Legislative Council

Tuesday, 29 June 2010

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

BILLS

Assent

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

1. Credit (Commonwealth Powers) Bill 2010.
2. Credit (Commonwealth Powers) (Transitional and Consequential Provisions) Bill 2010.
3. Pay-roll Tax Assessment Amendment Bill 2010.
4. Criminal Code Amendment (Identity Crime) Bill 2009.
5. Revenue Laws Amendment and Repeal Bill 2010.

COCKBURN CEMENT, MUNSTER

Petition

HON SALLY TALBOT (South West) [3.03 pm]: I present a petition containing 272 signatures couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned residents of Western Australia respectfully request the plight of residents and home owners whose lives and health are being ruined by the massive emissions of dust and odours from the operations of Cockburn Cement Ltd (CCL) in Munster, WA is acknowledged and that the physical destruction of property and health problems caused by the levels of lime dust emitted from CCL is brought to an end.
>
> Your petitioners therefore respectfully request that immediate action is taken to stop Cockburn Cement Limited (CCL) from emitting dust and odours from its operations in Russell Road, Munster.
>
> And your petitioners as in duty bound, will ever pray.

[See paper 2224.]

PAPERS TABLED

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

ESTIMATES OF REVENUE AND EXPENDITURE

Consideration of Tabled Papers

Resumed from 24 June on the following motion moved by Hon Helen Morton (Parliamentary Secretary) —

> That pursuant to standing order 49(1)(c), the Legislative Council take note of tabled papers 2044A–H (budget papers 2010–11) laid upon the table of the house on 20 May 2010.

HON MAX TRENORDEN (Agricultural) [3.08 pm]: Something is rotten in the state of Western Australia. The tale I am going to tell today reveals that there is much amiss in the public service and there is much amiss in how we treat our public servants. It raises many questions. Some are answered; most are not. This is a story of a whistleblower. I have served the state for many years and have done so with pride, but the tale I tell today is one that makes me extremely disappointed to be a Western Australian and especially a Western Australian parliamentarian. As a person who was in Parliament and witnessed the royal commission and the parliamentary side of the Royal Commission into Commercial Activities of Government and Other Matters, and as someone who has seen many reforms, I now have to ask: what has changed?

In my speech today my targets are fairly and squarely the Department of Health and sections 8 and 9 of the Public Sector Management Act. I add, in these introductory remarks, that I believe very strongly, indeed passionately, in a public service that is well placed to do what its name implies: serve the public. There is no higher calling. But that means as a Parliament we must ensure that we treat our public servants with the decency

and respect they deserve. It means that we need to create a cadre of people who, in serving the public and this house, know that in doing so we will give them the support they need to carry out their duties. We owe them a duty of care. If we fail in that duty of care, what then? What does this do—not just in terms of some lofty ideal of working for the common good and supporting democratic principles—to the morale of the public service? What does it do to encourage our brightest and bravest to serve? What it does is encourage them to leave their jobs to go where they will be better appreciated. I will end up in this speech calling for two parliamentary inquiries, and I will explain why this is necessary and, indeed, in my view, essential.

But, first, why me? Why is Max Trenorden doing this? I am a longstanding member of Parliament and what is clear today is that I cannot remain silent. Too many senior people in this state have remained silent, with horrendous consequences for one man and his family, and more generally also for the public service itself.

I was approached by Professor Gavin Mooney, the health economist, who takes special interest in the Western Australian health service. He was most concerned and sought to enlist my support to investigate these issues, as I knew some of the history through the Public Accounts Committee and the hospital trust accounts report, and the Douglas inquiry into patient care at King Edward Memorial Hospital. I could have said no, Mr President, but the words of Edmund Burke, which have been pinned on my office noticeboard for many years, stopped me. That quote is —

> All that is necessary for the triumph of evil is that good men do nothing.

