very least, aggravated burglary ought to be included as one of the offences that makes an offender the subject of consideration as a high-risk dangerous offender, a high-risk serious offender or a high-risk sexual or violent offender. I say so for these reasons: we are told that the broad criteria for the selection of offences, or offences of violence or of a sexual nature, carry a penalty of at least seven years' imprisonment. Burglary on its own carries a penalty of 14 years' imprisonment. Home burglary carries a penalty of 20 years' imprisonment—home invasion, in short. Aggravated burglary involves burglary that is done in company with another offender; therefore, it involves the demonstration of force in the entry to someone's sanctuary. It can involve the use or brandishing of a weapon. That, I would have thought, is an offence of violence, akin to robbery, and worse, if it has taken place in someone's home. It can involve assault as a circumstance of aggravation. It can involve the deprivation of liberty of someone in those premises as a circumstance of aggravation. In all those circumstances it seems to me that at least home burglary by a recidivist, and aggravated burglary, whether of a home or some other premises, are offences that by their seriousness and the purported seriousness with which they are considered in the calendar of offences under the Criminal Code—namely, 20 years—ought to be included amongst the schedule of offences that currently appear in the bill. I say that also because we have seen an instance of it in the last week or so, with reports in the media of a lady whose house was being invaded by a thug who later inflicted bodily harm on another occupant. If the Director of Public Prosecutions chooses to indict only for burglary under section 401(2), the entry of a place without the consent of the occupier and with an offence being committed therein, that offender could potentially be liable for up to 20 years' imprisonment—he will not get it, but it is up to 20 years' imprisonment. That is how seriously the Criminal Code regards it, if not the court. But if the offender is not also charged with an assault offence or that assault offence is discontinued in favour of the burglary charge by way of a plea bargain, that person will not appear as a potential candidate for being a high-risk offender, especially if they have only on their record burglaries of that character. By no means would it require or mean that a person who falls in that category would be categorised as a high-risk offender within the meaning of the bill, but it would allow the relevant authorities considering candidates to take that into account in deciding whether someone poses such a serious existential risk to the community that they ought to be classified as a person who should be under further supervision after their release or, indeed, be detained in custody for a further period until they are no longer a menace or are rendered harmless, so I will be proposing amendments along those lines also.

We support the legislation. It is a logical extension of the dangerous sexual offenders regime. I think there is still a place for post-sentence supervision orders. The government has chosen to approach those in a slightly different way—so be it, we will see how that works—but I think the legislation can be improved and we can have some debate about that. I think there are issues that ought to be resolved in the course of debates to ensure that they are settled in the future for anyone who wants to understand how the government means this legislation to work and what it is meant to achieve, and particularly to ensure that this board operates in a way that not only is effective but also provides some benefit to the state of Western Australia and its community. On that note, I indicate our support for the bill, and we look forward to dealing with it in the Committee of the Whole House in due course.

**HON ALISON XAMON (North Metropolitan)** [8.23 pm]: I rise as the lead speaker on behalf of the Greens. From the outset, I want to express concerns I have about the High Risk Offenders Bill 2019, and I will go into some detail about why. They are similar concerns to those that the Greens have raised consistently over the years with this type of legislation. In essence, this bill brings together two mechanisms that currently apply to high-risk offenders in WA. The first is continuing detention and supervision orders, available under the Dangerous Sexual Offenders Act, noting that mechanism was introduced by a previous Labor government. The second is the post-sentence supervision orders under the Sentence Administration Act, and that mechanism was introduced by the former Liberal government. I note this bill brings together regimes that were created by both sides of Parliament.

To summarise the Dangerous Sexual Offenders Act, on application by the Director of Public Prosecutions or the Attorney General, the Supreme Court can make orders against any prisoner aged 16 years or older who has been convicted of a serious sexual offence, as defined within that act, and is within a year of possible release into the community, either on parole or is at the end of their sentence, but is still considered to be a serious danger to the community. Whether they are a serious danger is, again, defined within that legislation. An order can also be made against a person who would meet those criteria but for being mentally unfit to stand trial, and I will have a bit to say about that later on. If the court is satisfied that all the criteria are met, it must choose one of two possible orders to ensure the adequate protection of the community. Either the person needs to be detained indefinitely in order to receive care or treatment, or for control, which is effectively known as a continuing detention order, or the person on their release from custody is put under the supervision of a community corrections order, otherwise known as a supervision order.

If a continuing detention order is made, it lasts indefinitely and that is a concern the Greens have always held. I note that it is reviewed by the court after the first year and thereafter biannually, but in exceptional circumstances, the person can apply for review by the court outside the scheduled times. At those reviews, the court will determine whether the person is still a serious danger to the community, and, obviously, if they are not considered a danger, that order needs to be rescinded. If they are considered a danger, the court has to affirm the continuing detention order or it has to make a supervision order instead. Those supervision orders can last as long as the court specifies. They can be made only if the court is satisfied that the person is going to be able to substantially comply with the order's standard conditions. A range of standard conditions is articulated within the legislation. There is not any automatic review process for supervision orders, but there is a process for applying to the court to amend those conditions. If someone fails to comply with a supervision order, if there is an issue of noncompliance, it can be dealt with in either of two ways, depending on the nature of noncompliance. For minor noncompliance, a person can be charged with a breach and the supervision order will otherwise continue, unless, significantly, the breach involves tampering with an electronic monitoring device, which attracts a mandatory prison term of at least 12 months. The court otherwise has discretion for penalties up to the statutory maximum. For major noncompliance, an application can be made for the supervision order's conditions to be changed, or that it be rescinded and the person goes back to a continuing detention order instead.

I understand from the second reading speech that since the regime has commenced, only one person has reoffended while on a supervision order. As at 2 July 2019, in WA there were 24 people on continuing detention orders, 22 people on supervision orders and three people in prison either for contravention of a supervision order or under an interim order. I have been unable to ascertain from the government how many of the people I have just outlined are children and how many fall within the mentally unfit provisions. I think this information should be more readily available.

As I said before, the post-sentence supervision orders under the Sentence Administration Act are a different mechanism. Under that regime, the Prisoners Review Board can make an order against a prisoner who is due to complete their sentence and has been convicted of a serious violent offence, again as defined within the act. I note that these include not only sexual offences but also non-sexual offences. The non-sexual offences are unlawful killing, grievous bodily harm, robbery, arson, lighting a fire that is likely to injure, and indictable offences that the court has declared to be seriously violent because they involve serious violence against another person or have resulted in serious harm to or the death of another person.

A post-sentence supervision order can last for two years and includes standard obligations such as reporting. The board can also impose additional requirements if it thinks fit; for example, provisions such as the requirement for monitoring devices or other equipment, no contact with the victim, or not leaving Western Australia. Importantly, there are requirements aimed at rehabilitation, which I think is the positive element of a PSSO. These require people to undertake a range of measures to address the underlying causes of their offending behaviours. Breach without reasonable excuse is an offence, and a PSSO can be amended or cancelled. A decision to make a PSSO is reviewable, but decisions to not make, cancel, amend or adjourn consideration of a PSSO are not reviewable decisions. I note that around 110 post-sentence supervision orders have been made since the regime began three years ago.

The High Risk Offenders Bill gathers together a number of offences and calls them serious offences. It extends quite extensively the number of people who can potentially be caught under these regimes. The bill covers not only all the offences covered by the dangerous sexual offender laws, as one would expect, and all the offences covered by the PSSO laws, but also some further offences under Western Australian law. This includes acts or omissions causing bodily harm; danger done with intent to harm; kidnapping; deprivation of liberty; stalking; child stealing; offences under appealed laws that would otherwise be one of the offences that I have already listed; offences of conspiracy, attempt or incitement to commit any of the offences that I have already listed; offences under the law of the commonwealth or any place outside Western Australia that would, if they occurred in WA, be one of the offences that I have already listed; prescribed commonwealth offences that are of a sexual or violent nature and attract a penalty of imprisonment for seven years or more; and any offence declared as a serious offence by a sentencing court under section 97A of the Sentencing Act 1995. This can happen only on a case-by-case basis on an indictable offence that involved the use of, counselling or procuring the use of, or conspiring or attempting to use a firearm against another person; or involved the use of, counselling or procuring the use of, or conspiring or attempting to use serious violence against another person; or which resulted in the serious harm or death of another person.

This bill introduces a two-tier scheme for people who have committed those serious offences as defined. The first tier is similar to and replaces the existing regime under the dangerous sexual offender laws. A person placed under a continuing detention order or a supervision order by the Supreme Court will now be called a high-risk offender instead of a dangerous sexual offender. This obviously reflects that the bill now also covers non-sexual offenders. The second tier is a tweaked version of the existing post-sentence supervision order regime. A PSSO lasting between six months and two years must be made by the Prisoners Review Board for a prisoner who is serving a fixed term for a serious offence if the board considers the order is necessary for the prevention of harm to the community. The question was asked in the briefing, and we were told that harm to the community effectively means violent crime. The idea is that the PSSO would prevent further offending by the prisoner, unless they are already subject to a restriction order or an interim supervision order under tier 1.

The current PSSO requirements around work and training are removed, pursuant to constitutional requirements, because a PSSO is not intended to be punitive. However, I ask the minister to confirm for the record that there will be no reduction in the availability of rehabilitative support for people who are on PSSOs, because I think that would be highly problematic. It is probably the one element of PSSOs that should be supported to ensure that people are able to address the underlying causes of offending behaviours and potentially turn their lives around, reminding members that when that happens, we create safer communities. I also ask the minister to confirm whether the tier 2 PSSO regime applies to children. My understanding is that that is possible but very unlikely. I would like to have that on the record.

Transitional provisions provide that matters already commenced under the Dangerous Sexual Offenders Act 2006 will continue if this bill passes, as will any orders, directions, summonses or warrants that have been issued under that act. Existing PSSOs will also continue. The bill allows restriction orders to be sought for people who are under custodial sentence now, including those who are not currently in custody. I ask the minister to confirm that this means people who are on parole, not a person who has been released following the completion of their sentence.

As already discussed by the previous speaker, this bill establishes a High Risk (Sexual and Violent Offenders) Board with functions that are aimed at improving performance by relevant agencies in managing serious offenders who are under custodial sentence or who have been put under a tier 1 restriction order or interim supervision order by the Supreme Court. As I understand it, the intention is to bring all the relevant agencies together to oversee the implementation of this legislation not only generally but also specifically in the management of individual tier 1 offenders. The Prisoners Review Board will continue to have its usual role with PSSOs, although it will have input to the high-risk offenders board. Membership of the board will include representatives from the Department of Justice, the Department of Health, the Department of Communities—the housing section specifically—the Western Australia Police Force, the Chief Psychiatrist and any number of community members with knowledge and understanding of a number of areas. "Any number" does not mean zero, so I want to confirm for the record how many community members are intended to be on this board for best practice. We are talking about a significant number of areas of expertise: Aboriginal culture local to Western Australia; risk assessment and management frameworks that are appropriate for Aboriginal people; the criminal justice system; and issues relevant to the board's functions, including employment, substance abuse, physical and mental illness or disability, housing, education and training. It is going to be really important that we have those representatives on the board as well, and I would like clarity from the minister, please, of how many community members at a minimum are intended to be on that board.

In the past, the Greens supported supervision orders under the Dangerous Sexual Offenders Act, and we also supported the bill that introduced PSSOs, albeit with some reservations. However, the Greens have consistently opposed continuing detention orders under the dangerous sexual offender laws because of our concern that they do not strike an appropriate balance between the level of threat and the human rights of a person who has completed their sentence. Those concerns have not been assuaged by this legislation.

I refer members to a 2018 article in the *University of New South Wales Law Journal* written by PhD student Harry Hobbs and barrister Andrew Trotter, titled "Lessons from History in Dealing With Our Most Dangerous".

This article examines the various mechanisms that have been used to deal with dangerous sexual offenders, including punishments such as chemical castration; indeterminate sentences; preventive detention, such as continuing detention orders; mandatory sentencing; and mandatory registration and notification, such as under our offender reporting laws. The article notes that continuing detention orders were largely prompted by the actions of one man—that is, Dennis Ferguson. In 1989, Mr Ferguson was convicted and sentenced to 14 years' imprisonment for kidnapping and sexually assaulting three children over three days. When he was sentenced, his rehabilitation prospects were described as absolutely nil. While he was in custody, he refused to participate in any rehabilitation. In 2003, when he was due for release, not surprisingly, there was substantial community concern. In response to public fear about this individual, Queensland legislated dangerous sexual offender laws, which passed unopposed and without consideration by the Scrutiny of Legislation Committee of that Parliament. Other Australian jurisdictions quickly followed suit. Western Australia's version of that legislation in 2006 was prompted by community fears about serial rapist Gary Narkle although, because of his long sentence, it was not until very recently that an application against him was made under that law. The article points out that the ability of clinicians to accurately predict risk is uncertain. It states —

> … a wealth of material suggests that sexual offenders are not —

Unique —

> … at all: the incidence of crime is vastly overestimated in most populations, and empirical studies have failed to establish that sexual offenders are any more likely to reoffend than any other class of criminal. While it is hard to assess recidivism rates of sex offenders because such offences frequently go undetected, a comprehensive review of the literature found that 'sex offenders have low rates of sexual offence recidivism following sentencing', and that recidivism rates for sexual offenders are 'typically lower than for non-sexual violent offenders or property offenders'. Yet, the data does vary greatly; analyses across several different countries reveals recidivism rates between 5 and more than 50 per cent. At best there is a good deal of uncertainty about the probability of reoffending.

The article continues —

> Calculation of dangerousness is, of course, inherently problematic. Reviewing the literature, Antony Duff has suggested that any post-sentence preventive detention regime will—at best—achieve a false positive rate of about 50 per cent. That is, 'the most that seems currently achievable is a rate of two ... people wrongly identified as "dangerous" for every one who is accurately identified'.

The article goes on to indicate better ways to address this issue. It calls for clearer evidence-based work to be conducted on recidivism risk and dangerousness and better efforts made to engage the community at large with that research. It recommends tailoring the criminal justice response to a particular offender because a response that targets a broad range of people invariably produces disproportionate and unjust effects. It calls for preventive measures based on what is necessary—not simply due to overcaution or in response to community fear. The article proposes that any post-sentence order should be imposed only at the completion of an offender's sentence and that there should be a strong presumption against any post-sentence detention order. The presumption should be rebutted only when clear evidence shows that a particular person—not a class of persons—poses an unacceptable risk of future offending to the community. It states that supervision orders should be preferred to detention orders, which has always been the Greens' position. When detention is necessary, it should be non-punitive and detainees should have a right to treatment. Essentially, it should be a form of civil rather than criminal confinement, in the same way that we might quarantine a person with a deadly communicable disease while they remain a danger. I will have more to say on that in a moment.

Detention orders should be reviewed within the first six months, and thereafter a minimum of every 12 months, to ensure confinement continues only as long as justified. Reviews should be by the judiciary, with factors considered including, but not limited to, an evidence-based review of risk assessment instruments. Other factors could include the nature and characteristics of the offences, and the actions taken by the offender while in detention towards their own rehabilitation. The article goes on to state that only in this way can we ensure that the practical difficulty of risk assessment does not slip into disproportionate and unjust punishment driven simply by fear or, worse, political imperative.

This bill does some of these things, but not, by any stretch of the imagination, all of them. The infrequency of reviews, which were initially annually and then got reduced to every two years in 2015, which the Greens opposed at the time, is of particular concern.

Disappointingly, the bill also contains mandatory sentencing provisions that are carried across from the Dangerous Sexual Offenders Act. Clause 33 will impose a minimum mandatory sentence of 12 months' imprisonment for any person—not necessarily the offender themselves—who, without reasonable excuse, interferes with the operation of an electronic monitoring device required to be worn or installed under that provision. I do not know what "reasonable excuse" will constitute. Could it be a partner who has a history of being subjected to domestic violence who, under threat or coercion, decides to help somebody take off the device and suddenly finds themselves subject to a 12-month mandatory sentence? We do not know what circumstances will constitute a reasonable excuse. I presume that a complete stranger with a gun at their head would possibly constitute a reasonable excuse, but I can see other circumstances in which that test would not be able to be met, but justice will not be served by a 12-month mandatory sentence. Clause 80 is similar, in relation to contravention of a supervision order by the offender.

Without the mandatory minimum sentence provisions, the court would have judicial discretion to impose the most appropriate sentence in all circumstances, up to a maximum sentence of three years' imprisonment. The Greens have consistently opposed, and will continue to oppose, mandatory sentencing. I am very disappointed that Labor has moved from its firm position of opposing mandatory sentencing by not taking advantage of the opportunity to change it in this bill.

Labor has previously been a proponent of mandatory sentencing, but it made a point that it had changed its position in 2017. To the Attorney General's credit, except for this legislation, he has to date been very good at ensuring that bills that have been introduced in this place, including those that I fundamentally disagree with, have not contained any mandatory sentencing provisions. This is going backwards and is a breach. I will remind members of the 2017 WA Labor platform, which stated —

> WA Labor unequivocally opposes:
>
> …
>
> e) mandatory sentencing;
>
> …
>
> WA Labor believes that the most just and appropriate sentencing outcomes in all circumstances require full judicial discretion with all available sentencing options. For this reason, WA Labor is principally opposed to mandatory sentencing, which produces perverse and unjust sentencing outcomes.

I agree. Those are, indeed, words to stand by. It continues —

> The WA Labor Government will reaffirm its commitment to reducing prisoner numbers by not introducing any further mandatory sentencing regimes in Western Australia, and will conduct a review

> of all current regimes. Mandatory sentencing unjustifiably requires the same minimum term to be imposed regardless of how trivial or serious the offence; fails to consider an offender's circumstances; shifts judicial discretion not to impose a custodial term in exceptional circumstances from the Courts to Police and prosecutors; breaches various international treaties which prohibit arbitrary detention, including Article 9 of Universal Declaration of Human Rights 1948; and ignores overwhelming evidence from Australia and overseas demonstrating that it fails to reduce crime, leads to harsh and unfair sentences, unnecessarily increases the overcrowding of prisons and disproportionately affects Aboriginal people and other marginalised groups.

That was the 2017 Labor platform. I have to say that I agree with that platform, so what a shame we are not seeing it upheld with this legislation. It makes me wonder, particularly after the last conference, how much of the policy that was passed will end up coming into play. I suppose that is not my concern, because I am not a member of the Labor Party. Notwithstanding the commitments made by the Labor Party, the government has not taken the opportunity to remove these mandatory sentencing provisions, and I am very disappointed about that. This was an opportunity to do that, but it did not happen.

Another provision from the dangerous sexual offender laws that regrettably was not reviewed before simply being carried across and expanded in this bill is the power of entry. This provision allows a community corrections officer at any time without identifying themselves first to enter a person's workplace or the place where they are staying to check whether they are complying with curfew requirements. Any person who hinders this is subject to a penalty of up to 12 months' imprisonment. I want to be very clear that the Greens have absolutely no objection to the idea of a curfew, which is fine, nor to compliance monitoring, which is fine and necessary, but when the provision was first introduced, we proposed an amendment requiring the community corrections officers to identify themselves first. Bearing in mind that refusal to comply can attract a prison sentence, a stranger insistent on entering a person's home or workplace can feel incredibly threatening for anyone who is inside the premises. In addition, at some workplaces there are hazards—for example, a building site—that make it quite unsafe for an officer to just turn up, unless the visit is first coordinated with whoever is in charge of that worksite. At the time, Labor supported that amendment. The Greens' amendment was modelled on one that we, together with the then Liberal opposition, had achieved for the Legal Profession Bill 2007, which contained a similar power of entry. We know that a statutory requirement that identification be produced when exercising the power of entry already exists in a variety of legislation with powers of entry for compliance monitoring. I think it is perfectly reasonable that we expect that requirement in this legislation as well.

Once again, notwithstanding the government's previous support of that proposed provision, it has failed to take the opportunity to insert it. In the absence of such a provision, I ask the minister to please table any current policy or practice direction that requires community corrections officers to identify themselves before insisting on entry. Based on correspondence received today, I understand that the adult community corrections handbook has potentially changed some of the directions to ensure that identification is produced. I would like confirmation of that. I hope that is the case, but I express, once again, my disappointment that that provision was not stated explicitly in this bill.

Another provision of the Dangerous Sexual Offenders Act that has been transferred and expanded via this bill is the presumption against bail for the offence of contravening a supervision order. The Greens opposed this, too, when it was introduced. Under that provision, unless there are exceptional reasons, judicial discretion on bail is removed, including in relation to 16 and 17-year-olds, even though the range of seriousness of the contravention is extremely wide, including behaviour that would not even be considered an offence but for the supervision order, such as late attendance at a meeting with community corrections officers. That in itself is not an offence. A presumption against bail was not supported by the 2014 review of the regime by the Department of the Attorney General in consultation with the Director of Public Prosecutions, the Department of Corrective Services, WA Police and the Commissioner for Victims of Crime. I hardly think that members here would suggest that that group ordinarily would be considered soft on crime. If the outcome of the contravention proceedings is that the person remains on a supervision order, the effect of the presumption against bail is to severely disrupt the person's supervision and their control, or their care or, of deep concern, their treatment.

Clause 69 of the bill changes the appeals process. Appeals against interlocutory matters are eliminated. An appeal to the Court of Appeal against a final decision of the court will still be available and will be conducted via a fresh hearing. I ask the minister to confirm that clause 69(3)(e) does not preclude appeal from the Court of Appeal to the High Court.