My tale is about one man in particular: Michael Moodie. Mr Moodie, for various reasons, is not the most popular person in this state—or at least he is not popular within some very powerful circles. Yet, as I will come to, many women and families in this state—former patients of King Edward Memorial Hospital—have good reason to see Michael Moodie in a very favourable light. He is someone who stood up for them when others who should have did not. While it is his tale that I tell, he is for the prime purposes of this tale simply a senior public servant. Mr Moodie was the CEO of a New South Wales health service before Western Australia recruited him. We invited him here because he was well regarded and well educated; he was a senior executive with impressive credentials. He has degrees in the arts and in social work, and he holds a master's degree in public health and in public administration. In recognition of his academic achievements here, Edith Cowan University appointed him an adjunct professor.

When he came to Western Australia in 1999, he was made chief executive of King Edward Memorial Hospital and Princess Margaret Hospital for Children. At the time these institutions were presented to the world by the administration as world class. These facilities were perceived to be excelling in the quality of care that they provided to Western Australian people. Soon after Michael Moodie arrived, senior nursing staff at King Edward Memorial Hospital approached him and told of how the supposed high-quality care at these facilities was a myth. Moodie looked into it and discovered to his horror that things were far from right, and, more worrying still, had not been right for the best part of a decade before he arrived. Mr Moodie uncovered not only clinical concerns at King Edward Memorial Hospital for Women but also, more alarmingly, serious issues with the administration of trust accounts by doctors at Princess Margaret Hospital for Children. Despite enormous pressure on Mr Moodie to stay quiet, he refused and persevered. Why? Quite simply because, as a senior health service executive, he believed his first responsibility and his primary duty of care was to the patients and the citizens of Western Australia and not to KEMH or PMH as institutions. This, in his eyes, was morally wrong. Yet, sadly and despicably, others saw things differently.

In the five years leading up to 1998, the clinical performance of King Edward Memorial Hospital, as documented by the Douglas inquiry, involved many cases of unsafe or very unsafe treatment. Dr Gareth Goodier was the chief executive officer at KEMH at the time and he did not act on these concerns. I understand that Dr Goodier was on the short list for the position of director general of health. Given his failure at KEMH, one wonders why he was on that list and why he was being considered.

Let me stop for a moment in my tale. The issue of public duty is absolutely critical in the public service. Public servants must be women and men of integrity who will speak up on behalf of the citizens of Western Australia and, in this case, patients. Martin Luther King said, "Our lives begin to end the day we become silent about things that matter." Patient care matters. There had been preventable negative outcomes at KEMH at the rate of one per week for approximately 10 years. That has involved 500 families—babies and mothers. They have suffered enormous grief and will forever be affected by these tragedies. In exposing this problem, Mr Moodie is a hero to 500 families. He stood up for patients' rights; for what is morally right. We did not hear about that.

In the aftermath of this issue and throughout Mr Moodie's courageous stance did anyone in power publicly acknowledge Moodie's efforts? I found a precedent in a parallel case that occurred at Bristol in Britain. In that case, the whistleblower involved received an honourable mention in the Parliament from the Minister for Health who said he was owed a debt of gratitude for what he did. The house passed a vote of thanks. Given that almost certainly the clinical malpractices at KEMH would have continued if Mr Moodie had not taken action, was an

expression of thanks offered to Michael Moodie? No, it was not. Considering the need to have public servants with the integrity displayed by Mr Moodie, was any attempt made to promote Michael Moodie to a more senior role? No, it was not.

The Douglas inquiry totally, utterly and completely exonerated Michael Moodie in his actions. It is worth my quoting from the Douglas report. In referring to the employees, the report states —

> Some voiced their concerns in a low-key manner by speaking or writing to others, including those in leadership roles at KEMH. This was an important first step. There are, however, many examples over the years of similar concerns being raised in a similar way. And little or nothing being done about them.
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> … Others took a more prominent and active role in exposing the problems and urging corrective action. By doing so, they risked the repercussions to their professional and personal lives experienced by many whistleblowers. In a recent article, James Gobert and Maurice Punch explained it is in fact not uncommon for the whistleblower to suffer physically, mentally and emotionally. Whistleblowers often find themselves facing an all-out effort by their employers to discredit them. The whistleblower may be demoted, suspended or reassigned in the employer in an effort to degrade his/her status and credibility.

The report states that to discredit a whistleblower, he or she will often be characterised as a non–team player, a troublemaker, an anti-authoritarian, misfit or even worse.