I will talk a little about mentally unfit offenders. Clause 79 provides that a court may make an order under the act, even if the offender has been found not mentally fit to stand trial under the heinous Criminal Law (Mentally Impaired Accused) Act 1996—the terrible act that I hope we see in this place sooner rather than later, because it is such a hideous piece of legislation that it needs to be shot into the sun—or is someone charged with an offence who would be likely to be found not mentally fit. This issue arises specifically from the 2012 case DPP v Pindan. In that case, Mr Pindan had been convicted of and sentenced to imprisonment for a serious sexual offence; however, psychiatric reports later showed that he had a permanent cognitive impairment. That discovery meant that if,

following his release, he reoffended, in the future, he would probably be found not mentally fit to stand trial for the new offence and would come under the Criminal Law (Mentally Impaired Accused) Act. The DPP therefore sought a continuing detention order. Mr Pindan argued that this was an abuse of process because he could not participate and there was no unacceptable risk that he would commit a serious offence if released, because he could not be convicted of an offence in the future, and therefore the legislation could not apply. The court decided that "offence" means the behaviour, not criminal liability or conviction, and the meaning of "offender" followed from that. Parliament intended that the act apply to an "offender" who is a "serious danger to the community", and the judge's opinion on whether this was just, proper or useful was immaterial. As I understand it, these provisions also apply to mentally unfit 16 and 17-year-olds as well as to adults.

The legislation will allow an application to be made when the person is currently serving a custodial sentence for conviction of an offence. In other words, they have not been dealt with under the Criminal Law (Mentally Impaired Accused) Act and the person is predicted to commit further behaviour upon release that would fulfil the elements of a serious offence, albeit it is not possible to get a conviction because of the person's mental incapacity. It seems unlikely that such a person would ever have much chance of getting a supervision order and it would be hard for them to prove that they are substantially likely to comply with the conditions of a supervision order. Therefore, the most likely outcome of any application made against them will be a continuing detention order of indefinite duration, reviewed two yearly. I think this is inherently unjust, particularly when we are on the cusp, allegedly, of finally seeing reform to the Criminal Law (Mentally Impaired Accused) Act, under which people can be detained indefinitely in a range of environments. Sometimes that is in prison, when it is deemed that is where the person needs to be. Sometimes that is in a more suitable environment, such as the disability justice centre, which is a very welcome and important reform that needs to be supported. It might be that they need to be detained within a particular mental health facility, such as the Frankland Centre at Graylands Hospital.

The other thing about the Criminal Law (Mentally Impaired Accused) Act—hopefully what we will see in a reformed Criminal Law (Mentally Impaired Accused) Act—is the capacity for people to be released on community supervision orders with appropriate care and support. The majority of people are able to live within the community successfully and safely, as long as they have the appropriate levels of day-to-day support, sometimes mandatory medication regimes or a combination of both available to them. I am very concerned that the processes described here may simply pre-empt a far more appropriate process, consistent with our human rights obligations and a therapeutic approach to mentally impaired accused offenders. I hope, once again, that we get to see the criminal law mentally impaired accused bill as soon as possible. I feel very confident that the hardworking drafters are doing their best, and consulting all the right people. I am hoping that we get to see that legislation very soon, because I will probably cry with joy when I finally see it in this place. I look forward enormously to those reforms.

The bill also introduces several new provisions about disclosure and, in so far as they provide for cooperation and sharing of information between agencies jointly responsible for managing an offender, that is eminently sensible. I am concerned about the potential of those provisions to defeat any oversight mechanisms, such as Parliament and its committees, and the freedom of information process. We want to make sure we get that balance right. Much of the information that the board and the government will hold will not be specific to particular offenders, and is of a general nature, and I believe this information needs to be accessible by both Parliament and the public. Examples of the general information I am talking about are the nature and quality of the research underlining the assessment and management of high-risk offenders. I refer again to the article I cited earlier about inaccuracy in predicting future offending. The bill covers a wide range of offences, so it is entirely appropriate that Parliament and the public have access to the research that is being relied upon for predicting future offending. It will also have information about best practice standards and guidelines applicable to agencies dealing with high-risk offenders that I think would be of great interest to Parliament; information about resourcing, service provision and training relevant to agencies dealing with high-risk offenders; and also simply the number of people subject to each of tier 1 and tier 2. I want to know how many of these are children, and how many are captured under the mentally unfit provisions. I ask the minister whether that general information that is not specific to individual offenders will be available to Parliament and the public—if so, by what mechanism; and, if not, why not, and how will this information be made available?

That is effectively the range of concerns that the Greens have about this legislation. As I said, we have been talking about this type of legislation for a long time—ever since 2006. The last time I spoke about this was in 2017. We remain concerned about these types of regimes. We think there needs to be opportunities for people to be compelled to undertake some sort of rehabilitation and supervision where that is deemed to be necessary and appropriate. We think that mentally impaired accused people need to be dealt with under an entirely different regime, and we are very concerned that we are establishing a regime under which people who have done their time, where there is no clear way to predict whether they will be a risk in the future, will be unnecessarily detained. That is contrary to the rule of law. I understand that this is an election commitment. It is not my election commitment, so I do not have to jump up and down with excitement about it. I maintain that it is very important that people who have not committed an offence should not have to be detained indefinitely. That is highly problematic, and I am concerned that the bill before the house is still too much of a blunt instrument to ensure that we are getting the balance right.

**HON CHARLES SMITH (East Metropolitan)** [9.05 pm]: As members will know, I am interested in matters of law and order or crime and punishment. As the High Risk Offenders Bill 2019 deals with these areas, I have to say a few brief words. At the outset, I will say that I will be supporting the bill.

For the life of me, I do not understand the Attorney General. I do not understand what he stands for. On one hand, he seems to be trying to get people out of prison and divert people away from prison, and he wants his success to be measured on how many people are not sent to prison. On the other hand, he wants to have the image of a tough guy and keep people in prison. I am just wondering which one it is. Will the real Attorney General step forward, or does he have a split personality? Members will know that I am one of the people who supports mandated sentencing. The government states that it opposes mandated minimum sentences. Only this week, the Minister for Education and Training stated to the Western Australian Primary Principals' Association that she would not support minimum sentences, which is a great shame. To my mind, is there really that much difference between mandated minimum sentences and issuing orders to keep people in prison? Are they the same or similar things, but by different names? I think they are, but the Attorney General is acknowledging the community by trying to meet its expectations that dangerous people need to stay in prison. I think that is the case; I think he is being a bit of a populist.

When we talk about mandated minimum sentences, people go on about them being a deterrent. They are not a deterrent. They are tools that satisfy community expectations for the crime committed to make sure that these people are sentenced appropriately. That is what they are there for, and I have gone on about that in this place many times. This bill is a step in the right direction, but in practice it will not see a great deal of use. It appears to be a consolidation of other similar pieces of legislation, as we have heard, and it provides a sensible fusion into a reasonable piece of legislation. Typically, the most dangerous criminals in society are the most violent, including sex offenders, and the bill seeks to amalgamate legislation into a one-stop shop to deal with these types of criminals. This will, I hope, streamline the system a bit, providing a sensible approach to deal with the risk each offender poses, or may pose to society, so I appreciate what the Attorney General is trying to do. I also appreciate and like the use of victim statements in further consideration of any determination of the court, although I am disappointed that this appears to apply only in the more extreme cases, where applications are made via the Supreme Court. I say this as someone who has spent some time in a former career managing sex offenders.

It is my true hope that the government continues to take intelligent steps in reforming the criminal justice system in line with community expectations, although I will not hold my breath. Much like I noted in my response to the budget speech, the State Solicitor's Office and the Director of Public Prosecutions will need a greater operating budget to deal with an increasing population, and an increasing crime rate, which is a major failing of this government. I also note my concern about the evidentiary requirements under clause 7, namely that a third standard of proof will come into play, somewhere between the balance of probabilities and beyond reasonable doubt. Although I am informed by the Department of Justice that the courts have upheld and applied similar provisions, I am mindful and concerned that legal challenges are very possible. This may cause additional stress to the department that is stuck with that appeal.

In summary, the bill strikes me as a sensible procedural amendment, and is a good step in the right direction. However, the bill will live and die in practice on the work of the DPP and the SSO, both of which are already overworked and in desperate need of additional funding. I therefore, as stated, voice my support for the bill, and implore the government to put its mind towards the entire policing and justice budget.

**HON COLIN TINCKNELL (South West)** [9.10 pm]: I also wish to contribute to the debate on the High Risk Offenders Bill 2019. Tonight, there has been some good debate about this bill. I listened intently to Hon Michael Mischin. He talked about how this bill is a two-tiered scheme of post-sentence management. I will talk more about that later. The bill introduces the term "high risk offender". The reason for this bill is the need to deal with people who will present an unacceptable risk of reoffending if they are not detained. I want to highlight the brickbats and the bouquets in this bill. There is some good and there is some bad in this bill. Hon Alison Xamon talked about the "backflip central" mentality of this government. I want to highlight that as well.

We need to look at why this bill exists and has come into this place. A recent report shows that there are currently 800 child sex offenders in Western Australia who are categorised by the police as having a high risk of reoffending. In addition, the police sex offender management squad is monitoring 2 849 reportable offenders who pose a risk to children. Of those, 170 are considered dangerous enough to be labelled as having a very high risk of hurting children, and are required to report police at least once a month, and another 630 are considered a high risk and are required to check in every three months. We can see where we are at—2 849 reportable offenders who pose a risk to children, and 800 child sex offenders. We need to look at why these people are there, and why they were not given higher sentences in the first place. According to the police, 18 of the sex offenders currently on their database have reoffended this year. Last year, the number was 34. That is an increase of 422 per cent since 2005. Something is wrong in our society. However, that is a bigger discussion, and I will not talk about that today.

There are already provisions within the judicial system to enable the courts to impose strong sentences for serious offences. These include life sentences, and sentences for 25 years, 20 years and 15 years. However, these sentences

are hardly imposed. Why were those sentences put there in the first place, if the courts and judges are not imposing them? The courts have not been imposing appropriate sentences for high-risk, dangerous and violent sex offenders and criminals. They have got off lightly. They were given a sentence that was too light in the first place. I am all about rehabilitation and helping people to get back into the community. We need this bill because the original sentences were too light. I will repeat—life sentences, and sentences for 25 years, 20 years and 15 years. These sentences are used very rarely. We keep reading in the paper about certain reoffenders, especially in the area of rape, yet other than for one or two individuals, these particular sentences have not been imposed. That raises the question: how serious does a crime need to be before a maximum sentence is imposed? It is a shame that this legislation has had to be introduced. The legislation will provide an option to detain high-risk offenders once their sentence has been served, or nearly served. It is a shame that the courts did not impose a strong sentence in the first place. That is a failure of the court system. Parliament now needs to intervene by passing this legislation. It is a bit of a roundabout way to get to where we need to go. I have listened to Hon Alison Xamon, who does not agree with mandatory sentencing or extra time in jail. The reason these offenders need to be given extra time in jail is because the court did not deal with them appropriately in the first place. The sentence was not adequate for the offence that they were guilty of.

I now want to look at where we go from here. Recidivist offending is a massive problem in all jurisdictions. This legislation will give strength to the rehabilitation bow by enabling decisions to be made about whether a prisoner has been rehabilitated enough to no longer pose a serious risk. For that reason only, One Nation will be supporting this bill. However, we should look at the reason this bill has come into this house. If these offenders had been dealt with appropriately in the first place, this bill would most likely not be needed. Thank you.

**HON AARON STONEHOUSE (South Metropolitan)** [9.19 pm]: At the outset of my contribution to the second reading of the High Risk Offenders Bill 2019, let me just express disappointment and frustration that the Labor Party is not the party for civil liberties that some folks might think it is. This party, which is left of centre, is not the party that protects civil liberties or a party that stands up for justice. Despite the Labor Party making a very clear statement in 2017 that it opposed mandatory sentences, it has now brought forward something that one of the previous speakers, Hon Charles Smith, characterised, I think quite accurately, as a populist measure. I think there is a cry from the public for something to be done about violent and high-risk offenders. There are measures we can take to ensure that dangerous individuals do not remain on our streets. But one would think that wiser, cooler heads would prevail in a Parliament in a representative democracy—that our best and brightest could come up with some better ideas than post-sentence preventive detention and supervision orders. It was pointed out by Hon Alison Xamon that despite the Labor Party's opposition to mandatory minimum sentences in 2017, there are in fact mandatory minimum sentences in this bill. We have a double whammy here of an erosion of civil liberties and the rule of law.

Let me be clear: I am certainly no bleeding heart. In my mind, violent offenders, and especially sexual offenders, should be punished severely. I would very happily see heavy punitive sentences handed down to violent offenders. Conversely, I would like to see nonviolent offenders treated very leniently and without the need for custodial sentences. But beyond my desire to punish violent offenders, I hold that the rule of law, justice, principles of due process and our institutions must be preserved. I go back to what William Blackstone said. I cannot remember exactly what it was, but it was a maxim of Blackstone that it is better for a guilty man to go free than for an innocent man to be imprisoned. We have due process. We have the rule of law. We have these institutions precisely for these reasons.

My principal concern with this bill is really with post-sentence preventive detention more than anything else. Although a supervision order may be punitive in its own sense, in my mind it is far less severe than preventive detention, which I see as being arbitrary and, of course, punitive in nature. In my mind, it poses a risk of indefinite imprisonment based on evidence for a crime for which a prisoner has already been punished. Again to my mind, it has the potential to facilitate the indefinite and arbitrary detention of prisoners who have already served out their sentence. Handing down post-sentence punishment for the same crime undermines the rule of law. In fact, I just found out today that retroactively applying a harsher penalty is actually prohibited under the International Covenant on Civil and Political Rights, to which Australia is a party. I thought that was rather funny, because international treaty obligations are normally something that folks on the left side of politics take very seriously—perhaps more so than those on the right of centre on the political spectrum. UN human rights bodies, however, accept additional detention, but only as a last resort for compelling reasons in response to serious crimes, and then again only for rehabilitation, not for punitive means. The Attorney General stressed in his second reading speech and other comments that post-sentence preventive detention is not punitive. I wonder what power the state has to compel treatment and rehabilitation. If a post-sentence preventative detention order results in somebody merely sitting in a jail cell for an indefinite period without treatment, and treatment is not offered either because the prisoner cannot be compelled or services are not available to prisoners, then what point is there and how else can that preventive detention be seen other than as punitive, at least with respect to the prisoner? Again, the Attorney General has stressed that it is not punitive, but I am very curious to see whether these claims will stand up to scrutiny when we get to Committee of the Whole House.

I mentioned due process earlier. The reason I am concerned about due process is that applications to the court for a preventative detention order can be made with very little warning to a prisoner. If I understand the bill correctly, an application needs to be made only within the last 12 months of a prisoner's sentence. There is no minimum time frame in which an application can be made. If that is the case, unless I am mistaken, a prisoner may be expecting to walk free in a week's time and suddenly have an application sprung on them for which they need to prepare some kind of legal defence, with as little as a week or a few days' notice. That undermines due process if a prisoner who has served out their time and paid their debt to society, so to speak, can have an application to have them detained indefinitely sprung upon them with little to no warning. My principal concern around post-sentence preventive detention is the very low standard of proof that is used—a high degree of probability instead of what is otherwise used in criminal cases, which is beyond a reasonable doubt. I would like to read from an article which appeared in the *University of New South Wales Law Journal*, written by Patrick Keyzer and Bernadette McSherry and titled "The Preventive Detention of Sex Offenders: Law and Practice". It reads —

> An important and troubling feature of these preventive detention determinations is that the standard of proof that applies is not the criminal standard of beyond a reasonable doubt, despite the result in many instances being continuing detention in prison. Section 7(2) of the Western Australian Act, for example, requires the Director of Public Prosecutions to adduce 'acceptable and cogent evidence' and satisfy the court 'to a high degree of probability' that there is an unacceptable risk that 'if the person concerned were not subject to a continuing detention order or a supervision order, the person would commit a serious sexual offence'. In determining risk, the legislation mandates the court to consider reports from two psychiatrists who have assessed the offender as well as 'any other medical, psychiatric, psychological, or other assessment'. Hence the focus is on opinion evidence rather than the evidence of witnesses. This means that traditional evidentiary issues in criminal trials such as problems of hearsay can be bypassed.

It goes on to say —

> What a 'high degree of probability' actually means has been the subject of some judicial interpretation. In *Director of Public Prosecutions (WA) v D*, Hasluck J described this as 'more than a finding on the balance of probabilities, but less than a finding of proof beyond reasonable doubt'. This interpretation had previously been accepted by Steytler P and Buss JA in *Director of Public Prosecutions (WA) v GTR*.

That lower standard of proof is problematic due to the risk of false positives within such a regime—that is, identifying risk where there is no risk. Let us be clear: that would involve detaining by mistake somebody who does not pose a risk to the public because a far lower standard of proof was used than that which was required to put them behind bars in the first place. I fear we are at risk of wading into a regime that will detain people for merely having the capacity to commit a crime. We will begin punishing people for crimes that they have not committed. There is also, of course, the risk of false negatives—that is, individuals who pose a risk to the public but are not identified as such. In those instances, such a regime does not provide any protection to the public. We heard in the remarks of a previous speaker that false positive rates may be as high as 50 per cent. That is troubling news indeed.

For this reason—my concerns around the standard of proof used for post-sentence preventive detention—I will be proposing a number of amendments to raise the standard of proof required for a prisoner to be considered a high-risk offender, bringing it in line with the standard of proof for criminal convictions. It requires the court to be satisfied beyond a reasonable doubt to deprive someone of their liberty, to put them in, essentially, a cage for a finite time. If such conditions are to be extended, if new punishment is to be placed upon a prisoner and they will be deprived of their liberty further, it is only fair that such a standard of proof is used again, with a high degree of probability for somebody to be kept in a cage indefinitely.

There are, of course, reviews. There will be a review after the first 12 months and a review thereafter every two years by the Supreme Court, but these reviews will use the same standard of proof, with a high degree of probability and not the same standard of proof used in a criminal conviction. A high-risk offender may be sentenced initially to, say, seven years in jail. Seven years in jail requires the court to be satisfied beyond a reasonable doubt. Their indefinite detention may extend far beyond seven years; it could extend for the rest of their life, yet a much lower standard of proof will be used to detain them for that time. That is inconsistent in its application, and it is inconsistent with the principle of the rule of law, coupled with my understanding that a prisoner can appeal an order made by the court. However, if I understand it correctly—perhaps the minister can correct me if I am wrong—there is only one appeal opportunity for a prisoner. From then on, their fate is in the hands of the Supreme Court through its first-year review and then rolling two-year reviews. That is unacceptable. I will also propose amendments to include a five-year rolling review clause. In addition, I will be making consequential amendments to clause 2 to ensure that my review clause comes into act the day after royal assent, rather than by proclamation, to ensure that any review clause, and the clock ticking down for a five-year review clause, comes into effect immediately, and not by proclamation of the executive wing of government.

That being said, I look forward to interrogating this bill during the Committee of the Whole House stage, and, subject to amendment at this point, I am deeply concerned about the erosion of civil liberties and the erosion of the rule of law that this bill represents.

**HON NICK GOIRAN (South Metropolitan)** [9.33 pm]: I rise to support the intent of the High Risk Offenders Bill 2019 in line with the Liberal Party's strong history on law and order. This bill is necessary by virtue of the fact that there have been sentencing failures and, in my view, this is a systemic failure. This bill seeks to introduce the new term "high risk offender". I note that clause 7 of the bill seeks to list an offender as a high-risk offender if —

> … the court dealing with an application under this Act finds that it is satisfied, by acceptable and cogent evidence and to a high degree of probability, that it is necessary to make a restriction order in relation to the offender to ensure adequate protection of the community against an unacceptable risk that the offender will commit a serious offence.

As I understand it, the previous test applied, certainly with regard to dangerous sex offenders, was whether the person was a serious danger to the community. In other words, the judge considering the application had to deem that the person was a serious danger to the community. We will now be changing the language from "a serious danger to the community" to a determination on whether the person poses an "unacceptable risk" that they will commit a serious offence. To the extent that I have any concern here, I simply ask the government: To what extent will there be an impact by virtue of us changing the language? Will there be any unintentional consequences by changing this test? I have to say that, in any event, I am sceptical about the implementation of this bill, even though as a member of the opposition I am supportive of the intent of the bill. I am sceptical about its implementation, particularly given this government's recent timidity in the Latimer case. I remind members of an episode that took place during the recent parliamentary winter recess. I had the opportunity to pen an opinion piece that was published in *The Spectator* last month. I made these remarks —

> Latimer is a dangerous sex offender with a long and disturbing record. A Supreme Court Judge's decision to authorise Latimer's release defies community expectations on public safety. The community expects that patterns and precursors of offending behaviour as well as risk and likelihood of recidivism all come to bear on a decision of this nature. It is always a concern whenever a dangerous sex offender is released from prison. It becomes deeply concerning when a court has deemed that person a 'serious danger to the community'. This concern is compounded in this case courtesy of a bizarre supervision order which authorises this dangerous offender to have approved access to sex workers.