The Douglas inquiry report states —

> For some, whistleblowing may become a form of professional suicide that can effectively end a career …

It is apparent that there are a number of King Edward Memorial Hospital employees who have paid, and continue to pay, a high price, both professionally and personally, for their roles in exposing the problems at the hospital and ensuring these problems could be addressed and remedied. The repercussions for Michael Moodie are well known. It is time not only to provide real protection for people who have the courage to speak out about wrongdoing, but also to act to ensure that government departments and agencies fully investigate disclosures and remedy any defects or wrongdoing. In the meantime, it is important to appreciate and acknowledge the courage shown by these KEMH employees, particularly former employees, who, knowing the risks, spoke out about the problems at KEMH. Some have paid a particularly high personal and professional price to ensure that the quality of patient care and safety at KEMH is improved for the benefit of the public of Western Australia.

I will continue to quote from the Douglas inquiry. The report states —

> It was largely due to the efforts of Mr Moodie and a small group of senior KEMH personnel that resulted in the MHSB commissioning the Child & Glover report.

That was a report that in turn led to the setting up of the Douglas inquiry. The Douglas inquiry could not have known the full cost of Michael Moodie's courage, not only in respect of revealing these political failings, but also in exposing the financial rorting of trust fund accounts, which would not be revealed until 2001. There is more of this that has never before been publicly revealed.

Before I leave the subject of King Edward Memorial Hospital, I remind the house that one chapter of the Douglas inquiry report was suppressed. This chapter dealt with many cases in which clinical practices were described as unsafe or very unsafe. I recommend that members read the report. The chapter was suppressed by the Gallop cabinet because of pressure from the Australian Medical Association. Who is running the health service in this state? Is it the government or the AMA? My point is that the Douglas inquiry might never have happened but for Michael Moodie. These unsafe and very unsafe practices could still be going on; they had been going on for a decade then, and could perhaps have continued for another decade had it not been for Mr Moodie's intervention. We should also note in passing that there was considerable pressure from various powerful quarters to not proceed with that inquiry. Mr Moodie won no popularity contests in these quarters.

I turn now to the issue of the rorting of trust account funds by doctors at KEMH. I was a member of the Public Accounts Committee when it started to examine this matter; in fact, I was the chair. It was then, for the first time, that I heard of Michael Moodie. After the election of 10 February 2001, the fifth report of the Public Accounts Committee was finalised on 4 December 2003. John D'Orazio was by this time chair of the committee. I quote extensively from that PAC report, entitled "Inquiry into Hospital Trust Accounts". Finding 45 of that report states —

> Mr Moodie's attempts to address the problems with hospital trust accounts, Special Purpose Accounts and other problems at King Edward Memorial Hospital / Princess Margaret Hospital were both legitimate and necessary. However, his actions were opposed by some clinicians and administrators, and were not supported by the Metropolitan Health Services Board.
>
> …

> Mr Moodie's concerns and decision to initiate investigations into a number of serious allegations that had been brought to his attention, especially those relating to the bulkbilling of Medicare by doctors, were both legitimate and an entirely appropriate response by a hospital Chief Executive Officer.
>
> Furthermore, the Health Insurance Commission's findings that the long-standing bulkbilling practices at Princess Margaret Hospital were inappropriate vindicate Mr Moodie's actions.
>
> …
>
> The performance of the Metropolitan Health Service Board was inadequate for all parties concerned, especially Michael Moodie, who can feel justifiably aggrieved by his treatment …

That is, by that board. The report continues —

> Mr Moodie fulfilled his role as Chief Executive Officer of King Edward Memorial Hospital / Princess Margaret Hospital in the manner he saw fit, and at not time was advised to alter his style, which had been subject to so much speculation. According to Mr Moodie, the MHSB provided little reason for him to believe it was dissatisfied with his performance and, in fact, reassured him that he was doing a good job despite the campaign undertaken by the Clinical Staff Association.
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> …
>
> Michael Moodie's removal as Chief Executive Officer of King Edward Memorial Hospital / Princess Margaret Hospital was not justified and was handled poorly.
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> …
>
> The mismanagement and poor oversight of hospital trust accounts and Special Purpose Accounts by the individual hospitals and the Department of Health established an environment in which fraud and waste was difficult to detect.
>
> …
>
> The severe breakdown in effective governance structures and processes demonstrated an appalling lack of accountability.