I went on later in this piece to say —

> … a judge has agreed for Latimer to access prostitution as a means to reduce risk to the community.
>
> …
>
> A violent recidivist offender poses a high and very real threat of re-offending. Granting a sexual predator, who has repeatedly violated the rights of others, unwise clemency means putting others at risk. Judging by the quantum and nature of Latimer's offences, combined with his history of denial and refusal to participate in treatment programs, this is not a risk Western Australians should be asked to take. Yet for the time being our A-G is refusing to intervene, saying he does not see anything appealable and that he will not 'quibble' with the judge's decision.

I concluded this opinion piece by saying —

> The 21-day appeal window, that he has missed, —

"He" being the Attorney General —

> is able to be extended by the Court of Appeal. This would be consistent with robust law enforcement. Appeals are won by courageous appellants. This is no time for timidity. If a robust appeal fails then at least our existing system will have been properly tested and parliament will then know with certainty that our law is inadequate.

I note that clause 30(5) of the bill before us states —

> A supervision order may contain any other terms that the court thinks appropriate —
>
> (a) to ensure adequate protection of the community; or
>
> (b) for the rehabilitation, care or treatment of the offender subject to the order; or
>
> (c) to ensure adequate protection of victims of serious offences committed by the offender subject to the order.

The recent Latimer case demonstrates that judges sometimes include terms that are inconsistent with other laws. I note that section 190(3) of our state's Criminal Code says —

> Any person who lives wholly or partly on earnings that the person knows are the earnings of prostitution is guilty of a crime and is liable to imprisonment for 3 years.
>
> Summary conviction penalty: imprisonment for 12 months and a fine of $12 000.

In fact, I note that on page 79 of the bill before us, this government, the Attorney General and the entire cabinet have decided what would be deemed as serious offences. In schedule 1, and particularly division 1, subdivision 4, there are listed offences under the Prostitution Act. I particularly note section 7, "Seeking to induce person to act as prostitute". Therefore, I find it incredible that in those circumstances a judge in Western Australia could deem it appropriate to make a condition or term of release that is plainly inconsistent with WA law.

In addition, I note a question without notice asked on 31 October 2006—as far back as then—to the then Attorney General, Mr McGinty, which he answered on the same date. The question and answer reveal that Mr Latimer had 11 prior convictions for wilful exposure dating back to 1973 when he was aged 14 years. According to Latimer, they were not sexually related, but were a result of his urinating in public. Latimer also served two years and three months, and was jailed for four other indecent assaults committed in 1991. He also denied committing these offences, refused to undergo sex offender treatment programs and described his behaviour as typical of any red-blooded male. In February 1996, Latimer was sentenced to five and a half years' jail for aggravated sexual penetration after a violent assault on a woman at Perth railway station. During his imprisonment, Latimer refused to participate in treatment programs and denied the offence, claiming that the victim had initiated the sexual activity, before changing her attitude and then complaining. On 30 March 2005, he was convicted in the Perth District Court on a charge of attempted sexual penetration without consent, and during his time in prison, Latimer denied committing the offence and did not participate in any treatment programs. Two psychiatric reports tendered to the court found that Latimer presented a high risk to the community of serious sexual offences if not subject to a continuing detention order. To quote from one psychiatric report —

> The essence of his level of risk lies in his extreme denial and therefore unaddressed offending behaviour … No therapeutic endeavours to date have been of benefit.

The then Attorney General, Mr McGinty said —

> The community deserves to be protected against people like Latimer. That is the reason we brought to this Parliament the legislation that is now being enforced …

It was all very good for the Labor government back then when it was last on the treasury bench to boast about how it was tough on crime, as Hon Charles Smith has identified. It is all very good for Labor to spruik these things from time to time, yet when push comes to shove and we have an outrageous decision by a Supreme Court judge to release Mr Latimer and allow him as part of those conditions to access sex workers, which is plainly inconsistent with the law of Western Australia, what does our current Labor Attorney General do? He says, "I'm not going to quibble with that. I'm not going to appeal; I'm going to do nothing." What confidence can I have that this bill before us, which I support, will be enforced and implemented by this government when the most recent case, which was before us during the winter recess, showed how timid this government is when it comes to law and order?

**Hon Michael Mischin**: Not to mention the risk to the prostitute.

**Hon NICK GOIRAN**: Indeed; we can reasonably assume that the view of the Attorney General is that this person in the community is not worthy of protection, because he will not quibble with that outrageous decision that was recently made, which was inconsistent with the law of Western Australia. I note that as recently as 2016, Mr Quigley was emphatic during a debate. He was very, very critical of the performance of the then government. On 28 June, we have this recording of his views. He said —

> We heard not a word; just hushpuppies, because the government was coming into this Parliament with the full intention of surrendering the government's authority to conduct appeals and to go down to the court to seek a rescission of a supervision order. Under the legislation as it currently stands, that is what the Attorney General can do.

Debate adjourned, pursuant to standing orders.

## DOWERIN FIELD DAYS

*Statement*

**HON DARREN WEST (Agricultural — Parliamentary Secretary)** [9.45 pm]: Last week, I attended the Dowerin GWN7 Machinery Field Days, which are held every year in that great community of Dowerin in the Agricultural Region. It was a terrific event this year, with record attendance on the Wednesday when the weather was particularly warm and it was nice outside. Some other members of the Legislative Council were in attendance, such as Hon Laurie Graham, Hon Jim Chown, Hon Martin Aldridge and Hon Colin Tincknell. It was nice to see members from other areas coming to support our great event. We had some welcome rain on Thursday, which wreaked havoc with a few tents around the event, with strong winds, but the rain was most welcome after the very warm day on Wednesday.

I want to acknowledge the great work of the Dowerin community. It is a massive event. It brings a lot of visitors to the community. It is very well run. The community has been running this event for over 50 years. I acknowledge not only Nadine McMorran and the committee at Dowerin Events Management, but also all the volunteers who

helped in the communities from around Dowerin to get their people behind the event and make it a success. It was really terrific to see it come off so well again this year, especially with the record attendance on the Wednesday. I also make special mention of Mr John Metcalf, who was awarded life membership at this year's event. That is very well deserved recognition of many years of service to the field days and the Dowerin community, and I congratulate John Metcalf very much in achieving that life membership.

This year was a bit of a break with tradition, because for the first time ever that people can remember, the field days were opened by a farmer, and that was Mr Ray Harrington from Darkan. He gave quite a stirring speech about the great changes he has seen in his 50-plus years in agriculture. Again, WA Labor had a stand there and it was great to have Hon Laurie Graham with me, and our staff came along and worked for two days. I especially want to thank everybody who dropped in and saw us over the two days. It was a great opportunity to meet with the community, find out what people are thinking and what they think the government is doing well and what we can do better. It was a great experience for us.

As has become the custom, we held a free raffle and had the magnificent hampers prepared by Whispers on the Terrace in Goomalling. That was won this year by Chrissie Barratt from Goomalling. Congratulations to her in picking up that terrific hamper. It was a really good event and I was delighted to be there both days to enjoy the Dowerin field days event. I got a chance this year to have a bit of a look around and see the extensive displays. The minister and I are off to the Newdegate Machinery Field Days tomorrow. I am sure that will be an excellent event as well. If members have the opportunity next year, they should come up and see us at the Dowerin field days.

## INTERNATIONAL OVERDOSE AWARENESS DAY

*Statement*

**HON ALISON XAMON (North Metropolitan)** [9.48 pm]: I rise to acknowledge that Saturday was International Overdose Awareness Day, which aims to raise awareness of the effects of drug overdose and reduce the stigma around drug-related death, as well as acknowledge the grief felt by family and friends when remembering loved ones who have died. It is also an important opportunity to try to spread the message that drug overdoses are always 100 per cent preventable.

I want to begin by expressing the need for caution about the tendency to talk about drug overdose in language that sometimes deems some people as being worthy and others unworthy. Each year, the Penington Institute releases a report on the rates of unintentional overdose in Australia. These reports are incredibly useful. They show us trends over time and highlight that overdose is a community-wide concern that can impact on any of us at any time. Counter to popular convention, overdose deaths are most prevalent amongst 30 to 59-year-olds. They affect people right across the socioeconomic spectrum. Members may recall that I spoke on the findings of last year's report. Disappointingly, but not surprisingly, the data presented in this year's report makes it clear that no progress has been made in this space; in fact, we are going in the wrong direction. The need for action is becoming increasingly urgent.

According to the report, the number of Australians who died from unintentional overdose has increased by almost 38 per cent in 10 years, from 1 171 deaths to 1 612. From 2001 to 2017, our population increased by 27.8 per cent. However, during the same period, the number of unintentional drug-induced deaths increased by 64.3 per cent. Opioids—both pharmaceutical and in their illicit forms—continue to be the primary drug group associated with unintentional drug-related deaths. However, this year, the authors of the report raised concerns that we are following in the footsteps of the United States and careering headlong into what we know has been a full-blown crisis. The patterns of overdose here are becoming disturbingly similar to those in the United States; it is just happening a few years later.

Around seven years ago, the number of overdose deaths in the US from prescription opioids began stabilising, as the number of deaths due to other drugs such as heroin, fentanyl and methamphetamine skyrocketed. The lesson that we should have learnt and need to learn from the US jurisdiction is that if access to prescription drugs is reduced without addressing the underlying causes of why they are being used, people turn to different types of drugs, and that often results in fatal consequences. The data shows that the profile of overdose is also changing in Australia, and that we are going down the same path. In the last 15 years, unintentional drug-induced deaths involving stimulants have increased around eleven-fold. For the first time since 2003, heroin was involved in more unintentional overdose deaths than the next-highest opioid group, being oxycodone, morphine and codeine. Benzodiazepine was the second-most common group of drugs linked to unintentional overdose, followed by stimulants such as methamphetamine and ice.

There are some particularly concerning trends in Western Australia. WA's rate of unintentional drug-induced deaths involving stimulants has increased by a factor of more than five. WA joins Queensland in having the highest ratios for the change in rates of unintentional drug-induced deaths involving pharmaceutical opioids. WA has seen the largest increase in the rate of unintentional drug-induced deaths involving heroin. Clearly, we should not be proud of these figures. Aside from the immeasurable social and emotional cost, the Penington Institute estimates that the more than 1 600 unintentional overdose deaths that occurred in 2017 cost our community almost $1 billion.

As I said, every overdose is preventable. Reports such as that by the Penington Institute help us to understand the nature and scale of the issue that we need to address. We need to use this data to inform targeted programs to help turn our burgeoning overdose numbers around.

I want to acknowledge a couple of parents in particular whom I heard from on Friday, when I went to a morning tea to commemorate people who had died from drug overdose. The pain is raw and real and lifelong. One of the things that I know becomes unbearable for parents who have lost a child to drug overdose, apart from the irreparable trauma of having lost a child, is the stigma that is attached to that death, and how they feel so protective of their children and the lives that their children have led. It is incredibly painful. I recognise the bravery of these people and acknowledge the pain that they are going through. It is not getting better. We need to look at genuine strategies to address this. Cutting off people's opportunities to take drugs simply means that people take drugs in other forms. We have to deal with some of the underlying causes around drug abuse.

## RETURNED AND SERVICES LEAGUE OF AUSTRALIA — CENTENARY — GOSNELLS RSL SUB-BRANCH

*Statement*

**HON PIERRE YANG (South Metropolitan)** [9.55 pm]: I rise tonight to congratulate the Gosnells sub-branch of the Returned and Services League of Australia for being in service to the veterans community and the local community for the past 100 years. This coming Saturday, with the support of the City of Gosnells, the Gosnells sub-branch of the RSL will celebrate its centenary. As soon as I enlisted in the Australian Army Reserve back in 2016, I applied to join the RSL. I was living in the City of Gosnells and, naturally, I was allocated to join the Gosnells branch. I was immediately taken under the wing of the senior veteran soldiers there. They embraced me as one of their latest members. In fact, I was encouraged to run for vice president in 2011 and 2012; I was elected by the members and served one year.

I would like to thank and acknowledge the service rendered by the Gosnells sub-branch of the RSL, and the dedicated members of that branch, including Barry Rayment, Stuart Holmes, Fred Flor, Stewart Brisbane, Fred Batt, Christine Cappabianco, Jim Campbell, Harry Rosielle, Des Hayes, Kathleen Clift and Veronica Killner, former members including Bob McGuire and Kevin Bettridge, and many other members. I also wish to especially mention the late Alan Stubbs for his contribution to the Gosnells sub-branch of the RSL.

The Gosnells sub-branch of the Returned and Services League of Australia organises the annual Anzac Day commemoration and the Remembrance Day commemoration in November. It provides an important community service and advocates for veterans and their families. I would like to thank the Gosnells Returned and Services League for their service over the past 100 years. Once again, congratulations to the Gosnells RSL, and happy centenary.

*House adjourned at 9.57 pm*

## QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

HOSPITALS AND HEALTH CAMPUSES — GERALDTON HEALTH CAMPUS

**2242. Hon Martin Aldridge to the parliamentary secretary representing the Minister for Health:**

I refer to the ABC News online article of 4 January 2019 entitled "Elderly woman forced to lie on floor of Geraldton Regional Hospital due to lack of beds", and I ask:

(a) did the Minister meet with the Acting Director General of Health and CEO of the WA Country Health Service as the Minister quoted in this article suggesting as a matter of urgency and, if so, what was the date of the meeting;

(b) will the Minister please table any briefing material that was provided to the Minister in relation to this incident;

(c) was an investigation or review undertaken by the WA Country Health Service or Department of Health as suggested in the article and, if so, will the Minister please table the report arising from such an inquiry; and

(d) in light of this incident, the number of Code Yellow declarations made by the hospital in recent months and the Minister's recent answer to Legislative Council question without notice 534, will the Minister now fast track an Urgent Care Clinic as committed by the Labor Party at the last State election in Geraldton?

**Hon Alanna Clohesy replied:**

I am advised:

(a) Yes. 10 January 2019.

(b) [See tabled paper no 2989.]

(c) An investigation was undertaken by the WA Country Health Service (WACHS) as suggested in the article. A briefing note was provided to the WACHS Chief Executive on 29 January 2019. The report included a range of strategies for implementation to ensure that an incident of this type will not re-occur. [See tabled paper no 2989.]

(d) Work is underway to progress regional Urgent Care Clinic (UCC) models. An assessment of population need and regional capacity, including consultation with general practice, will help determine the best UCC model for each regional area.

MINISTER FOR TRANSPORT — AGENCIES — VOLUNTARY TARGETED SEPARATION SCHEME

**2259. Hon Martin Aldridge to the minister representing the Minister for Transport; Planning:**

I ask with respect to each agency under the Minister's control:

(a) will the Minister please provide details of the target FTE positions under the Voluntary Targeted Separation Scheme set by Treasury to meet the budget target of reducing the public service by 3,000 people;

(b) will the Minister please provide details of the number of FTE positions that have been separated to date from each agency;

(c) will the Minister please provide details of the number of FTE positions that are yet to be separated from each agency; and

(d) with respect to (c), when are the remaining separations likely to take place?

**Hon Stephen Dawson replied:**

Refer to Legislative Council Question on Notice 2243.

TRANSPORT — SCHOOL BUS SERVICES

**2267. Hon Martin Aldridge to the minister representing the Minister for Transport:**

I refer to the Student Transport Assistance Policy and Operation Guidelines governing School Bus Services, and I ask:

(a) when was the policy last reviewed;

(b) are there regular intervals in which a review is scheduled to be undertaken of the policy;

(c) does the Government have any intention to conduct a review of the policy; and

(d) if yes to (c), when will the review be undertaken?

**Hon Stephen Dawson replied:**

(a)–(d) A review of Transport Assistance for Students was carried out over a two-year period in 1997–98 and culminated in the release of the Morrell Report.

The policy is amended on an 'as required' basis to reflect changes in Department of Education policy or to accommodate the changing operational requirements in delivering the transport assistance program.

LEGAL AFFAIRS — BAIL SUPPORT PROGRAM

**2272. Hon Alison Xamon to the Leader of the House representing the Attorney General:**

I refer to the Western Australian State Budget page 367, Spending Changes, New Initiatives, first line item, 'Bail Support Program", and ask:

(a) would the Minister please provide some information about this program including:

(i) where the program will be located;

(ii) who will be funded to run the program;

(iii) any performance indicators or outcomes measures;

(iv) how many people it is anticipated the program will support annually; and

(v) how people will be referred to the program (including any eligibility requirements)?

**Hon Sue Ellery replied:**

(a) (i) The Bail Support Program will be located at the Magistrates Court at Perth and at a court in the Kimberley region.

(ii) Legal Aid Western Australia and the Aboriginal Legal Service of Western Australia.

(iii) A detailed monitoring and evaluation framework will be developed as part of project implementation.

(iv) It is anticipated that the Bail Support Program will assist approximately 880 people annually.

(v) People will be referred to the program by duty lawyers and, where appropriate, magistrates, and will be screened and assessed by bail assessment officers to determine their suitability and type or level of support required.

DEPARTMENT OF JUSTICE — SENTENCING FLEXIBILITY — ABORIGINAL PEOPLE

**2273. Hon Alison Xamon to the Leader of the House representing the Attorney General:**

I refer to the Western Australian State Budget 2019–20, page 368, Significant Issues Impacting the Agency, 1., and I ask:

(a) how does the Government intend to increase "sentencing flexibility"; and

(b) when is it anticipated these changes will be introduced?

**Hon Sue Ellery replied:**

(a) The Government will pilot a court intervention program at the Perth Magistrates Court that will use conditional bail as a mechanism for diverting low level offenders to community based treatment and support, where safe and appropriate to do so.

(b) The pilot is due to commence in August 2020 and will be fully evaluated after three years.

CHILDREN'S COURT — LEGAL AID APPLICANTS

**2274. Hon Alison Xamon to the Leader of the House representing the Attorney General:**

I refer to the Western Australian State Budget 2019–20, page 369, Significant Issues Impacting the Agency, 20., and I ask:

(a) what percentage of legal aid applicants in cases in the protection and care jurisdiction of the Children's Court were deemed eligible for aid but were not successful in receiving a grant of aid; and

(b) how many individual legal aid applicants in cases in the protection and care jurisdiction of the Children's Court were deemed eligible for aid but were not successful in receiving a grant of aid?

**Hon Sue Ellery replied:**

(a) In 2018/19, 2.68% of applicants in the protection and care jurisdiction were deemed eligible for aid but were not successful in receiving a grant of aid.

(b) In 2018/19, 20 applicants were deemed eligible for aid but were not successful in receiving a grant of aid. It should be noted that in this jurisdiction, clients stop applying for legal aid when funding is restricted and a large number of potential applicants were diverted to the duty lawyer services for advice and assistance.

ATTORNEY GENERAL — LEGISLATIVE AGENDA

**2275. Hon Michael Mischin to the Leader of the House representing the Attorney General:**

I refer to the Attorney General's response to my questions of 13 and 25 June 2019 regarding several projects and other matters within his portfolio, and ask:

(a) in respect of each of the items of legislation the Attorney General identified, when was approval from Cabinet to draft sought and granted and, where applicable, when was approval to print sought and granted; and

(b) in respect of those matters where no legislative changes are required, when were instructions to initiate those projects issued and to whom, and when were final reports or evaluations upon which the Attorney General made decisions received by him?

**Hon Sue Ellery replied:**

(a) (i) Legislation to deter trespass on animal farms is currently being drafted.

(ii) A detailed proposal is still under consideration. It is noted that the Law Reform Commission's final report was presented to the-then Government in 2016.

(iii) The High Risk Offenders Bill 2019 has been introduced to Parliament.

(iv) Government has approved drafting of amendments to the Coroners Act 1996 (WA).

(v) Legislation to amend the Criminal Law (Mentally Impaired Accused) Act 1996 (WA) is currently being drafted.

(vi) Anti-consorting legislation is currently being drafted.

(vii) Legislation to implement the National Legal Profession Uniform Law Scheme is currently being drafted.

(viii) The Western Australian Crime Statistics and Research Office is currently being established.

(b) (i) The Justice Pipeline Model was initiated in September 2017 and is being developed by Treasury. It has reached practical completion and has been peer reviewed.

(ii) An Acting Commissioner for Victims of Crime was appointed in October 2017 when the former Commissioner for Victims of Crime left the Office. The responsibilities of the role and overall service delivery to victims of crime is under consideration by Government.

LEGAL AID — APPLICANTS

**2276. Hon Alison Xamon to the Leader of the House representing the Attorney General:**

I refer to the Western Australian State Budget 2019–20, page 371, Outcomes and Key Effectiveness Indicators: Equitable access to legal services and information, and I ask why is the 2019–20 budget target for the percentage of eligible applicants who receive a grant of legal aid less than the 2018–19 estimated actual (85% and 88%)?

**Hon Sue Ellery replied:**

The 2018–19 estimated actual is higher than 2019–20 target due to additional grants of aid provided for Commonwealth Family Law matters in the 2018–19 year, such as Independent Children's Lawyer (ICL) matters. These additional matters were funded from unallocated Commonwealth funds received under the National Partnership Agreement (NPA) 2015–20.

The 2019–20 Budget Target of 85% is set lower than the 2018–19 Estimated Actual of 88% as there are no surplus funds allocated for additional Commonwealth funded ICL matters in 2019–20.

TRANSPORT — CYCLEPATH — BUNBURY OUTER RING ROAD AND BUSSELL HIGHWAY

**2278. Hon Tim Clifford to the minister representing the Minister for Transport; Planning:**

I refer to the Bunbury Outer Ring Road project and the proposed Bussell Highway Duplication project, and I ask:

(a) will the Bunbury Outer Ring Road works include a cycle path along the entire length of the road;

(b) if yes to (a), what is the expected completion date for the cycle path;

(c) will the Bussell Highway Duplication Works include a cycle path along the entire length of the road; and

(d) if yes to (c), what is the expected completion date for the cycle path?

**Hon Stephen Dawson replied:**

(a) The planning concept for Bunbury Outer Ring includes a Principal Shared Path over its entire length.

(b) Planning and development for the Bunbury Outer Ring Road project is currently ongoing.

(c) No.

(d) Not applicable.

ATTORNEY GENERAL — PORTFOLIOS — GOVERNMENT REGIONAL OFFICERS' HOUSING

**2288. Hon Martin Aldridge to the Leader of the House representing the Attorney General:**

I refer to Government Regional Officer Housing that is allocated to your departments and I ask with respect to each department under your control:

(a) how many properties are allocated to each department;

(b) if these properties are provided from an individual or organisation other than the Department of Communities (Housing) please identify the source;

(c) please provide a breakdown of housing by departmental region;

(d) please identify the number of properties per region where officers or staff are required to pay rent and those which receive their accommodation rent free;

(e) with respect to officers and staff who pay rent please identify the variance between the rent paid by the officer or staff member and the cost paid by the department to provide the property in total by region;

(f) is the cost charged to the department a charge based on market value, and who determines market value; and

(g) if yes to (f), how frequently is a review of the applicable market value undertaken?

**Hon Sue Ellery replied:**

Department of Justice:

The data provided below is the expenditure for June 2019. Both the dollar value and count change on a regular basis, so a single point-of-time value has been taken. All properties are fully or partially subsidised by the Department of Justice (the Department).

(a) The total properties allocated to the Department is 521. Of the total, 477 are allocated to Corrective Services (CS) and 44 to Court and Tribunal Services (CTS).

(b) All properties are provided by the Department of Communities (Housing).

(c) The table below reflects the total number of allocated properties by region.

| **Region** | **Total** |
|---|---|
| East Kimberley | 30 |
| Goldfields | 108 |
| Mid-west | 21 |
| Pilbara | 147 |
| West Kimberley | 195 |
| Wheatbelt | 8 |
| Great Southern | 12 |
| **TOTAL** | **521** |

(d) The table below reflects the Corrective Services (CS) and Court and Tribunal (CTS) Services properties split for the month of June 2019.

| **Region** | **Total** | | **Vacant** | | **Rent: Free to employee *** | | **Rent: employee contribution **** | |
|---|---|---|---|---|---|---|---|---|
| | **CS** | **CTS** | **CS** | **CTS** | **CS** | **CTS** | **CS** | **CTS** |
| East Kimberley | 25 | 5 | 3 | 1 | 4 | 0 | 18 | 4 |
| Goldfields | 98 | 10 | 4 | 0 | 6 | 0 | 88 | 10 |
| Mid-west | 14 | 7 | 0 | 0 | 5 | 0 | 9 | 7 |
| Pilbara | 140 | 7 | 5 | 0 | 135 | 0 | 0 | 7 |
| West Kimberley | 187 | 8 | 16 | 0 | 13 | 0 | 158 | 8 |
| Wheatbelt | 5 | 3 | 0 | 0 | 1 | 0 | 4 | 3 |
| Great Southern | 8 | 4 | 0 | 0 | 1 | 0 | 7 | 4 |
| **Total** | **477** | **44** | **28** | **1** | **165** | **0** | **284** | **43** |

*There are 29 current vacant properties due to staff vacancies*

(e) The table below provides a breakdown of the Department versus employee contribution value for the month of June 2019 (rounded to the nearest $):

| Region | Rent: Paid ($) by DoJ * | | Rent: Paid ($) by employee ** | | Total paid to Housing | |
|---|---|---|---|---|---|---|
| | CS | CTS | CS | CTS | CS | CTS |
| East Kimberley | $76,678 | $7,354 | $7,071 | $3,896 | $83,749 | $11,250 |
| Goldfields | $200,932 | $8,944 | $48,734 | $11,296 | $249,666 | $20,240 |
| Mid-west | $27,617 | $7,744 | $10,258 | $8,136 | $37,875 | $15,880 |
| Pilbara | $492,881 | $13,972 | $0 | $6,872 | $492,881 | $20,844 |
| West Kimberley | $496,565 | $9,330 | $58,798 | $8,590 | $555,363 | $17,920 |
| Wheatbelt | $4,460 | $1,572 | $3,340 | $2,832 | $7,800 | $4,404 |
| Great Southern | $32,070 | $3,056 | $7,475 | $3,884 | $39,545 | $6,940 |
| **Total** | **$1,331,203** | **$51,972** | **$135,676** | **$45,506** | **$1,466,879** | **$97,478** |

*The amount payable by the employees is set by Communities in the Tennant Rent Setting Framework (TRSF).*

Legal Aid Western Australia:

(a) 11

(b) NA.

(c) See table below.

| Region | Number of properties |
|---|---|
| Pilbara | 3 |
| Kimberley | 6 |
| Goldfields | 1 |
| Gascoyne | 1 |

(d) See table below.

| Region | Number of properties where staff are required to pay rent | Number of properties where accommodation is rent free |
|---|---|---|
| Pilbara | 3 | 0 |
| Kimberley | 6 | 0 |
| Goldfields | 1 | 0 |
| Gascoyne | 1 | 0 |

(e) See table below.

| Region | Variance between rent paid by staff member and department (Total per fortnight) |
|---|---|
| Pilbara | $3876 |
| Kimberley | $4774 |
| Goldfields | $588 |
| Gascoyne | $458 |

(f) Market value is determined by the Department of Communities based on their property valuations.

(g) It is understood that this is undertaken annually, or as determined by Department of Communities.

MINISTER FOR TRANSPORT — PORTFOLIOS — GOVERNMENT REGIONAL OFFICERS' HOUSING

**2295. Hon Martin Aldridge to the minister representing the Minister for Transport; Planning:**

I refer to Government Regional Officer Housing that is allocated to your departments and I ask with respect to each department under your control:

(a) how many properties are allocated to each department;

(b) if these properties are provided from an individual or organisation other than the Department of Communities (Housing) please identify the source;

(c) please provide a breakdown of housing by departmental region;

(d) please identify the number of properties per region where officers or staff are required to pay rent and those which receive their accommodation rent free;

(e) with respect to officers and staff who pay rent please identify the variance between the rent paid by the officer or staff member and the cost paid by the department to provide the property in total by region;

(f) is the cost charged to the department a charge based on market value, and who determines market value; and

(g) if yes to (f), how frequently is a review of the applicable market value undertaken?

**Hon Stephen Dawson replied:**

Department of Planning, Lands and Heritage

(a) 7

(b) Not applicable.

(c) Great Southern: 1; Pilbara: 2; Kimberley: 4.

(d) All staff occupying the seven properties allocated to the Department are required to pay rent.

(e) The Department pays the following percentages and amounts with respect to the rent in each region: Great Southern Region – 49 per cent, $456 per fortnight; Pilbara Region – 58 per cent, $1,292 per fortnight; Kimberley Region – 65 per cent, $2,698 per fortnight.

(f) Yes, the Department of Communities.

(g) Annually

Department of Transport

(a) 15

(b) Not applicable.

(c) Northern Region – 10 properties; Southern Region – 1 property; Central Region – 4 properties

(d) Northern Region – 9 properties paid by officers / 1 property rent free; South West – 1 property rent free; Central Region – 3 properties paid by officers / 1 property rent free

(e) Northern Region – $3,606/week; Southern Region – $450/week; Central Region – $1,430/week

(f) Yes, the Department of Communities.

(g) Annually

Main Roads Western Australia

(a) Nil – Main Roads self-manages its employee accommodation.

(b)–(g) Not applicable.

Public Transport Authority

(a) Nil.

(b)–(g) Not applicable.

MINISTER FOR WATER — PORTFOLIOS — GOVERNMENT REGIONAL OFFICERS' HOUSING

**2298. Hon Martin Aldridge to the minister representing the Minister for Water; Fisheries; Forestry; Innovation and ICT; Science:**

I refer to Government Regional Officer Housing that is allocated to your departments and I ask with respect to each department under your control:

(a) how many properties are allocated to each department;

(b) if these properties are provided from an individual or organisation other than the Department of Communities (Housing) please identify the source;

(c) please provide a breakdown of housing by departmental region;

(d) please identify the number of properties per region where officers or staff are required to pay rent and those which receive their accommodation rent free;

(e) with respect to officers and staff who pay rent please identify the variance between the rent paid by the officer or staff member and the cost paid by the department to provide the property in total by region;

(f) is the cost charged to the department a charge based on market value, and who determines market value; and

(g) if yes to (f), how frequently is a review of the applicable market value undertaken?

**Hon Alannah MacTiernan replied:**

Aqwest

(a)–(g) Not applicable.

Busselton Water

(a)–(g) Not applicable.

ChemCentre

(a)–(g) Not applicable.

Department of Primary Industries and Regional Development

Please refer to Legislative Council Question on Notice 2285

Department of Water and Environmental Regulation

(a) 9 properties are allocated to the Department of Water of Environmental Regulation.

(b) There is 1 private rental property organised through a local real estate agency.

(c) 6 in the North West, 2 in the Mid-West Gascoyne and 1 in the Goldfields.

(d) All 9 pay a contribution towards their rent;

(e) The annualised variances are:

North West – the Department paid $131,248 and staff contributed $35,880

Mid-West Gascoyne – the Department paid $51,480 and staff contributed $25,012

Goldfields Region – the Department paid $23,920 and staff contributed $12,896

(f) Yes – the market value is determined by the Department of Communities.

(g) Reviews are conducted annually.

Forest Products Commission

(a) 2

(b) The Department of Communities provides the housing.

(c) 1 house in Kalgoorlie and 1 house in Carnarvon.

(d) Staff pay rent for the above properties.

(e) Variance for Kalgoorlie: $151.25 per week.

Variance for Carnarvon: $220.25 per week.

(f) Yes – the market value is determined by the Department of Communities.

(g) Reviews are conducted annually.

Office of Digital Government

Please refer to Legislative Council Question on Notice 2279.

Department of Jobs, Tourism, Science and Innovation

Please refer to Legislative Council Question on Notice 2279.

Water Corporation

(a) 37

(b) The Department of Communities provides the housing.

(c) Water Corporation leases the following GROH properties:

| | |
|---|---|
| North West Region | 26 |
| Mid West Region | 10 |
| Goldfields Agricultural Region | 1 |

(d) All staff members contribute to rental costs.

(e) The monthly variances are:

North West – Water Corporation pays $71 570.36 and staff contribute $20 852

Mid-West Gascoyne – Water Corporation pays $11 193.99 and staff contribute $7 716

Goldfields Region – Water Corporation pays $1 828 and staff contribute $1 172

(f) Yes –The market value is determined by the Department of Communities.

(g) Reviews are conducted annually.

ENVIRONMENT — UNAPPROVED LANDFILL — GREAT NORTHERN HIGHWAY

**2299. Hon Charles Smith to the Minister for Environment:**

(1) When was the Minister made aware of the reported landfill at 1056 Great Northern Highway, Baskerville (in the Swan Valley)?

(2) Why has the Minister refuted the existence of unapproved landfill on 1056 Great Northern Highway, Baskerville, other than that used to form roads and firebreaks, when there appears to be clear evidence of significant landfill occurring over the whole site?

(3) Can the Minister assure the community that the unapproved landfill at 1056 Great Northern Highway does not present an environmental hazard?

(4) What does the Minister intend to do about the existence of unapproved landfill at 1056 Great Northern Highway, Baskerville?

(5) Who does the Minister intend to hold accountable for the existence of unapproved landfill at 1056 Great Northern Highway, Baskerville in the Swan Valley?

**Hon Stephen Dawson replied:**

(1) On 22 June 2017, my office first received notification of a suspected landfill from Hon Rita Saffioti MLA, Member for West Swan.

(2)–(5) On 26 June 2017, the Department of Water and Environmental Regulation commenced an investigation into this matter and determined that the works being undertaken to develop the property did not trigger the requirements for licensing of the premises as a landfill or solid waste facility under Part V of the *Environmental Protection Act 1986*. The Department's investigation found that material being brought onto the property was being used to construct internal roads and firebreaks. There was no evidence indicating that contaminated material had been received on the property and it is not listed as 'contaminated' or 'possibly contaminated' under the *Contaminated Sites Act 2003*.

ENVIRONMENT — WESTERN AUSTRALIAN BIODIVERSITY AUDIT

**2300. Hon Diane Evers to the Minister for Environment:**

I refer to the Western Australian Biodiversity Audit II, as well as strong indications from previous Western Australian State of Environment reports and the recent United Nations Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services showing that biodiversity is in serious decline, and I ask:

(a) has the audit been completed:

  (i) if no to (a), why not, and when will it be completed;

(b) has all of the data collected in the audit, such as on the 3,300+ priority species, 120 wetlands and potential threatened ecological communities, been included in the Department of Biodiversity, Conservation and Attractions (DBCA) dataset:

  (i) if no to (b), why not;

(c) does the audit show that Western Australia's overall biodiversity is in decline;

(d) what was the full cost of undertaking the audit, and how many State government departments and employees were involved;

(e) given that DBCA stated in its Annual Report that Biodiversity Audit II was completed and made publicly available in 2015, why has a final report on Biodiversity Audit II with analysis, findings and recommendations not been released;

(f) when will a final report detailing the full findings and recommendations of Biodiversity Audit II be publicly released, with an executive summary, so that other government agencies, non-government organisations, community members and natural resource managers can have up-to-date information;

(g) has all of the data collected in the Biodiversity Audit II been made fully available to the public:

  (i) if no to (g), why not; and

  (ii) if no to (g), does the DBCA have data from the audit in relation to the following issues that are not publicly available:

    (A) priority species;

    (B) wetlands; and

    (C) threatened ecological communities;

(h) what will be done to improve public access to the database in order to support sound and transparent decisions in collaboration with the people of Western Australia to deal with the current and future decline of Western Australia's unique biodiversity;

(i) when will the Government improve the quantity and quality of public access to this database;

(j) why does the Biodiversity Audit II database have an extremely limited ability to analyse data;

(k) what additional means will the Government consider providing to enable the public to analyse the data from the audit;

(l) is the Minister aware that in May 2018, *The Beeliar Group: Professors for Environmental Responsibility* offered to assist DBCA to undertake analysis of the Biodiversity Audit II, but they have not been permitted to access the full data set and information that was collected as part of the Biodiversity Audit II:

  (i) if no to (l), why not; and

  (ii) if yes to (l), will the Minister instruct DBCA to provide full access to Biodiversity Audit II and its data and information; and

(m) does the Minister acknowledge that in order to make sound and transparent decisions and act to address the decline of Western Australia's biodiversity, it is necessary to have a comprehensive understanding of the current state and condition of biodiversity and possible future management requirements and priorities:

  (i) if yes to (m), will the Government develop an overarching conservation strategy to guide effort, integrate existing conservation plans, and coordinate responses?

**Hon Stephen Dawson replied:**

(a) No further development of the Biodiversity Audit II is planned to be undertaken by the Department of Biodiversity, Conservation and Attractions at this time.

(b) Information collected on threatened species and ecological communities during Biodiversity Audit II is available in the Biodiversity Audit II database. For some assets data is incomplete, including some priority species, wetlands and threatened ecological communities, and it is not appropriate to publicly release incomplete datasets.

(c) Information in the audit database shows some elements of biodiversity are in decline, whilst others show improving trends.

(d) I refer to supplementary information provided to the Estimates and Financial Operations Committee on 25 June 2015. The estimated cost of undertaking the audit for the core staff and database development was $571,635. There were 110 staff involved in the project from the former Department of Parks and Wildlife and the WA Museum, and other scientific experts.

(e)–(f) I refer to question without notice No. 206 on 15 June 2017. The information collected in Audit II was captured electronically in a database rather than produce a static version of the data, such as a final report, as this was considered to be the most effective way of making the large volume of information available. Biodiversity Audit II collected data and information during 2012 and 2013 and is a snapshot of information available at that time.

(g) No. For some assets data is incomplete, including some priority species, wetlands and threatened ecological communities, and it is not appropriate to publicly release incomplete datasets. Incomplete data collected in the audit process is available on request so appropriate context can be provided regarding the status of those data.

(h)–(i) Full public access is provided to the Biodiversity Audit II database.

(j) The Biodiversity Audit II database was developed to make the data collected available to departmental staff as the primary users of this information. The database stores data and is not intended to be a means of analysing data.

(k) Data collected by the Department of Biodiversity, Conservation and Attractions is available on request.

(l) The Department of Biodiversity, Conservation and Attractions has advised me that senior staff met with scientists from *The Beeliar Group* in August 2018 and offered full access to the data and information collected through Biodiversity Audit II to them. This offer to access the data is still open.

(m) The Department of Biodiversity, Conservation and Attractions maintains science based information on biodiversity assets and the Government makes decisions on management of biodiversity based on the evidence available.

CORRECTIVE SERVICES — CHILD SEXUAL ABUSE — OFFENDER PROGRAMS

**2301. Hon Alison Xamon to the minister representing the Minister for Corrective Services:**

I refer to services for men who access child pornography or who otherwise are considered to be at risk of sexual offending against children, and I ask:

(a) does the department fund any services or programs specifically aimed at addressing the criminogenic needs of this cohort;

(b) if no to (a), why not;

(c) if yes to (a), would the Minister please advise:

(i) the nature of any services/programs offered; and

(ii) who provides these services;

(d) how many of these programs/services are prison-based;

(e) how many people accessed these prison-based programs/services in:

(i) 2016–17;

(ii) 2017–18; and

(iii) 2018–19;

(f) how many of these programs/services are provided in the community;

(g) how many people accessed these community-based programs/services in:

(i) 2016–17;

(ii) 2017–18; and

(iii) 2018–19; and

(h) how much funding was allocated to these services in:

(i) 2016–17;

(ii) 2017–18;

(iii) 2018–19; and

(iv) 2019–20?

**Hon Stephen Dawson replied:**

(a) Yes.

(b) Not applicable.

(c) (i) A range of sex offender programs are delivered to offenders who have treatment needs related to sexual offending. This includes those convicted of sexual offences against children. These programs are delivered both in the community and in prison and the recommended program is matched to the offenders' assessed level of risk, need and responsivity. This can include individual counselling if a group intervention is determined to be unsuitable.

(ii) The Department of Justice, Corrective Services.

(d)–(g)

| Year | Location | Programs Delivered | Number of offenders enrolled in programs delivered | Number of individual offenders received individual treatment |
|---|---|---|---|---|
| 2018/19 | Prison | 7 | 70 | Data is not available and would require review of each referral individually |
| | Community | 3 | 30 | |
| 2017/18 | Prison | 10 | 103 | |
| | Community | 3 | 28 | |
| 2016/17 | Prison | 9 | 87 | |
| | Community | 6 | 48 | |

(h) The Department is unable to provide these figures as funding is provided for Offender Programs and is not broken down into individual offending cohorts.

CHILD PROTECTION — CHILD SEXUAL ABUSE

**2302. Hon Alison Xamon to the Leader of the House representing the Minister for Child Protection; Women's Interests; Prevention of Family and Domestic Violence; Community Services:**

I refer to services for men, including young men aged under 18 years, who access child pornography or who otherwise are considered to be at risk of sexual offending against children, and I ask:

(a) does the department fund any services or programs for this cohort;

(b) if no to (a), why not;

(c) if yes to (a), would the Minister please advise:

  (i) the nature of any services/programs offered; and

  (ii) who provides these services;

(d) how many people accessed these programs/services in:

  (i) 2016–17;

  (ii) 2017–18; and

  (iii) 2018–19; and

(e) how much funding was allocated to these programs/services in:

  (i) 2016–17;

  (ii) 2017–18;

  (iii) 2018–19; and

  (iv) 2019–20?

**Hon Sue Ellery replied:**

(a) The Department of Communities (Communities) contracts community service organisations to provide Child Sexual Abuse Therapeutic Services and Indigenous Healing Services to children and young people under the age of 18 who are responsible for, or at risk of, sexually abusing other children; and are assisted to accept responsibility for their behaviour and develop knowledge and skills to stop abuse occurring.

(b) Not applicable.

(c) (i) Child Sexual Abuse Therapeutic Services provide healing, support, counselling and therapeutic responses to children and young people and their families affected by child sexual abuse, people who have experienced childhood sexual abuse and children and/or young people who are responsible for, or at risk of, sexually abusing other children. In addition, Indigenous Healing Services provide services to children, young people and families/caregivers who are witness to violence or at risk of being violent to others.

These services assist children and young people to recover from harmful impacts of child sexual abuse and assist families and communities to support children and young people in the healing process.