The Public Accounts Committee report, as with the Douglas inquiry, completely and utterly exonerated Mr Moodie. However, again, one can see that Mr Moodie would have won few friends in the medical establishment by exposing this rort. Remarkably, a second investigation was conducted into the rorting of trust funds. The findings of that investigation have never been published as a final report and remain a draft because the state did not want to expose the guilty. These trust funds were a vehicle for doctors not to be with their patients; the trust accounts were a linkage to travel in the name of research so that they did not have to be at the hospital. The most telling outcome from both the Douglas inquiry and the Public Accounts Committee report is that no action was taken against those public officers who clearly failed in their duties and responsibilities—none. However, maybe this next aspect of the matter is yet worse.

We can all agree in this house that patient care matters. That is exactly the stance that Mr Moodie took at King Edward Memorial Hospital and Princess Margaret Hospital for Children. He saw his role as being first and foremost to the patients rather than to the institutions. Members may well say, "Of course; that's what any senior health public servant should do. Health care is about looking after patients." However, that view, which I think is legally and morally right and I am sure is shared by each member of this house, was not necessarily shared by all those who presented evidence to the PAC inquiry. I will quote a piece of evidence from the PAC inquiry report, which stated —

> *We asked if he was an advocate for the hospital, and he said no. He denied that he was an advocate… The staff felt he should be an advocate for the hospital.*

Those were the words of Gary Geelhoed, the then chairman of the PMH Clinical Staff Association. The Public Accounts Committee agreed with Mr Moodie and disagreed with Dr Geelhoed. The committee stated —

> In practice the CEO … responsibilities began with ensuring the best possible delivery of health service to Western Australians.

The person who defended patient rights, Mr Michael Moodie, where is he now? He is trying to recover from four years of purgatory for himself, his wife and his family. He is out of pocket to the tune of perhaps $1 million, his reputation is in tatters and his name is severely sullied. Why? Because he did his job on behalf of the patients and the citizens of Western Australia. Questions have to be asked about the then Liberal government's response to the KEMH tragedy and Michael Moodie's disclosure of what was happening. More specifically, what was Premier Richard Court's reaction? Some very prominent Western Australians approached Richard Court expressing concerns about Michael Moodie's role in revealing what was happening in KEMH and PMH. The Liberal Party at the time had a clear choice to make: adopt a strategy to win the election or do the right thing by

supporting the actions of a senior health official. Political expediency won. After his time at KEMH and PMH, Michael Moodie was moved to the Department of Health in charge of finance in the budget. The Labor Party took office in February 2001. Mr Daube took over as director general of health and he offered Mr Moodie two options: one, get out; two, work in the south west. Moodie moved to the south west. The consensus view at the time, which was shared by the new ALP cabinet, was that the Douglas inquiry into KEMH would crucify Moodie, who then could be got rid of. Why did Daube, as the health DG, not stand by the man who courageously stood by the patients at KEMH? Should the institution come before patients' right? Why did Mr Daube cast out the man who had the conviction to speak up about the rorting of the trust funds by the doctors? These are at best strange acts by the director general of health. What is going on here? We have a right to know.

At the centre of my tale is the man who stopped the clinical rot at KEMH, who stopped the financial and medical rot in the hospital trust accounts at PMH—a man who got no support from his superiors for doing so and no support from the Parliament. These reports represent major indictments of our public service in Western Australia. One has to ask: how did this happen? How could these public institutions have failed the community so spectacularly and for such an extended period, and how could the man who blew the whistle get punished? The reason, in part at least, was that the people running those hospitals were busy travelling the world and not doing their job. Further, the people who were running the Department of Health did not do their job. The Public Accounts Committee and the Douglas inquiry reported these problems to Parliament, and we did not act on the information. Public servants are the people who are there as custodians for the public. They owe a duty of care to the Western Australian public to watch and make sure that everything is okay. They failed totally and utterly. This was the real tragedy of King Edward Memorial Hospital and Princess Margaret Hospital for Children.