(ii) The following community service organisations are contracted by Communities to provide Child Sexual Abuse Therapeutic Services and Indigenous Healing Services:

| **Organisation** | **Service location** |
|---|---|
| Allambee Counselling | Peel |
| Anglicare WA | Great Southern, Perth Metropolitan, West Kimberley |
| Carnarvon Family Support Service | Murchison |
| Centrecare Inc | Goldfields |
| Desert Blue Connect Inc | Murchison |
| Phoenix Support & Advocacy Service | Perth Metropolitan |
| Parkerville Children and Youth Care Incorporated | Perth Metropolitan, Wheatbelt |
| UnitingCare West | Perth Metropolitan |
| Waratah Support Centre (South West Region) Inc | South West |
| Yaandina Family Centre Inc | Pilbara |

| | |
|---|---|
| Yorgum Aboriginal Corporation | Perth Metropolitan |
| MacKillop Family Services Inc | Pilbara |

(d) According to six monthly progress reports submitted by contracted service providers, the total number of clients accessing Child Sexual Abuse Therapeutic Services and Indigenous Healing Services are as follows:

| | **Financial years** | **Number of people accessing the programs*** |
|---|---|---|
| (i) | 2016–17 | 2,417 |
| (ii) | 2017–18 | 2,473 |
| (iii) | 2018–19 (as at Dec 2018) | 1,001 |

* These figures represent all clients accessing the services, as outlined in (c)(i).

(e) The total annual funding provided to the 15 contracted services is as follows:

| | **Financial years** | **Funding provided** |
|---|---|---|
| (i) | 2016–17 | $4,953,579 |
| (ii) | 2017–18 | $4,991,376 |
| (iii) | 2018–19 | $5,032,804 |
| (iv) | 2019–20 | $5,032,804 |

SCHOOLS — TRANSPORTABLE CLASSROOMS

**2303. Hon Donna Faragher to the Minister for Education and Training:**

I refer to Budget Paper No 2, Volume 1, page 320 and the allocation of an additional $6.1 million for the construction of transportable classrooms, and I ask:

(a) how many additional transportable classrooms is this funding anticipated to deliver;

(b) how many transportable classrooms are currently owned by the department;

(c) are these new transportable classrooms replacing existing transportables or are they in addition to the current total; and

(d) when are the transportable classrooms expected to be completed and has the department identified those schools who will receive them?

**Hon Sue Ellery replied:**

(a) 33

(b) 2 677

(c) The 33 transportable classrooms being constructed will be an addition to the current total of 2 677.

(d) The transportable classrooms will be completed and available for installation from 30 November 2019. Applications for additional transportable classrooms for the 2020 school year closed on 9 August 2019 and are currently being assessed.

PUBLIC SCHOOLS — KINDERGARTEN PROGRAMS

**2304. Hon Donna Faragher to the Minister for Education and Training:**

I refer to kindergarten programs offered in Western Australian public primary schools, and I ask:

(a) can the Minister provide a list of all public primary schools who currently offer a kindergarten program; and

(b) of those schools referred to in (a), what was the total number of kindergarten enrolments in:

(i) 2018; and

(ii) 2019?

**Hon Sue Ellery replied:**

(a) Data on public schools that offered a Kindergarten program are collected as part of the Semester Two (August) student census. The data for 2019 will be available from mid-September 2019.

In the interim, the tabled paper lists the public schools that had at least one Kindergarten student enrolled and attending as at the 2019 Semester One (February) student census.

[See tabled paper no 2984.]

(b) (i) 24 644

(ii) 24 397

ENERGY — POWER OUTAGES — PERTH HILLS

**2305. Hon Donna Faragher to the minister representing the Minister for Energy:**

(1) Since 1 July 2018, how many power outages have occurred in:

(a) Gidgegannup;

(b) Darlington;

(c) Chidlow;

(d) Stoneville; and

(e) Parkerville?

(2) For each township referred to in (1), what was the cause of each outage?

**Hon Stephen Dawson replied:**

(1) Please note, some of the below locations experienced the same outage.

(a) Gidgegannup –130

(b) Darlington – 28

(c) Chidlow – 33

(d) Stoneville – 22

(e) Parkerville – 50

(2) (a) Gidgegannup

| **Cause** | **Number of outages** |
|---|---|
| Planned outage | 36 |
| Emergency outage for hazard | 33 |
| Vegetation | 10 |
| Fire (not pole top fire) | 1 |
| Animal | 6 |
| Bird | 4 |
| Customer Installation or Appliance | 4 |
| Vehicle | 1 |
| Equipment Failure | 11 |
| Lightning | 3 |
| Wind or wind Bourne Debris | 2 |
| Unknown | 19 |

(b) Darlington

| **Cause** | **Number of outages** |
|---|---|
| Planned outage | 7 |
| Emergency outage for hazard | 3 |
| Vegetation | 1 |
| Bird | 2 |
| Customer Installation or Appliance | 4 |
| Equipment Failure | 6 |
| Unknown | 5 |

(c) Chidlow

| **Cause** | **Number of outages** |
|---|---|
| Planned outage | 4 |
| Emergency outage for hazard | 7 |

| | |
|---|---|
| Fire (not pole top fire) | 2 |
| Customer Installation or Appliance | 2 |
| Vehicle | 1 |
| Equipment Failure | 6 |
| Wind or wind Bourne Debris | 3 |
| Unknown | 8 |

(d) Stoneville

| **Cause** | **Number of outages** |
|---|---|
| Planned outage | 3 |
| Emergency outage for hazard | 5 |
| Vegetation | 2 |
| Animal | 1 |
| Bird | 2 |
| Equipment Failure | 1 |
| Wind or wind Bourne Debris | 1 |
| Unknown | 7 |

(e) Parkerville

| **Cause** | **Number of outages** |
|---|---|
| Planned outage | 14 |
| Emergency outage for hazard | 5 |
| Vegetation | 1 |
| Bird | 5 |
| Customer Installation or Appliance | 1 |
| Equipment Failure | 7 |
| Wind or wind Bourne Debris | 1 |
| Machine or Tool | 1 |
| Vandalism or wilful damage | 1 |
| Unknown | 14 |

TREASURY AND FINANCE — LAND TAX REVENUE

**2306. Hon Tjorn Sibma to the minister representing the Treasurer:**

For the financial year 2018–19, can the Minister provide in tabular form, the amount of land tax revenue received by the State Government by each of the following scales:

(a) $300,001 – $420,000;

(b) $420,001 – $1,000,000;

(c) $1,000,001 – $1,800,000;

(d) $1,800,001 – $5,000,000;

(e) $5,000,001 – $11,000,000; and

(f) $11,000,000 +?

**Hon Stephen Dawson replied:**

The Treasurer is due to table the 2018–19 Annual Report on State Finances before the end of September 2019. This report will include audited financial outcomes, including land tax collected for the 2018–19 financial year.

If the member has specific questions in relation to the 2018–19 Annual Report on State Finances I would ask that they be held over until after the report is tabled.

TREASURY AND FINANCE — PAYROLL TAX REVENUE

**2307. Hon Tjorn Sibma to the minister representing the Treasurer:**

(1) Of those companies who paid the lowest payroll tax threshold, $850,000 – $7.5 million, throughout the recently completed 2018–19 financial year, I seek for the following bands within this threshold:

(a) $850,000 – $1.5 million;

(b) $1,500,001 – $2.5 million;

(c) $2,500,001 – $3.5 million;

(d) $3,500,001 – $4.5 million;

(e) $4,500,001 – $5.5 million;

(f) $5,500,001 – $6.5 million; and

(g) $6,500,001 – $7.5 million?

(2) Will the Treasurer please provide information pertaining to:

(a) the estimated number of companies within these bands;

(b) the industry sector to which these companies belong; and

(c) the total payroll tax revenue received from each industry sector within each band?

**Hon Stephen Dawson replied:**

The Treasurer is due to table the 2018–19 Annual Report on State Finances before the end of September 2019. This report will include audited financial outcomes, including payroll tax collected for the 2018–19 financial year.

If the member has specific questions in relation to the 2018–19 Annual Report on State Finances I would ask that they be held over until after the report is tabled.

MINISTER FOR HOUSING — GERALDTON VISIT

**2308. Hon Martin Aldridge to the minister representing the Minister for Housing; Veterans Issues; Youth; Asian Engagement:**

I refer to the Minister's visit to Geraldton on 10 and 11 July 2019, and ask the Minister:

(a) to please provide an unredacted copy of the Ministers itinerary and travel arrangements;

(b) to please provide all briefing notes and advice provided to the Minister in relation to meetings, functions and other commitments undertaken by the Minister;

(c) who accompanied the Minister during the visit and at each meeting, function or other commitments undertaken by the Minister; and

(d) on what date, at what time and by what means were the following local members of Parliament notified of the Minister's visit:

(i) Hon Martin Aldridge MLC;

(ii) Hon Colin de Grussa MLC;

(iii) Hon Laurie Graham MLC;

(iv) Hon Rick Mazza MLC;

(v) Hon Darren West MLC;

(vi) Hon Jim Chown MLC; and

(vii) Hon Ian Blayney MLA?

**Hon Stephen Dawson replied:**

(a)–(c) On 10 and 11 July 2019 the Minister visited/met with

Spalding Community Garden

Dismantle Inc.

Representatives from the Not for Profit sector

Midwest Aboriginal Organisations Alliance

STAY (short term accommodation for youth)

The City of Greater Geraldton

Department of Communities Office

Hon Darren West MLC accompanied the Minister to a number of the above.

The Minister was also accompanied by staff from his Ministerial Office.

(d) (i)–(vii) Hon Darren West MLC assisted in coordinating the itinerary.

Emails were sent to the other members on 9 July 2019.

Emails of this nature are sent as a courtesy. If the member finds them a nuisance, he can reply asking to be removed from future correspondence.

MINISTER FOR SENIORS AND AGEING — ROE ELECTORATE VISIT

**2309. Hon Martin Aldridge to the Leader of the House representing the Minister for Seniors and Ageing; Volunteering; Sport and Recreation:**

I refer to the Minister's visit to the Roe electorate on Monday 6 May 2019, and I ask the Minister:

(a) to please provide an unredacted copy of the Ministers itinerary and travel arrangements;

(b) to please provide all briefing notes and advice provided to the Minister in relation to meetings, functions and other commitments undertaken by the Minister;

(c) who accompanied the Minister during the visit and at each meeting, function or other commitments undertaken by the Minister; and

(d) on what date, at what time and by what means were the following local members of Parliament notified of the Minister's visit:

(i) Hon Martin Aldridge MLC;

(ii) Hon Colin de Grussa MLC;

(iii) Hon Laurie Graham MLC;

(iv) Hon Rick Mazza MLC;

(v) Hon Jim Chown MLC;

(vi) Hon Darren West MLC; and

(vii) Peter Rundle MLA?

**Hon Sue Ellery replied:**

(a)–(c) 3.30pm The Minister attended and spoke at the Esperance Indoor Sports Stadium Sod Turning.

The Minister was staffed by his Senior Media Adviser and was flown to Esperance as per the usual arrangements. The Shire of Esperance provided transport for the Minister within Esperance.

For the benefit of the Honourable Member, the email notification received contained contact information if he required further detail.

(d) (i) Via email at 10.48am 6th May 2019.

(ii) Via email at 10.48am 6th May 2019.

(iii) Not directly notified.

(iv) Via email at 10.48am 6th May 2019.

(v) Via email at 10.48am 6th May 2019.

(vi) Via email at 10.10am 29th April 2019.

(vii) Via email at 10.48am 6th May 2019.

MINISTER FOR MINES AND PETROLEUM — AGRICULTURAL REGION VISIT

**2310. Hon Martin Aldridge to the minister representing the Minister for Mines and Petroleum; Industrial Relations:**

I refer to the Minister's visit to the Agricultural Region on 26 April 2019, and I ask the Minister:

(a) to please provide an unredacted copy of the Ministers itinerary and travel arrangements;

(b) to please provide all briefing notes and advice provided to the Minister in relation to meetings, functions and other commitments undertaken by the Minister;

(c) who accompanied the Minister during the visit and at each meeting, function or other commitments undertaken by the Minister; and

(d) on what date, at what time and by what means were the following local members of Parliament notified of the Minister's visit:

(i) Hon Martin Aldridge MLC;

(ii) Hon Colin de Grussa MLC;

(iii) Hon Laurie Graham MLC;

(iv) Hon Rick Mazza MLC;

(v) Hon Jim Chown MLC; and

(vi) Hon Darren West MLC?

**Hon Alannah MacTiernan replied:**

(a)–(c)

| | |
|---|---|
| 7:40 AM | Driver: Residence to Maroomba Airlines |
| 8:15 AM | Depart Perth – AirCharter Flight |
| | Attendees: |
| | Hon Darren West MLC |
| | Research Officer to Darren West MLC |
| | Executive Manager Asset Management, Western Power |
| | Head of Stakeholder and Communications, Western Power |
| | Government Relations Manager, Western Power |
| | Senior Policy Adviser to Hon Bill Johnston MLA |
| 9:15 AM | Arrive Geraldton |
| 10:10 AM | Media (radio) – Darren West finalising |
| 10:30 AM | Energy Roundtable hosted by Darren West and Laurie Graham |
| | Venue: *Electorate Office, 84 Marine Terrace, Geraldton* |
| 12:15 PM | Media – Geraldton Guardian |
| 12:30 PM | Depart for Mullewa by car |
| 2:00 PM | Community meeting to discuss Power Issues (all residents invited) |
| | Venue: *Mullewa Recreation Centre, Mullewa* |
| 4.00 PM | Depart Mullewa for Geraldton by car |
| 5.30 PM | Depart Geraldton |
| 6:30 PM | Arrive Perth |
| 6:30 PM | Driver: Maroomba Airlines to Residence |

For the benefit of the honourable member, the notification email he received contained contact information if he required further detail.

(d) (i)–(vi) The relevant members were contacted via email at 4:43pm on 25 April 2019.

MINISTER FOR MINES AND PETROLEUM — AGRICULTURAL REGION VISIT

**2311. Hon Martin Aldridge to the minister representing the Minister for Mines and Petroleum; Industrial Relations:**

I refer to the Minister's visit to the Agricultural Region on 2 May 2019, and I ask the Minister:

(a) to please provide an unredacted copy of the Ministers itinerary and travel arrangements;

(b) to please provide all briefing notes and advice provided to the Minister in relation to meetings, functions and other commitments undertaken by the Minister;

(c) who accompanied the Minister during the visit and at each meeting, function or other commitments undertaken by the Minister; and

(d) on what date, at what time and by what means were the following local members of Parliament notified of the Minister's visit:

(i) Hon Martin Aldridge MLC;

(ii) Hon Colin de Grussa MLC;

(iii) Hon Laurie Graham MLC;

(iv) Hon Rick Mazza MLC;

(v) Hon Jim Chown MLC; and

(vi) Hon Darren West MLC?

**Hon Alannah MacTiernan replied:**

(a)–(c) 8:15 AM Driver: Ministerial office to Badgingarra Wind Farm

11:00 AM Official Opening of the Badgingarra Wind Farm

Venue: *Badgingarra Wind Farm*

Attendees: Senior Media Adviser to Hon Bill Johnston MLA

Principal Policy Adviser to Hon Bill Johnston MLA

12:00PM Driver: Badgingarra Wind Farm to Ministerial office

For the benefit of the honourable member, the notification email he received contained contact information if he required further detail.

(d) (i)–(vi) The relevant members were contacted via email at 4:54pm on 1 May 2019.

MINISTER FOR MINES AND PETROLEUM — AGRICULTURAL REGION VISIT

**2312. Hon Martin Aldridge to the minister for representing the Minister for Mines and Petroleum; Industrial Relations:**

I refer to the Minister's visit to the Agricultural Region on 9 July 2019, and I ask the Minister:

(a) to please provide an unredacted copy of the Ministers itinerary and travel arrangements;

(b) to please provide all briefing notes and advice provided to the Minister in relation to meetings, functions and other commitments undertaken by the Minister;

(c) who accompanied the Minister during the visit and at each meeting, function or other commitments undertaken by the Minister; and

(d) on what date, at what time and by what means were the following local members of Parliament notified of the Minister's visit:

(i) Hon Martin Aldridge MLC;

(ii) Hon Colin de Grussa MLC;

(iii) Hon Laurie Graham MLC;

(iv) Hon Rick Mazza MLC;

(v) Hon Jim Chown MLC; and

(vi) Hon Darren West MLC?

**Hon Alannah MacTiernan replied:**

(a)–(c) 8:00 AM Driver: Ministerial Office to Boddington Gold Mine

10:00 AM Newmont GoldCorp Boddington Gold Site Visit

Venue: *Boddington Gold Mine*

Attendees: Principal Policy Adviser to Hon Bill Johnston MLA

Itinerary:

| | |
|---|---|
| 10:00am | Arrive at Newmont Goldcorp Boddington security gate |
| 10:00am – 10:20am | Security entry process and drive to Office (Transported in NBG vehicle) |
| 10:30am – 11:00am | Boardroom briefing with General Manager and Site Leadership Team (includes morning tea) |
| 11:00 am – 12:45 pm | Site tour including South Pit Lookout and Reside Disposal Area visit |
| 12:50 pm | Return to front gate for departure |

12:50 PM Driver: Boddington Gold Mine to Ministerial Office

For the benefit of the honourable member, the notification email he received contained contact information if he required further detail.

(d) (i)–(vi) The relevant members were contacted via email at 4:28pm on 8 July 2019.

AGRICULTURE AND FOOD — PFAS CONTAMINATION

**2314. Hon Charles Smith to the Minister for Regional Development; Agriculture and Food; Ports; Minister Assisting the Minister for State Development, Jobs and Trade:**

(1) In reference to the beef that is sold to the wider community of Western Australia from the per- and polyfluoroalkyl substances (PFAS) contaminated investigation area of Bullsbrook, Western Australia, I have been made aware that the cattle raised on Defence leased land, located in the PFAS Investigation area of Bullsbrook, drink from wells and surface water and go to market for consumption from the wider community of Western Australia. I ask the Minister to:

(a) please advise of the PFAS tests conducted on these cattle and the readings/test results of PFAS in their bodies; and

(b) the PFAS readings from the bores which the cattle drink from?

(2) In reference to the sprout farm, Farmland Greens, located in the PFAS investigation area of Bullsbrook, I ask:

(a) will the Minister please advise my office of the PFAS test results of the bores irrigating the sprouts at the location of the sprout farm, 1100 Almeria Parade, Bullsbrook, Western Australia; and

(b) the PFAS test results of the produce, for example: sprouts, alfalfa, etc. being sold to supermarkets all around Western Australia?

**Hon Alannah MacTiernan replied:**

Please refer to the answer provided to question on notice 2315.

AGRICULTURE AND FOOD — PFAS CONTAMINATION

**2315. Hon Charles Smith to the Minister for Environment:**

(1) In reference to the beef that is sold to the wider community of Western Australia from the per- and polyfluoroalkyl substances (PFAS) contaminated investigation area of Bullsbrook, Western Australia, I have been made aware that the cattle raised on Defence leased land, located in the PFAS Investigation area of Bullsbrook, drink from wells and surface water and go to market for consumption from the wider community of Western Australia. I ask the Minister to:

(a) please advise of the PFAS tests conducted on these cattle and the readings/test results of PFAS in their bodies; and

(b) the PFAS readings from the bores which the cattle drink from?

(2) In reference to the sprout farm, Farmland Greens, located in the PFAS investigation area of Bullsbrook, I ask:

(a) will the Minister please advise my office of the PFAS test results of the bores irrigating the sprouts at the location of the sprout farm, 1100 Almeria Parade, Bullsbrook, Western Australia; and

(b) the PFAS test results of the produce, for example: sprouts, alfalfa, etc. being sold to supermarkets all around Western Australia?

**Hon Stephen Dawson replied:**

RAAF Base Pearce falls within Commonwealth jurisdiction. In accordance with the principles of the Intergovernmental Agreement on a National Framework for Responding to PFAS Contamination, the Department of Defence (DoD) is carrying out investigations and risk assessments to manage the risks associated with PFAS contamination at RAAF Base Pearce, including groundwater impacts in West Bullsbrook. To provide you with some background that may assist you in your inquiries, the Western Australian Department of Water and Environmental Regulation (DWER) has provided the following.

(1) (a) DWER has been advised by DoD that cattle raised on DoD-owned property located within the Pearce investigation area are for stud purposes only and are not sold for meat consumption. No PFAS tests were conducted on these cattle.

(b) DWER has not been provided with the results of water testing at this property. The Department has been advised by DoD that groundwater and surface water samples were collected across the property. The DoD's Ecological Risk Assessment for Pearce determined that there is a low risk of adverse effects from PFAS exposure to cattle on the property.

(2) In reference to the sprout farm, Farmland Greens:

(a)–(b) DWER has not been provided with the results of water testing at this property. For information regarding human health risks, the final Human Health Risk Assessment (HHRA) is available on the DoD's website. As part of the HHRA, samples of fruit and vegetables grown in the investigation area and irrigated with bore water were tested, and no PFAS were detected in any of the samples.

MINISTER FOR REGIONAL DEVELOPMENT — KATANNING VISIT

**2316. Hon Martin Aldridge to the Minister for Regional Development:**

I refer to the Minister's visit to Katanning on 14 June 2019, and ask:

(a) will the Minister please provide an unredacted copy of the Ministers' itinerary and travel arrangements;

(b) will the Minister please provide all briefing notes and advice provided to the Minister in relation to meetings, functions and other commitments undertaken by the Minister;

(c) who accompanied the Minister during the visit and at each meeting, function or other commitments undertaken by the Minister; and

(d) on what date, at what time and by what means were the following local members of Parliament notified of the Minister's visit:

(i) Hon Martin Aldridge MLC;

(ii) Hon Colin de Grussa MLC;

(iii) Hon Laurie Graham MLC;

(iv) Hon Rick Mazza MLC;

(v) Hon Darren West MLC;

(vi) Hon Jim Chown MLC; and

(vii) Peter Rundle MLA?

**Hon Alannah MacTiernan replied:**

(a)–(b) [See tabled paper no 2987.]

(c) Chief of Staff and Senior Policy Advisor

(d) My Parliamentary Secretary Hon Darren West MLC was involved in the planning of the visit. No other members of Parliament were notified by my office as the principal event was being hosted by the Shire of Katanning. I understand the Shire of Katanning did invite other MPs to the event as Peter Rundle and Hon Colin de Grussa were in attendance.

PFAS CONTAMINATION — GNANGARA MOUND

**2317. Hon Charles Smith to the Minister for Regional Development; Agriculture and Food; Ports; Minister Assisting the Minister for State Development, Jobs and Trade:**

In reference to per- and polyfluoroalkyl substances (PFAS) contamination of the Gnangara Mound, I ask:

(a) what are the PFAS readings of the bores located in the market gardens, surrounding the highly contaminated site of Gingin Satellite Airfield, all of which supply produce to the wider community of Western Australia; and

(b) will the Minister please also supply the PFAS results from the produce within these market gardens?

**Hon Alannah MacTiernan replied:**

Please refer to the answer provided to question on notice 2318.

PFAS CONTAMINATION — GNANGARA MOUND

**2318. Hon Charles Smith to the Minister for Environment:**

In reference to per- and polyfluoroalkyl substances (PFAS) contamination of the Gnangara Mound, I ask:

(a) what are the PFAS readings of the bores located in the market gardens, surrounding the highly contaminated site of Gingin Satellite Airfield, all of which supply produce to the wider community of Western Australia; and

(b) will the Minister please also supply the PFAS results from the produce within these market gardens?

**Hon Stephen Dawson replied:**

Gingin Satellite Airfield falls within Commonwealth jurisdiction. In accordance with the principles of the *Intergovernmental Agreement on a National Framework for Responding to PFAS Contamination*, the Department of Defence (DoD) is responsible for carrying out investigations and risk assessments to manage the risks associated with PFAS impacts at Gingin Satellite Airfield, both on and off the airfield. To provide you with some background that may assist you in your inquiries, the Western Australian Department of Water and Environmental Regulation (DWER) provided the following:

(a)–(b) A number of properties used for growing soft fruit (strawberries) and/or vegetables for commercial sale lie approximately one kilometre to the east of the airfield boundary.

DWER has been advised that investigations carried out by the DoD have confirmed that groundwater flow direction at the airfield is towards the west south-west (i.e. away from all properties to the east). The DoD has informed DWER that bore water samples were collected from properties, that are also to the

east, but closer to the airfield than the market gardens. PFAS was not detected in any of the bore water samples from these closer properties. Given the groundwater flow direction and the sampling results, the DoD did not consider it necessary to collect groundwater samples from the market gardens, or to sample produce.

There are no market gardens or primary producers located to the west or south-west of Gingin Satellite Airfield, within a distance of 15 km of the airfield.

CORRECTIVE SERVICES — SEXUALLY TRANSMITTED INFECTIONS AND BLOODBORNE VIRUSES

**2319. Hon Alison Xamon to the minister representing the Minister for Corrective Services:**

I refer to the governments' new strategies to respond to and reduce the rate of sexually transmitted infections in Western Australia, and I ask:

(a) are all prisoners routinely offered testing for sexually transmitted infections (STI)/blood borne viruses (BBV);

(b) if no to (a), why not;

(c) for each prison and Banksia Hill Detention Centre:

(i) how many prisoners/detainees were tested in 2018–19; and

(ii) how many prisoners/detainees were treated for STI/BBV in 2018–19;

(d) has the Department of Justice undertaken any co-operative work with WA Health to tackle rising STI/BBV infection rates in Western Australia;

(e) if yes to (d), please advise what work has been done; and

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

**Hon Stephen Dawson replied:**

(a) Yes. All prisoners entering custodial facilities in WA are routinely offered testing for sexually transmitted infections (STIs) and blood borne viruses (BBVs). All testing is voluntary. Any prisoner who declines screening on admission may subsequently request testing at any other time, for example in response to an at risk event, or if they have been advised they may have an infection. Screening/testing is available at all adult prisons as well as Banksia Hill Detention Centre.

(b) Not applicable.

(c) (i) 5973 for STIs and 4607 for BBVs. In the 12 month period between July 2018 and June 2019 the Department has had 245 patients commence treatment for Hepatitis C.

(ii) The Department does not collate this data in the requested format and it would be an onerous and time consuming task for the data to be obtained manually.

(d) Yes.

(e) The Department of Justice participates in State and National committees dedicated to surveillance and reporting of STIs/BBVs. WA Health resources aimed at increasing awareness of STIs are made available to prisoners. All clinicians are advised when treatment guidelines are updated.

(f) Not applicable.

HEALTH — SEXUALLY TRANSMITTED INFECTIONS — PRISONS

**2320. Hon Alison Xamon to the parliamentary secretary representing the Minister for Health:**

I refer to the governments' new strategies to respond to and reduce the rate of sexually transmitted infections in Western Australia, and I ask:

(a) has WA Health done any work with the Department of Justice to tackle infection rates in prisoners;

(b) if yes to (a), please advise what work has been done; and

(c) if no to (a), why not?

**Hon Alanna Clohesy replied:**

I am advised:

(a) Yes.

(b) Priority target populations in the Department of Health (DOH) WA Sexually Transmissible Infections (STI) Strategy include 'people in or recently exited custodial settings'. The Department of Justice (DoJ) were consulted in the development of the STI strategy, and are also on the membership of the WA Sexual Health and Blood-Borne Virus Advisory Committee (WA SHABBVAC). Primary care for people in custodial settings is the responsibility of the DoJ health and medical services. All people entering into custodial settings are offered comprehensive STI and Blood-borne virus screening, and are appropriately treated and followed up.

The DOH provides STI workforce development for a diverse range of healthcare professionals, which includes DoJ health and medical services. This includes face-to-face and online training opportunities and resources. The Sexual Health and Blood-Borne Virus Program's Integrated Case Management team, and the SHAPE team at the WA AIDS Council, work with people living with HIV who have complex needs. Part of their role is to provide HIV, STI prevention education and support clients prior to, while incarcerated and following release from custodial settings.

The DoJ provide a 'health in prison, health out of prison' (HIP-HOP) STI and BBV education package for prisoners on entry and exit from custodial settings. The DoH collaborated with DoJ to develop this package. This package is delivered to prisoners by government and non-government agencies, contracted by the DoJ. STI health promotion resources developed by the DOH are made available to the DoJ.

(c) Not applicable.

POLICE — FATAL AND SERIOUS INJURY TRAFFIC CRASHES

**2321. Hon Aaron Stonehouse to the minister representing the Minister for Police:**

I refer the Minister to Legislative Assembly question on notice 2683, answered by the then Minister for Police on 16 October 2007, and I ask what are the most recent and comparable annual Traffic Enforcement and Crash Executive Information System figures corresponding with each cause listed in part (e) of the Minister's answer to that question?

**Hon Stephen Dawson replied:**

The Western Australian Police Force advise:

The number of fatal and serious road crash injuries in 2018 in Western Australia:

| **Accident Cause** | **#** | **%** |
|---|---|---|
| Alcohol | 15 | 4.7% |
| Alcohol/Drugs | 0 | 0.0% |
| Alcohol/Speed | 18 | 5.6% |
| Animals | 2 | 0.6% |
| Careless | 33 | 10.3% |
| Contravene TCL | 4 | 1.3% |
| Drugs | 7 | 2.2% |
| Fail to give way | 20 | 6.3% |
| Fallen load | 1 | 0.3% |
| Fatigue | 13 | 4.1% |
| Give way contravened | 3 | 0.9% |
| Heart attack | 0 | 0.0% |
| Inattention | 59 | 18.5% |
| Inexperience | 8 | 2.5% |
| Load condition | 1 | 0.3% |
| Load shift | 0 | 0.0% |
| Mechanical | 0 | 0.0% |
| Object through window | 0 | 0.0% |
| Other medical | 3 | 0.9% |
| Overtaking | 5 | 1.6% |
| Person fell from Vehicle | 2 | 0.6% |
| Reckless | 17 | 5.3% |
| Road Condition | 2 | 0.6% |
| Speed | 25 | 7.8% |
| Stop sign | 2 | 0.6% |
| Travel too close | 1 | 0.3% |
| Turn in front | 0 | 0.0% |
| Tyre blow out | 10 | 3.1% |
| Unknown | 67 | 21.0% |
| Visibility | 0 | 0.0% |

| | | |
|---|---|---|
| Weather Conditions | 1 | 0.3% |
| **Total** | **319** | **100.0%** |

Note: Figures are provisional and subject to revision. Figures are the most accurate replication possible of the data provided in 2007; however, due to changes in processes and software over the past 12 years, the exact methodology used at that time cannot be confirmed. Figures are a count of fatal and serious injuries as a result of a road crash, based on the date the crash occurred. The causal determination is based on the judgement of the Attending Officer using evidence and information as presented at the crash scene. Where there appears to be more than one causal factor, the main causal factor is a judgement based upon their interpretation of the crash scene. Further, the causal determination may be reviewed and amended following subsequent investigation of the crash. Figures exclude crashes which did not result in a fatality or serious injury, or where the crash occurred on private property or a closed road; where no moving vehicle was involved (such as a pedestrian making contact with a parked car); where the impact was caused by an 'act of nature' (such as a falling tree branch), an act of deliberate intent (such as murder), or where the injuries were not primarily caused by the impact of a vehicle (such as a heart attack). The 'unknown' figure relates to ongoing investigations.

CORRECTIVE SERVICES — FINE DEFAULT IMPRISONMENTS

**2322. Hon Alison Xamon to the minister representing the Minister for Corrective Services:**

I refer to the imprisonment of people for fine default in Western Australia, and I ask:

(a) how many adults are currently in custody for fine default only;

(b) how many adults are currently in custody whose most serious offence was a Traffic and Vehicle Regulatory Offence as per the Australian and New Zealand Standard Offence Classification (ANZSOC), Division 14;

(c) how many of the individuals referred to in (a) and (b) are:

(i) women; and

(ii) Aboriginal;

(d) what offences have the individuals in (b) been convicted of; and

(e) how long have the individuals in (b) been in custody?

**Hon Stephen Dawson replied:**

As at midnight on August 11 2019:

(a) One adult in custody for fine default only;

(b) 98 adults in custody where most serious offence was a Traffic and Vehicle Regulatory Offence as per the Australian and New Zealand Standard Offence Classification (ANZSOC), Division 14;

(c) (i) 14 women in total, none for fine default only.

(ii) 29 prisoners who identified as Aboriginal, none for fine default only.

(d)–(e) Adults in Custody at Midnight on Aug 11 2019, where Most Serious Offence in ANZSOC Division 14.

| **Offence** | **Prisoners** | **Days in Custody (to date)**[1] | | |
|---|---|---|---|---|
| | | **Min** | **Max** | **Mean** |
| Driver failed to stop and ensure assistance received after incident occasioning bodily harm | 1 | 333 | 333 | 333 |
| Driver of a vehicle failed to comply with a direction to stop (circumstance of aggravation) | 2 | 135 | 354 | 244 |
| No authority to drive – cancelled | 24 | 20 | 409 | 134 |
| No authority to drive – never held an Australian licence and disqualified from holding or obtaining | 11 | 12 | 256 | 120 |
| No authority to drive – suspended (other than fines suspension) | 59 | 7 | 521 | 126 |
| No authority to drive disqualified/suspended (other than fines suspension) under section 49(3)(c) | 1 | 105 | 105 | 105 |

[1] *The number of days in custody since reception, including any time spent on remand; for each of the offences listed:*

*Min – the least number of days in custody so far by a prisoner with that offence.*

*Max – the most number of days in custody so far by a prisoner with that offence.*

*Mean – the average number of days in custody so far by a prisoner with that offence.*

PRISONS AND DETENTION CENTRES — SEXUAL ASSAULTS

**2324. Hon Alison Xamon to the minister representing the Minister for Corrective Services:**

Would the Minister please advise the number of sexual assaults in each Western Australian prison and in Banksia Hill Detention Centre for 2018–19?

**Hon Stephen Dawson replied:**

Reported Sexual Assaults[1] by Facility for Financial Year 2018/2019:

| **Facility** | **Victims** |
|---|---|
| Acacia Prison | 11 |
| Albany Regional Prison | 1 |
| Bandyup Womens Prison | 3 |
| Banksia Hill Detention Centre | 0 |
| Boronia Pre Release Centre | 0 |
| Broome Regional Prison | 0 |
| Bunbury Regional Prison | 0 |
| Casuarina Prison | 1 |
| Eastern Goldfields Regional Prison | 0 |
| Greenough Regional Prison | 0 |
| Hakea Prison | 11 |
| Karnet Prison Farm | 0 |
| Melaleuca Remand and Reintegration Facility | 6 |
| Pardelup Prison Farm | 0 |
| Roebourne Regional Prison | 0 |
| Wandoo Rehabilitation Prison | 0 |
| Wandoo Reintegration Facility | 0 |
| West Kimberley Regional Prison | 1 |
| Wooroloo Prison Farm | 0 |
| **Total** | **34** |

[1] A sexual assault is defined as a critical incident where any sexual act is carried out:

Without a person's consent

Where consent is given as a result of intimidation or fraud

Where consent is proscribed (i.e. the person is legally deemed incapable of giving consent because of youth, temporary/permanent (mental) incapacity or there is a familial relationship etc.)

Where consent could not be given freely and voluntarily (e.g. due to the victim being intoxicated or unconscious) regardless of whether the sexual assault results in injury or medical treatment.

Sexual assaults include where the victim reports that any person in any manner has sexually assaulted him/her or there is clear evidence of such as assault having occurred. All sexual assaults or allegations are reported to the Western Australia Police Force within 24 hours of the incident occurring.

BANKSIA HILL DETENTION CENTRE — HEALTH AND MENTAL HEALTH SERVICES

**2325. Hon Alison Xamon to the minister representing the Minister for Corrective Services:**

I refer to Banksia Hill Detention Centre, and I ask:

(a) what was the average daily population in 2018–19;

(b) what was the expenditure on Health Services in 2018–19;

(c) what was the expenditure on Mental Health and Alcohol and Other Drug Services in 2018–19; and

(d) what was the expenditure on Youth Psychological Services in 2018–19?

**Hon Stephen Dawson replied:**

(a) 134

(b) $1.47m. This total excludes any Head Office or additional Pharmacy costs.

(c) The overall expenditure on Mental Health and Alcohol and Other Drug Services across Adults and Youth Services in 18/19 was $4.041m. The individual costing for BHDC has not been extracted from the overall amount.

(d) $2,604,927 (inclusive of $555,627 expenditure which relates to psychiatric reports).

BANKSIA HILL DETENTION CENTRE — DRUG AND ALCOHOL PROGRAMS

**2326. Hon Alison Xamon to the minister representing the Minister for Corrective Services:**

How many young people have received a court referral to a drug and alcohol program, but are currently accommodated in Banksia Hill Detention Centre because there is no space available in a drug and alcohol program?

**Hon Stephen Dawson replied:**

As at 8 August 2019 – 1.

BANKSIA HILL DETENTION CENTRE — MENTAL HEALTH STAFF

**2327. Hon Alison Xamon to the minister representing the Minister for Corrective Services:**

I refer to psychologists and mental health nurses employed by, or contracted to, the Department of Corrective services, and I ask, for each adult prison and for Banksia Hill Detention Centre, will the Minister please provide:

(a) the current psychologist FTE;

(b) the number of psychologist FTE that are currently vacant;

(c) the current mental health nurse FTE; and

(d) the number of mental health nurse FTE that are currently vacant?

**Hon Stephen Dawson replied:**

(a) Adult Prisons 129.2 noting this includes Prison Counselling Services, Individual Treatment Services, Treatment Assessors and Criminogenic Programs. Both Psychologists and Social Workers make up this FTE and it would be an onerous and time consuming task for the Department to separate them out.

BHDC 5.

(b) Adult Prisons 12.5

BHDC 1.4.

(c) Adult Prisons 23.66

BHDC 1.

(d) Adult Prisons 2

BHDC 1.

This figure does not include figures for Acacia, Melaleuca or Wandoo. It does not include figures for the 29 external service providers.

BANKSIA HILL DETENTION CENTRE —
NATIONAL DISABILITY INSURANCE SCHEME APPLICATIONS

**2328. Hon Alison Xamon to the minister representing the Minister for Corrective Services:**

How many young people in Banksia Hill Detention Centre were supported to apply for the National Disability Insurance Scheme in:

(a) 2018; and

(b) 2019 to date?

**Hon Stephen Dawson replied:**

(a)–(b) Nil.

This information is not currently collected electronically. The Department of Communities, Disability Services are still transferring their client list across to the National Disability Insurance Scheme and as such the roll-out is not yet complete.

CORRECTIVE SERVICES — ABORIGINAL VISITORS SCHEME

**2329. Hon Alison Xamon to the minister representing the Minister for Corrective Services:**

I refer to the Aboriginal Visitors Scheme (AVS), and I ask:

(a) how many FTE are currently employed in the AVS;

(b) how many individual staff are employed in the AVS; and

(c) which facilities are currently regularly visited by staff from the AVS, and how often do they visit each site?

**Hon Stephen Dawson replied:**

(a) Six (6) FTE are currently employed in the AVS;

(b) 30 individual staff are currently contracted by AVS.

(c) The following sites receive visits from AVS:

| **Prison Site** | **Visits per week** |
|---|---|
| Bandyup Women's Prison | 4 days |
| Hakea Prison | 4 days |
| Casuarina Prison | 4 days |
| Banksia Hill Detention Centre | 4 days |
| Melaleuca Remand Prison | 4 days |
| Broome Regional Prison | 3 days |
| Eastern Goldfields Regional Prison | 3 days |
| Albany Regional Prison | 3 days |
| Boronia Pre-Release Facility | 1 day |

POLICE — "DIVERTING YOUNG PEOPLE AWAY FROM COURT" REPORT

**2331. Hon Alison Xamon to the minister representing the Minister for Police; Road Safety:**

I refer to the findings of the Auditor General's 2017 report, *Diverting Young People Away From Court*, and I ask:

(a) how many young people aged under 18 years committed offences in:

  (i) 2016;

  (ii) 2017;

  (iii) 2018; and

  (iv) 2019 to date;

(b) how many offences were committed by young people in:

  (i) 2016;

  (ii) 2017;

  (iii) 2018; and

  (iv) 2019 to date;

(c) how many of the offences from (b) were eligible for diversion by police in:

  (i) 2016;

  (ii) 2017;

  (iii) 2018; and

  (iv) 2019 to date;

(d) for each year from 2016 to 2019 to date, how many of the offences from (b) resulted in:

  (i) caution by police;

  (ii) referral to a juvenile justice team;

  (iii) issue of an infringement;

  (iv) diversion to a cannabis intervention program; and

  (v) any other diversion before court;

(e) do Western Australia Police currently record reasons for choosing not to divert, as was recommended by the Auditor General in 2017;

(f) if yes to (e), what were the main reasons young people were not diverted by police in:

  (i) 2018; and

  (ii) 2019 to date; and

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

**Hon Stephen Dawson replied:**

The Western Australian Police Force advise:

(a)–(d) [See tabled paper no 2988.]

(e)–(g) The WA Police Force continue to improve services to address recommendations in the report. The newly established Youth Policing Division is working to enhance existing Western Australia Police Force systems to record the main reasons young people were not diverted by police.

CHILDREN IN CARE — RESIDENTIAL CARE PLACEMENTS

**2332. Hon Alison Xamon to the Leader of the House representing the Minister for Child Protection:**

I refer to children in the care of the CEO who are in residential care placements, and I ask:

(a) how many children are currently in residential care placements;

(b) what ages are the children in (a);

(c) how many of the children in (a) are:

(i) Aboriginal;

(ii) male;

(iii) have been diagnosed with a disability; and

(iv) have been diagnosed with fetal alcohol spectrum disorder (FASD); and

(d) will the Minister please advise the average length of time the children in (a) have been in residential care for:

(i) all children currently in residential care;

(ii) children aged 12 years and under;

(iii) children aged 10 years and under;

(iv) children with a diagnosed disability; and

(v) children with a FASD diagnosis?

**Hon Sue Ellery replied:**

The data below was captured on 30 June 2019.

(a) There were 403 children in residential care placements.

(b) The number of children by age group is as follows:

13 aged 1 to 4 years;

81 aged 5 to 9 years;

185 aged 10 to 14 years; and

124 aged 15 years and older.

(c) The characteristics of the children were as follows:

(i) 243 Aboriginal and 160 non-Aboriginal;

(ii) 228 male and 175 female;

(iii) 52 have a recorded disability; and

(iv) 12 with a record of foetal alcohol spectrum disorder (FASD).

(d) The average length of time these children have been in residential care is as follows:

(i) 340 days for all children;

(ii) 344 days for children aged 12 years and under;

(iii) 356 days for children aged 10 years and under;

(iv) 85 days for children with a recorded disability; and

(v) 321 days for children with a record of FASD.

LEGAL AFFAIRS — PRISONER ACCESS TO MAGISTRATES AND MENTAL HEALTH TREATMENT

**2333. Hon Alison Xamon to the Leader of the House representing the Attorney General:**

I refer to the Office of the Inspector of Custodial Services 2018 report, *Prisoner access to secure mental health treatment*, and to concerns regarding the lack of assistance available to magistrates over the weekend to assess whether a hospital order is appropriate, and I ask:

(a) has this issue now been addressed;

(b) if yes to (a), how;

(c) if no to (a), why not; and

(d) how many individuals were remanded in custody over a weekend waiting for an assessment about their ability to be in court in 2019 to date?

**Hon Sue Ellery replied:**

(a) No.

(b) Not applicable.

(c) Funding was provided for the Northbridge Court for Sunday sittings that mirrored the services provided for the Saturday sittings which comprised funding for a magistrate and support staff, Legal Aid services, Police prosecuting services, Adult Community Correction services and court custody and security service.

(d) This information is not recorded in the Court's case management system.

BANKSIA HILL DETENTION CENTRE — EDUCATION

**2334. Hon Alison Xamon to the minister representing the Minister for Corrective Services:**

I refer to young people accommodated in Banksia Hill Detention Centre (Banksia Hill), and I ask:

(a) how many young people were accommodated in Banksia Hill in 2018–19;

(b) how many of the young people from (a) did not attend education or training in 2018–19;

(c) how many of the young people from (b) are:

(i) Aboriginal; and

(ii) male;

(d) for each young person who did not attend education or training while in Banksia Hill in 2018–19:

(i) were they school aged;

(ii) why did they not attend education; and

(iii) how long were they accommodated in Banksia Hill;

(e) what qualifications or units of competency were attained by young people in Banksia Hill Detention Centre in 2018–19; and

(f) will the Minister please advise:

(i) the number of young people attaining each qualification;

(ii) their age; and

(iii) their gender?

**Hon Stephen Dawson replied:**

(a) 762 distinct young people were accommodated overnight with an average daily population of 134.

(b) 15 young people did not attend education or training in 2018–19.

(c) (i) 10 young people are Aboriginal; and

(ii) 9 are male.

(d) (i) 13 out of 15 young people who did not attend education during 2018–19 were compulsory school age.

(ii) Those that did not attend were either in court, being recreation assistants for the day, at the medical centre or had been removed from the program due to behavioural issues.

(iii) 3332 days (total inclusive of the days in custody for the 15 young people).

(e) The qualifications and units of competency that were attained by young people in Banksia Hill in 2018–19 are:

The Certificate of General Education for Adults (CGEA) – Certificates I. Introductory, Certificate I, Certificate II, Certificate III.

Entry to General Education (EGE).

Gaining Access to Training and Employment (GATE).

Skill set from Certificate II in Hospitality (3 units of competency: Prepare and Serve Espresso Coffee, Prepare and Serve Non-Alcoholic Beverages, Use Hygienic Practices for Food Safety).

Prepare to work safely in the construction industry (White Card).

(f) (i) CGEA Cert I Introductory – 1 young person.

CGEA Cert II – 3 young people.

CGEA Cert III – 1 young person.

(ii) 1x 16 years old, 1x 17 year old, 3x 18 year olds.

(iii) All male.

BANKSIA HILL DETENTION CENTRE — SELF-HARM AND ATTEMPTED SUICIDES

**2335. Hon Alison Xamon to the minister representing the Minister for Corrective Services:**

I refer to Banksia Hill Detention Centre, and I ask:

(a) how many incidents of self-harm were there in:

(i) 2018 (calendar year); and

(ii) 2018–19 (financial year); and

(b) how many attempted suicides were there in:

(i) 2018 (calendar year); and

(ii) 2018–19 (financial year)?

**Hon Stephen Dawson replied:**

(a) (i) 172, there were no instances of Serious Self-harm.

(ii) 146, there were no instances of Serious Self-harm.

(b) (i) Nil.

(ii) 1

Self-harm includes self-injury and self-poisoning and is defined as the intentional, direct injuring of body most often done without suicidal intentions.

Serious self-harm relates to the act of self-harm that requires either overnight hospitalisation in a medical facility (including prison clinic/infirmary), or ongoing medical treatment.

Attempted Suicide is the act of self-harm whereby a person attempts to take their own life. Attempted suicides include such examples as attempted hanging, attempted drug overdose, attempted poisoning (other than drugs), serious self-harm (ie extensive mutilation of ones own body) and/or jumping from an elevated platform where the intent of the act was to cause self-harm or death.

COMMUNITY LEGAL CENTRES

**2336. Hon Alison Xamon to the Leader of the House representing the Attorney General:**

I refer to my question without notice 1004 about funding for community legal centres (CLC), and I ask:

(a) has the work to develop a sustainable funding model for community legal centres been completed;

(b) if no to (a), when is it anticipated this work will conclude;

(c) if yes to (a):

(i) what are the outcomes of this work; and

(ii) has a sustainable funding model been identified;

(d) if no to (ii), why not;

(e) if yes to (ii), please provide information about the model;

(f) how much funding has been allocated to community legal centres for 2019–20;

(g) how much funding has been allocated to each CLC; and

(h) what is the source or sources of this funding?

**Hon Sue Ellery replied:**

(a) No.

(b) 31 December 2019.

(c) Not applicable.

(d) The model is still being developed.

(e) Not applicable.

(f) $11,902,941

(g) [See tabled paper no 2985.]

(h) Funding for community legal centres (CLC) is made up of Commonwealth CLC funding (under the National Partnership Agreement on Legal Assistance), State CLC funding and Confiscation of Proceeds of Crime funding from the Department of Justice.

Other State funding for the Environmental Defenders Office ($150,000) is made up of $50,000 each from the Department of Justice, Department of Water and Environmental Regulation and the Department of Biodiversity, Conservation and Attractions.

CORRECTIVE SERVICES — FOETAL ALCOHOL SPECTRUM DISORDER TRAINING

**2337. Hon Alison Xamon to the minister representing the Minister for Corrective Services:**

I refer to the fetal alcohol spectrum disorder (FASD) training developed by the Telethon Kids Institute, and I ask:

(a) how many Youth Justice Services staff who work in community youth justice services have undertaken FASD training; and

(b) where are these staff based?

**Hon Stephen Dawson replied:**

(a) 18 in June 2019. 14 planned in August 2019.

(b) South West Metropolitan Youth Justice Services

South East Metropolitan Youth Justice Services

Central Metropolitan and Wheat belt Youth Justice Services

North Metropolitan Youth Justice Services

Pilbara Regional Youth Justice Services

Goldfields Regional Youth Justice Services

Mid-West Gascoyne Regional Youth Justice Services

Southern Regional Youth Justice Services

East Kimberly Regional Youth Justice Services

West Kimberly Regional Youth Justice Services

BANKSIA HILL DETENTION CENTRE — FOETAL ALCOHOL SPECTRUM DISORDER RESEARCH

**2338. Hon Alison Xamon to the minister representing the Minister for Corrective Services:**

I refer to the Telethon Kids Institute (TKI) research at Banksia Hill Detention Centre (Banksia Hill), and I ask:

(a) subsequent to the completion of TKI's fetal alcohol spectrum disorder (FASD) research project, has the Department of Justice facilitated the provision of any FASD diagnostic or assessment services for children and young people at Banksia Hill;

(b) if yes to (a):

(i) how many children and young people in Banksia Hill have been assessed in 2019; and

(ii) how many children and young people from (b)(i) have been diagnosed with FASD;

(c) if no to (a), why not;

(d) are any specific interventions for young people identified with FASD or other neurocognitive impairment currently being provided at Banksia Hill;

(e) if yes to (d):

(i) what interventions are being delivered;

(ii) do the interventions include speech therapy; and

(iii) who delivers the interventions;

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

(g) is any further research by TKI in youth justice services currently being undertaken or considered; and

(h) if yes to (g), please provide details?

**Hon Stephen Dawson replied:**

(a) Yes.

(b) (i) 17

(ii) 13

(c) Not applicable.

(d) Yes.

(e) (i) Young people's neurodevelopmental disorders are taken into consideration when designing programmatic and counselling interventions in Banksia Hill Detention Centre. That is, integrating strengths and weaknesses from the assessment reports, and to deliver interventions that target identified needs (i.e. helping young people manage their emotions more effectively).

(ii) Yes.

(iii) Departmental Psychologists and Speech Pathologists from the Department of Communities – Disability Services.

(f) Not applicable.

(g) Yes.

(h) Research projects with a Youth Justice aspect currently being undertaken by TKI and with the support of the Department include:

Investigation of parental mental health among Aboriginal population in Western Australia and its impact on children's outcomes;

Public health approach to child abuse and neglect: antecedents and outcomes;

A feasibility study of screening, diagnosis and workforce development to improve the management of youth with fetal alcohol spectrum disorder in the justice system. (This is the FASD research project at Banksia Hill which is ongoing);

Childhood developmental pathways to educational achievement in Western Australia: A multilevel data linkage study;

Alcohol related harm in young people;

Exploring health and justice outcomes in Aboriginal children: a 16-year follow-up study of the Western Australian Aboriginal Child Health Survey cohort using data linkage; and

Infant removals by child protection.

HEALTH — FOETAL ALCOHOL SPECTRUM DISORDER

**2340. Hon Alison Xamon to the Leader of the House representing the Premier:**

I refer to the answer to my question without notice 104 regarding Fetal Alcohol Spectrum Disorder (FASD), and to the Government's recognition of the need for a broader state-wide approach to FASD, and I ask:

(a) does the Government intend to develop a whole-of-government plan or strategy to address FASD in Western Australia;

(b) if yes to (a):

(i) when is it anticipated the strategy with be finalised; and

(ii) who is being consulted in the development of the plan or strategy;

(c) if no to (a), why not; and

(d) if the Government has yet to determine whether its full response to the Coroner's report on Aboriginal suicide will include the development of a strategy or plan to address FASD, when is it anticipated a decision on this matter will be made?

**Hon Sue Ellery replied:**

Department of the Premier and Cabinet

(a)–(d) The Government is currently developing a whole-of-government response to the coroner's inquest into the 13 deaths of children and young people in the Kimberley region, of which six recommendations relate specifically to fetal alcohol spectrum disorder. The Government's approach to FASD will be developed as part of the response to the coroner's inquest.

The 'whole-of-government' response to the coroner's inquest recommendations is intended for release in December 2019.

"REPORT OF AN ANNOUNCED INSPECTION OF BANKSIA HILL JUVENILE DETENTION CENTRE" — SECURITY CLASSIFICATIONS

**2341. Hon Alison Xamon to the minister representing the Minister for Corrective Services:**

I refer to the Minister's answer to my question on notice 2074 of 4 June 2019, and I ask:

(a) when is it anticipated a new security and assessment tool will be developed;

(b) when is it anticipated the new security tool will be finalised;

(c) has anyone been consulted about the development of the tool;

(d) if yes to (c), who; and

(e) if no to (c), why not?

**Hon Stephen Dawson replied:**

(a) Work is continuing on the development of a new security and assessment tool.

(b) The tool being developed is a complex build and the Department does not yet have a final due date.

(c) Yes.

(d) Banksia Hill Detention Centre Operations; Sentence Management; Knowledge Information and Technology; Business Solutions and Governance; Individualised and Integrated Offender Management; and Women and Young People.

(e) Not applicable.

POLICE — CHILDREN AND YOUNG PEOPLE IN LOCK-UPS

**2342. Hon Alison Xamon to the minister representing the Minister for Police:**

I refer to children and young people held in police lock-ups, and I ask:

(a) how many incidents of self-harm of children and young people held in police lock-ups were there during:

  (i) 2017–18; and

  (ii) 2018–19; and

(b) how many incidents of attempted suicide of children and young people held in police lock-ups were there during:

  (i) 2017–18; and

  (ii) 2018–19?

**Hon Stephen Dawson replied:**

The Western Australian Police Force advise:

(a) The number of incidents of self-harm of children and young people held in police lock-ups:

  (i) 35

  (ii) 66

(b) The Western Australia Police Force's Custodial Management System does not distinguish between incidents of self-harm and an incident of attempted suicide.

NOTES: Figures are subject to revision. Self-harm incidents include those which are recorded as "attempted", "actual" or "threatened". A self-harm incident is determined based on an event either being recorded as a "detainee self-harm" event or being recorded as an "other" event and containing terms in the incident narrative which indicate self-harm behaviour. Self-harm incident counts are based on the number of events and means that where multiple incidents have occurred during a single custodial episode, each incident is counted.

HOSPITALS AND HEALTH CAMPUSES — CODE YELLOW DECLARATIONS — GERALDTON HEALTH CAMPUS

**2344. Hon Martin Aldridge to the parliamentary secretary representing the Minister for Health:**

I refer to the Geraldton Regional Hospital, and I ask:

(a) on how many occasions has the hospital declared a code yellow between 1 January 2019 and 30 June 2019, and 1 July 2019 to present;

(b) for each occasion, what was the date and primary reason for such a declaration;

(c) have any elective surgeries in the same period been cancelled and/or postponed as a result of resourcing or any other issue; and

(d) if yes to (c), for what reason have elective surgeries been cancelled and/or postponed?

**Hon Alanna Clohesy replied:**

(a) Two Code Yellows were called between 1 January 2019 and 30 June 2019. There were no Code Yellows between 1 July 2019 to 7 August 2019.

(b) On 21 January 2019 a Code Yellow was called due to bed capacity. On 25 March 2019 a Code Yellow was called due to potable water leakage on an inpatient ward.

(c) Yes.

(d) Elective Surgeries were cancelled or postponed for various reasons including emergency or higher urgency cases; patient condition or other circumstance; staff availability; bed availability; equipment issues; and transfer to other hospitals.

HEALTH — REGIONAL URGENT CARE CLINICS

**2345. Hon Martin Aldridge to the parliamentary secretary representing the Minister for Health:**

I refer to the governments' election commitment to establish six Urgent Care Clinic's in regional Western Australia, and I ask with respect to each proposed clinic:

(a) who has been consulted with regards to the establishment of each clinic;

(b) on what dates did each consultation occur and by what means; and

(c) who conducted the consultation?

**Hon Alanna Clohesy replied:**

(a) Work is underway to progress regional Urgent Care Clinic models. An assessment of population need and regional capacity, including consultation with general practice, will help determine the best Urgent Care Clinic model for each regional area. Consultation will take place in due course.

(b)–(c) Not applicable.

HEALTH — AMBULANCE RAMPING

**2346. Hon Martin Aldridge to the parliamentary secretary representing the Minister for Health:**

I refer to recent reports of ambulance ramping, which has been described by St John Ambulance as the worst they have ever seen, and I ask:

(a) why does the Department of Health not report on a daily basis ambulance ramping at regional hospitals in the same way that it does for metropolitan hospitals;

(b) will the Minister commit to publish daily data in relation to regional hospital ambulance ramping;

(c) for each regional hospital effected by ambulance ramping for the 2017–18 and 2018–19 financial years, please provide the monthly ramping data for each hospital; and

(d) for each public hospital effected by ambulance ramping for the 2017–18 and 2018–19 financial years, please provide the monthly ramping data for each hospital with respect to volunteer ambulance services only?

**Hon Alanna Clohesy replied:**

I am advised:

(a) The contract with St John Ambulance (WA) does not include a requirement to provide this data to the Department of Health (DOH).

(b)–(c) Specific data related to ambulance ramping at regional hospitals is currently not available.

(d) Specific data related to volunteer ambulance ramping at hospitals is currently not available.

WA COUNTRY HEALTH SERVICE — SPECIALIST SERVICES

**2351. Hon Martin Aldridge to the parliamentary secretary representing the Minister for Health:**

I refer to Legislative Council question on notice 2006, and I ask:

(a) what are the patient waiting times for 1 January–30 June 2019 for each specialty available within each WA Country Health Service sub-region;

(b) what are the targets for waiting times for specialty services identified in (a); and

(c) where waiting times are outside of those targets, what are the main contributing factors to delays in accessing specialist services?

**Hon Alanna Clohesy replied:**

(a) [See tabled paper no 2990] which outlines cases on the elective surgery wait list by Urgency Category.

Detailed information on wait times for non-admitted services is not currently available. There is currently underway a comprehensive, multi-faceted range of Outpatient Reform Projects. These projects include extensive work to improve the quality, consistency and accuracy of outpatient data, including how it is categorised, collected and reported.

(b) Patients requiring elective surgery are triaged by the specialist into three categories depending on clinical urgency:

Category 1: within 30 days

Category 2: within 90 days

Category 3: within 365 days

Patients seen by specialists in the hospital outpatient setting are triaged by medical staff in consultation with general practitioners into three referral priorities depending on clinical urgency:

Referral priority 1: to be seen within 30 days

Referral priority 2: to be seen within 90 days

Referral priority 3: to be seen within 365 days

(c) The main contributing factors for WACHS in delays in accessing specialist surgical services are logistical challenges in provision of regional care by visiting surgeons, and on occasion, rescheduling to accommodate emergency and acute care needs during busy periods. Administrative errors such as patients not being accurately recorded as not ready for care also contribute to the statistical but not actual prevalence of over boundary cases. Despite these challenges WACHS has very few patients that are not able to be seen within time boundaries for surgery (1.5% of cases).

As detailed information on wait times for non-admitted services is not currently available WACHS is not able to comment on factors contributing to delays at this time.

LAW REFORM COMMISSION — ASBESTOS-RELATED DISEASES — COMPENSATION

**2352. Hon Martin Aldridge to the Leader of the House representing the Attorney General:**

I refer to Project 106 of the Law Reform Commission (WA), and I ask:

(a) has the Government determined how to proceed with the Law Reform Commission (WA) recommendations; and

(b) will the Attorney General table the advice of the Insurance Commission WA received on 15 August 2018?

**Hon Sue Ellery replied:**

(a) A detailed proposal is currently under consideration.

(b) The advice of the Insurance Commission of Western Australia (ICWA) provided to Government is not currently publicly available and contains sensitive financial information that is inextricably intertwined with the Government's policy deliberations. A decision whether to table ICWA's advice will be made, once the Government has finally determined its policy position on the LRC's recommendations.

GERALDTON PORT — CRUISE SHIPS

**2353. Hon Martin Aldridge to the Minister for Regional Development; Agriculture and Food; Ports; Minister Assisting the Minister for State Development, Jobs and Trade:**

I refer to Labors plan to improve the Geraldton Port to accommodate cruise ships, and I ask:

(a) has the Mid West Port Authority completed the master planning exercise;

(b) if no to (a), when does the Minister expect it to be completed;

(c) if yes to (a), will the Minister please provide a copy of the master plan;

(d) has a business case been developed to deliver upon the governments' election commitment;

(e) if no to (d), when does the Minister expect it to be completed; and

(f) if yes to (d), will the Minister please provide a copy of the business case?

**Hon Alannah MacTiernan replied:**

(a) The technical work associated with the master planning exercise has been completed. Community and stakeholder engagement processes will occur in October 2019 to discuss the planning outcomes prior to completion of the master plan documents.

(b) The Mid West Ports Authority will compile and consider all community and stakeholder feedback received on its draft planning proposals by the end of 2019.

(c) Not applicable.

(d) No.

(e) Following completion of the consultation and engagement processes, and the adoption of the Master Plan in early 2020.

(f) Not applicable.

LOCAL GOVERNMENT — REGIONAL TRAINEESHIPS

**2354. Hon Martin Aldridge to the Minister for Regional Development; Agriculture and Food; Ports; Minister Assisting the Minister for State Development, Jobs and Trade:**

I refer to Legislative Council Question on Notice 1886 relating to the Regional Traineeship Program, and I ask:

(a) can the Minister provide a full list of local government authorities that applied for funding;

(b) the amount of funds allocated to each local government authority; and

(c) how much of the $2 million allocated to this initiative remains unallocated and what does the Minister intend to utilise this funding for?

**Hon Alannah MacTiernan replied:**

(a)–(b)

| Successful Applicant Organisation | Legal Entity status | Allocation |
|---|---|---|
| Capel Shire | Local Government Authority | $30,000 |
| Carnamah Shire of | Local Government Authority | $30,000 |
| Chapman Valley Shire of | Local Government Authority | $30,000 |
| Collie Shire | Local Government Authority | $30,000 |
| Corrigin CRC (Shire of Corrigin) | Local Government Authority | $30,000 |
| Cuballing Shire | Local Government Authority | $30,000 |
| Esperance Shire | Local Government Authority | $30,000 |
| Exmouth Shire | Local Government Authority | $30,000 |
| Kulin CRC (Shire of Kulin) | Local Government Authority | $30,000 |
| Laverton CRC (Shire of Laverton) | Local Government Authority | $30,000 |
| Narrogin Shire (Shire of Narrogin) | Local Government Authority | $30,000 |
| Southern Cross CRC (Shire of Yilgarn) | Local Government Authority | $30,000 |
| Three Springs Shire | Local Government Authority | $30,000 |
| Wandering CRC (Shire of Wandering) | Local Government Authority | $30,000 |
| Wongan Hills CRC (Shire of Wongan–Ballidu) | Local Government Authority | $30,000 |
| Woodanilling Shire | Local Government Authority | $30,000 |

(c) The traineeship funding for the 2018/2019 financial year was fully subscribed.

MOORA RESIDENTIAL COLLEGE — FEDERAL GOVERNMENT FUNDING

**2355. Hon Martin Aldridge to the Minister for Education and Training:**

I refer to the upgrade of the Moora Residential College funded by the Federal Liberal National Government, and I ask:

(a) the status of the funding;

(b) the status of the project;

(c) is the cost of the project still $8.7 million;

(d) is the project still scheduled to commence September 2019, with completion expected in September 2020;

(e) if no to (d), when is the project scheduled to commence and complete;

(f) how will the college be affected whilst the upgrades occur;

(g) has the project gone to tender; and

(h) given the uncertainty created by the planned closure of residential colleges, will the Minister commit to a coordinated campaign promoting the residential boarding opportunities that exist in regional Western Australia?

**Hon Sue Ellery replied:**

(a) Funding has been allocated by the Australian Government for the project and will be provided in 2019–20 and 2020–21.

(b) The project is at tender evaluation stage.

(c) Yes.

(d) Yes.

(e) Not applicable.

(f) The staged delivery of the project has been developed in consultation with Moora Residential College staff to minimise inconvenience to the college during construction.

(g) Tenders for construction of the project have been received and are currently being evaluated.

(h) Residential colleges are marketed through a range of methods, including radio, newspapers, field days, shows and presentations to primary schools. Promotion is continually assessed and modifications made by individual residential colleges to ensure that parents who may consider the option of boarding are aware of the services offered.

ROAD SAFETY COMMISSION — ROAD TRAFFIC CODE REVIEW — PENALTIES

**2356. Hon Martin Aldridge to the minister representing the Minister for Road Safety:**

I refer to Legislative Council question on notice 1924 with respect to the review of road traffic penalties, and I ask, can the Minister table the review that was received on 22 February 2019?

**Hon Stephen Dawson replied:**

It is anticipated that a copy of the *Road Traffic Code 2000 Review of Penalties 2019* will be tabled this week.

POLICE — DRUG OFFENCES

**2357. Hon Martin Aldridge to the minister representing the Minister for Police; Road Safety:**

For 2017–18 and 2018–19, what number of adult offenders were convicted as a result of an offence or offences involving drug use, possession and or dealing in regional Western Australia for:

(a) methamphetamine;

(b) cannabis;

(c) ecstasy;

(d) a combination of two of these types of drugs; and

(e) a combination of three or more of these types of drugs?

**Hon Stephen Dawson replied:**

The Western Australian Police Force advise the Department of Justice is the appropriate agency to respond to this question. The Member may wish to refer the question to the Attorney General.

POLICE — RANDOM ROADSIDE DRUG TESTS

**2358. Hon Martin Aldridge to the minister representing the Minister for Police; Road Safety:**

(1) How many random roadside drugs tests were conducted in each month from 2017–18 and 2018–19?

(2) How many random roadside drugs tests were positive in each month from 2017–18 and 2018–19?

(3) What were the most common drugs detected?

(4) How many random roadside drink driving tests have been conducted in each month from 2017–18 and 2018–19?

(5) How many random roadside drink driving tests produce results above the legal limit in each month from 2017–18 and 2018–19?

**Hon Stephen Dawson replied:**

The Western Australian Police Force advise:

(1)–(2) The number of drug tests conducted on drivers was 30 986 in 2015/16 and 34 523 in 2016/17. This increased to 37 780 in 2017/18 and 40 544 in 2018/19.

Monthly totals of Drug Tests and Positive Tests from July 1st 2017 to June 30th 2019 (inclusive).

| **Month** | **(1) Preliminary Drug Tests** | **(2) Positive Preliminary Drug Tests** |
|---|---|---|
| July 2017 | 2 200 | 276 |
| August 2017 | 2 906 | 358 |
| September 2017 | 2 985 | 310 |
| October 2017 | 3 676 | 332 |
| November 2017 | 4 010 | 334 |
| December 2017 | 3 256 | 339 |

| | | |
|---|---|---|
| January 2018 | 2 974 | 344 |
| February 2018 | 3 544 | 375 |
| March 2018 | 4 213 | 445 |
| April 2018 | 2 580 | 339 |
| May 2018 | 3 856 | 322 |
| June 2018 | 1 580 | 251 |
| July 2018 | 3 223 | 383 |
| August 2018 | 3 260 | 520 |
| September 2018 | 3 746 | 462 |
| October 2018 | 3 693 | 461 |
| November 2018 | 4 051 | 452 |
| December 2018 | 3 579 | 453 |
| January 2019 | 3 384 | 381 |
| February 2019 | 3 069 | 332 |
| March 2019 | 3 141 | 366 |
| April 2019 | 3 879 | 431 |

(3) The WA Police Force advise that the most common drugs detected are methamphetamine, THC and MDMA.

(4)–(5) The number of alcohol breath tests conducted on drivers was 1 826 454 in 2015/16, and 2 012 787 in 2016/17, rising to 2 323 252 in 2017/18 and 2 185 928 in 2018/19. The Road Safety Commission recommends approximately one breath test for each licenced driver in the state. Monthly totals of Breath Tests and Positive Tests from July 1st 2017 to June 30th 2019 (inclusive).

| **Month** | **(4) Preliminary Breath Tests** | **(5) Positive Evidentiary Breath Tests** |
|---|---|---|
| July 2017 | 175 146 | 685 |
| August 2017 | 195 510 | 764 |
| September 2017 | 203 102 | 730 |
| October 2017 | 231 137 | 814 |
| November 2017 | 244 119 | 786 |
| December 2017 | 318 241 | 936 |
| January 2018 | 221 226 | 623 |
| February 2018 | 187 826 | 677 |
| March 2018 | 198 280 | 721 |
| April 2018 | 151 047 | 606 |
| May 2018 | 88 497 | 498 |
| June 2018 | 109 121 | 625 |
| July 2018 | 170 935 | 639 |
| August 2018 | 174 981 | 668 |
| September 2018 | 208 806 | 750 |
| October 2018 | 170 722 | 556 |
| November 2018 | 163 770 | 628 |
| December 2018 | 246 082 | 746 |
| January 2019 | 209 533 | 579 |
| February 2019 | 148 341 | 521 |
| March 2019 | 213 027 | 674 |
| April 2019 | 179 205 | 562 |
| May 2019 | 153 682 | 601 |
| June 2019 | 146 844 | 627 |

Statistics are provisional and subject to revision. Preliminary drug tests are used as identifiers for further evidentiary testing (secondary tests and then ChemCentre WA analysis tests) which forms the evidentiary basis of preferring a charge for driving with a prescribed illicit drug. Not all positive preliminary tests will result in positive results for secondary tests or ChemCentre WA analysis.

WESTERN POWER — ELECTRICAL INSTALLATION STANDARD AS/NZS 3000:2018 — WIRING RULES

**2362. Hon Martin Aldridge to the minister representing the Minister for Energy:**

I refer to the Australian Standard AS/NZS 3000:2018, and I ask, does the Western Power electrical network and installations comply with the above standard?

**Hon Stephen Dawson replied:**

The primary application of AS/NZS 3000:2018 is for electrical installations in all types of premises and land used by electricity consumers. It is not generally intended to be applied to electricity network operators.

The Electricity (Network Safety) Regulations 2015 requires Western Power to have a safety management system that complies with AS 5577, and to comply with this safety management system. Western Power's network and network installations are not specifically required by regulation to comply with AS/NZS 3000:2018.

Western Power's non-network installations (e.g. offices and depots) do comply AS/NZS 3000:2018 or the standards imposed at the time of installation.

PAYROLL TAX

**2364. Hon Dr Steve Thomas to the minister representing the Treasurer:**

How many employers were liable for payroll tax and what was the payroll tax revenue collected in the 2018–19 financial year for taxable payrolls between:

(a) $850,000 and $1,000,000;

(b) $1,000,001 and $1,100,000;

(c) $1,100,001 and $1,200,000;

(d) $1,200,001 and $1,300,000;

(e) $1,300,001 and $1,400,000;

(f) $1,400,001 and $1,500,000;

(g) $1,500,001 and $1,600,000;

(h) $1,600,001 and $1,700,000;

(i) $1,700,001 and $1,800,000;

(j) $1,800,001 and $1,900,000;

(k) $1,900,001 and $2,000,000;

(l) $2,000,001 and $2,500,000;

(m) $2,500,001 and $3,000,000; and

(n) $3,000,001 and $4,000,000?

**Hon Stephen Dawson replied:**

The Treasurer is due to table the 2018–19 Annual Report on State Finances before the end of September 2019. This report will include audited financial outcomes, including payroll tax collected for the 2018–19 financial year.

If the member has specific questions in relation to the 2018–19 Annual Report on State Finances I would ask that they be held over until after the report is tabled.

PREMIER — AGRICULTURAL REGION VISIT

**2365. Hon Martin Aldridge to the Leader of the House representing the Premier:**

I refer to the Premier's visit to the Agricultural Region on 25 July 2019, and I ask:

(a) please provide an unredacted copy of the Premiers' itinerary and travel arrangements;

(b) please provide all briefing notes and advice provided to the Premier in relation to meetings, functions and other commitments undertaken by the Premier;

(c) who accompanied the Premier during the visit and at each meeting, function or other commitments undertaken by the Premier; and

(d) on what date, at what time and by what means were the following local members of Parliament notified of the Premier's visit:

(i) Hon Martin Aldridge MLC;

(ii) Hon Colin de Grussa MLC;

(iii) Hon Laurie Graham MLC;

(iv) Hon Jim Chown MLC;

(v) Hon Rick Mazza MLC; and

(vi) Hon Darren West MLC?

**Hon Sue Ellery replied:**

(a)–(c) 9:15am: The Premier visited the Geraldton Hospital with Darren West and Laurie Graham

10:05am: The Premier had an interview with ABC Mid-West and Wheatbelt

10:30am: The Premier visited the Geraldton Multipurpose Centre with the Minister for the Environment, Hon Darren West MLC and Hon Laurie Graham MLC

The Premier was staffed by Jamie MacDonald and was driven as per usual arrangements.

For the benefit of the honourable member, the email he received contained contact information if he required further detail.

(d) (i) 24 July 2018, 2:52pm, email

(ii) 24 July 2018, 2:52pm, email

(iii) 9 July 2018, time unknown, telephone

(iv) 24 July 2018, 2:52pm, email

(v) 24 July 2018, 2:52pm, email

(vi) 9 July 2018, time unknown, telephone

MINISTER FOR REGIONAL DEVELOPMENT — AGRICULTURAL REGION VISIT

**2366. Hon Martin Aldridge to the Minister for Regional Development:**

I refer to the Minister's visit to the Agricultural Region on 29 July 2019, and I ask:

(a) please provide an unredacted copy of the Ministers' itinerary and travel arrangements;

(b) please provide all briefing notes and advice provided to the Minister in relation to meetings, functions and other commitments undertaken by the Minister;

(c) who accompanied the Minister during the visit and at each meeting, function or other commitments undertaken by the Minister; and

(d) on what date, at what time and by what means were the following local members of Parliament notified of the Minister's visit:

(i) Hon Martin Aldridge MLC;

(ii) Hon Colin de Grussa MLC;

(iii) Hon Laurie Graham MLC;

(iv) Hon Jim Chown MLC;

(v) Hon Rick Mazza MLC; and

(vi) Hon Darren West MLC?

**Hon Alannah MacTiernan replied:**

I did not travel to the Agricultural region on 29 July 2019. I had meetings all day in Perth.

(a)–(d) N/A.

MINISTER FOR EMERGENCY SERVICES — AGRICULTURAL REGION VISIT

**2367. Hon Martin Aldridge to the minister representing the Minister for Emergency Services; Corrective Services:**

I refer to the Minister's visit to the Agricultural Region on 27 July 2019, and I ask:

(a) please provide an unredacted copy of the Ministers' itinerary and travel arrangements;

(b) please provide all briefing notes and advice provided to the Minister in relation to meetings, functions and other commitments undertaken by the Minister;

(c) who accompanied the Minister during the visit and at each meeting, function or other commitments undertaken by the Minister; and

(d) on what date, at what time and by what means were the following local members of Parliament notified of the Minister's visit:

(i) Hon Martin Aldridge MLC;

(ii) Hon Colin de Grussa MLC;

(iii) Hon Laurie Graham MLC;

(iv) Hon Jim Chown MLC;

(v) Hon Rick Mazza MLC; and

(vi) Hon Darren West MLC?

**Hon Stephen Dawson replied:**

(a)–(c) 11:00am – 1:00 pm: The Minister attended the opening of the Geraldton Greenough SES Building using standard Government travel arrangements accompanied by the following attendees:

Commissioner Darren Klemm, Fire and Emergency Services.

Mia Onorato-Sartari, Senior Policy Adviser, Office of the Hon Francis Logan MLA.

Ryan Emery, Senior Media Adviser, Office of the Hon Francis Logan MLA.

Hon Darren West, Member for Agricultural Region MLC.

Hon Laurie Graham, Member for Agricultural Region MLC.

Hon Colin de Grussa, Member for Agricultural Region MLC.

2:30pm – 3:45pm: The Minister attended the Geraldton Fire and Rescue Station accompanied by the attendees listed above.

4:00pm – 5:00pm: The Minister attended the Cape Burney Volunteer Bush Fire Brigade accompanied by the attendees listed above.

5:30pm – 8:30pm: The Minister attended Geraldton Volunteer Fire and Rescue Services Annual Captains Dinner accompanied by the following attendees:

Commissioner Darren Klemm, Fire and Emergency Services.

Mia Onorato-Sartari, Senior Policy Adviser, Office of the Hon Francis Logan MLA.

Ryan Emery, Senior Media Adviser, Office of the Hon Francis Logan MLA.

Mr Ian Blayney, Member for Geraldton MLA.

(d) (i) 26 July 2019, 10:41am, Courtesy Letter via email.

(ii) 26 July 2019, 10:39am, Courtesy Letter via email.

(iii) 7 May 2019, 10:05am, Invitation to Event via email.

(iv) 26 July 2019, 10:44am, Courtesy Letter via email.

(v) 26 July 2019, 10:42am, Courtesy Letter via email.

(vi) 7 May 2019, 10:05am, Invitation to Event via email.

Please note that detailed in the courtesy letters provided to the Members listed above, were instructions to contact the Office of the Hon Francis Logan should they require further detail of his movements through their electorate.

CORRECTIVE SERVICES — BANKSIA HILL DETENTION CENTRE — EDUCATION

**2369. Hon Alison Xamon to the minister representing the Minister for Corrective Services:**

I refer to the provision of education and training at Banksia Hill Detention Centre (Banksia Hill), and to the response to question on notice 4952 asked in the Legislative Assembly, and I ask:

(a) is the Certificate of General Education for Adults curriculum currently delivered to any children aged 14 years and under in Banksia Hill;

(b) if yes to (a), why;

(c) is the Entry to General Education curriculum currently delivered to any children aged 14 years and under in Banksia Hill;

(d) if yes to (c), why;

(e) has any consideration been given to the introduction of a curriculum better suited to the needs of younger children;

(f) if no to (e), why not;

(g) if yes to (e):

(i) what curricula are being considered; and

(ii) is it anticipated a new curriculum will be introduced in 2019; and

(h) if no to (g)(ii), why not?

**Hon Stephen Dawson replied:**

(a) Yes.

(b) The Certificate of General Education (CGEA) for Adults curriculum caters to their academic and developmental needs and abilities.

(c) Yes.

(d) The Entry to General Education (EGE) targets people who are Level 1 or below according to Australian Core Skills Framework (ACSF). The course plays a critical role in ensuring that 'at risk' students receive the training required to build a bridge between their current skill levels and the skill levels required for education and employment, healthy engagement in a community and wellbeing.

(e) No.

(f) The EGE and CGEA curriculums delivered at Banksia Hill Detention Centre have been written to cater for the unique and specific needs and interests of the young people and it allows the teachers to effectively teach our younger students the literacy and numeracy skills they haven't acquired whilst attending mainstream educational venues.

(g) Not Applicable.

(h) Not Applicable.

BANKSIA HILL DETENTION CENTRE — EDUCATION AND TRAINING

**2370. Hon Alison Xamon to the minister representing the Minister for Corrective Services:**

I refer to the provision of education and training at Banksia Hill Detention Centre (Banksia Hill), and I ask:

(a) what is the ratio of teachers to students in each individual class (or student grouping) currently run at Banksia Hill; and

(b) what is the ratio of education assistants to students in each individual class (or student grouping) currently run at Banksia Hill?

**Hon Stephen Dawson replied:**

(a) 1 teacher to 8 young people.

(b) 0 assistants to 8 young people. Banksia Hill Detention Centre does not employ Education Assistants.

BANKSIA HILL DETENTION CENTRE — VOCATIONAL EDUCATION AND TRAINING

**2371. Hon Alison Xamon to the minister representing the Minister for Emergency Services; Corrective Services:**

I refer to the provision of Vocational Education and Training (VET) at Banksia Hill Detention Centre (Banksia Hill), and I ask:

(a) what VET courses are currently offered to students at Banksia Hill;

(b) how many students are currently undertaking each course from (a);

(c) in 2018–19, how many students:

(i) commenced units in each VET course from (a); and

(ii) completed units in each VET course from (a);

(d) did any students complete a VET course in 2018–19; and

(e) if yes to (d), which course did they complete?

**Hon Stephen Dawson replied:**

(a) The VET courses that are currently offered to students at Banksia Hill are:

The Certificate of General Education for Adults (CGEA).

Entry to General Education (EGE).

Gaining Access to Training and Employment (GATE).

Skill set from Certificate II in Hospitality (3 units of competency).

Prepare to work safely in the construction industry (White Card).

(b) Students currently enrolled in each course as of the 8 August 2019:

The Certificate of General Education for Adults (CGEA) – 61 students.

Entry to General Education (EGE) – 29 students.

Gaining Access to Training and Employment (GATE) – 3 students.

Skill set from Certificate II in Hospitality (3 units of competency Prepare and Serve Espresso Coffee, Prepare and Serve Non-Alcoholic Beverages, Use Hygienic Practices for Food Safety) – 3 students.

Prepare to work safely in the construction industry (White Card) – 6 students

(c) in 2018–19 we had:

1070 CGEA enrolments and 250 completed units.

148 EGE enrolments and 24 completed units.

20 GATE enrolments and 13 completed units.

15 Cert II Hospitality skill set enrolments and 15 completions.

45 White card enrolments and 45 completions.

(d) Yes.

(e) The qualifications completed are:

CGEA Cert I Introductory.

CGEA Cert I.

CGEA Cert II.

CGEA Cert III.

CHILD PROTECTION — FAMILY GROUP CONFERENCING

**2372. Hon Alison Xamon to the Leader of the House representing the Minister for Child Protection; Women's Interests; Prevention of Family and Domestic Violence; Community Services:**

I refer to the article "We've never been asked for our views before: giving families a voice", published in the Guardian online on 1 August 2019, and I ask:

(a) is family group conferencing currently used in Western Australia;

(b) if no to (a), why not; and

(c) if yes to (a):

(i) what percentage of care plans for all children currently in the care of the CEO included family group conferencing; and

(ii) what percentage of care plans for Aboriginal children currently in the care of the CEO included family group conferencing?

**Hon Sue Ellery replied:**

(a) No, Family Group Conferencing is not currently used in Western Australia;

(b) The Signs of Safety Child Protection Practice Framework is utilised in Western Australia which is similar to Family Group Conferencing in several regards.

The intention of Family Group Conferencing and Signs of Safety is for families to be brought together and supported in the process of developing their own plans about the safety of the children.

Both processes:

are facilitated by an impartial person who is not involved in making decisions about the children and family,

encourage the sharing of information, and

encourage the families to develop their own plans to address child protection safety concerns.

(c) Not applicable.

ENVIRONMENT — UNITED NATIONS REPORT

**2373. Hon Robin Chapple to the Minister for Environment:**

I refer to the United Nations *Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services Global Assessment Report* released on 6 May 2019, and ask:

(a) is the Minister concerned by the contents of this report, specifically the fact that over one million species are at risk;

(b) does the Minister acknowledge that many Australian threatened species reside in Western Australia, with the federal electorates of Durack and O'Connor both being in the top ten electorates in Australia most at risk;

(c) does the Minister acknowledge that fossil fuels are a leading reason for species being at risk; and

(d) why has the Government not committed to a strategy of reducing Western Australia's emissions?

**Hon Stephen Dawson replied:**

(a) Yes.

(b) I acknowledge that many Australian threatened species reside in Western Australia, the largest State or Territory in Australia. The Federal electorates of Durack and O'Connor, comprise 98.9 per cent of the terrestrial area of Western Australia, and consequently a large proportion of the terrestrial area of Australia. Which of course cover my own electorate, as it is yours too Honourable Member. I am not aware of risk ranking in relation to Federal electorates having been undertaken.

(c)–(d) The McGowan Government acknowledges the need to adapt to climate impacts and mitigate greenhouse gas emissions in Western Australia to protect our environment, economy and community. On 28 August 2019, the State Government announced an aspirational target of achieving net zero greenhouse gas emissions by 2050. The Government is committed to developing a State Climate Policy which will draw together and build on climate-related initiatives already underway in the State. The Policy and roadmap of actions will also include measures relevant to the development of a pathway to net zero emissions by 2050.

_____