In 2006, Moodie returned to Perth to take over the technology section in the Department of Health. Consistent with how Mr Moodie, this man of integrity, ran his whole career, when he started in technology he set up a process to audit the technology function. He knew something was amiss and, again, in revealing it, he paid a very high price. Now we come to what may have been the trigger for more recent actions to destroy Moodie. Health was designing a program that pooled all the information that health holds into a single database. This program was meant to be the nerve centre for the new Fiona Stanley Hospital and for the Department of Health across Western Australia. To this end, an info–health alliance still exists between the Department of Health and Fujitsu to manage information and communications technology for health. Mr Moodie found out that Fujitsu, the information and communications technology contractor, was preparing the tender for the $335 million ICT contract for the health reform project. Let me say it again: Fujitsu, the ICT contractor for health, was preparing a tender for the $335 million ICT contract. The Department of Health was not managing the program; it was Fujitsu, and if Fujitsu was putting the tender together, that meant it had a big role in evaluating the tender bids. This arrangement was in place despite previous advice to the Department of Health that this represented a major conflict of interest and that the Department of Treasury and Finance should be managing the tender. It should be of little surprise that Fujitsu was preparing the tender in such a manner as to ensure an ongoing role for itself—a yearly contract worth some millions of dollars. This is quite incredible; it is also totally unethical. It might never have come to light but for Michael Moodie. There was a lack of adequate control in how the Department of Health managed the Fujitsu contract over the payment of Fujitsu accounts, to such an extent that Mr Moodie refused to sign some of them.

I am aware also that the current Under Treasurer was deeply worried about what was involved in this process. From my reading of the information I have, it is clear that he was concerned about the way Fujitsu was acting and its role in contracting as opposed to being contracted. So concerned was the Under Treasurer that he refused to attend any meeting at which Fujitsu was present. My understanding is that the Under Treasurer discussed this matter with the Auditor General because he sat on the oversight committee for the health reform process and was concerned.

This is, frankly, so bizarre that members may not be able to believe their ears. Within this InfoHEALTH Alliance, Fujitsu was acting on behalf of the Department of Health. Fujitsu, and not the members of the Department of Health, was writing briefs for the director general and, in fact, was partly effecting health policy. On 12 May 2006, Mr Moodie wrote to Terry Lennard, the director of information and policy support in the Department of Health, indicating that he, Mr Moodie, had commissioned Jim Lowth, a consultant, to undertake a review of the InfoHEALTH Alliance. I have emails that describe the extensive changes that Michael Moodie was driving, and the move away from the InfoHEALTH Alliance. They state that there was concern about Fujitsu at a whole-of-government level, particularly by the Department of Treasury and Finance. The health department concern relates to Fujitsu's involvement in the preparation of the HIS tender. This sort of unaccountable situation with respect to Fujitsu was not unique to health. *The West Australian* reported in 2002 that a radical police communication project had blown its budget by more than $130 million. It was plagued with problems and was to run more than five years late. One example of the problems, again reported in *The West*, was that a contractor was due to be paid $570 000 after meeting a deadline, but the money was paid before the work was done and the deadlines extended. The newspaper report added, "The job remains unfinished".

The company managing the police department contract was Fujitsu. What Michael Moodie did not know and what emerged from me only when I spoke to the Under Treasurer and the Auditor General was that $20 million from the ICT InfoHEALTH Alliance contract is unaccounted for. Are we interested? We have to be. Four years on, there is no indication of a solution about ICT. The tender process was taken off the Department of Treasury and Finance, and the project team set up by Michael Moodie was disbanded. As of today, with approximately $350 million spent, the system does not deliver and Fiona Stanley Hospital is underway with no information and communications technology solution in place. No wonder the Under Treasurer is less than happy and refused to be in the same room as Fujitsu staff.

I have various memos that show that Mr Moodie sought to end this cosy set-up with and for Fujitsu. He suffered as a result, as I will shortly show. It was Michael Moodie who set up the audit that resulted in exposing the arrangements under the InfoHEALTH Alliance in the health department and the role of Fujitsu. This is the same Michael Moodie who did his job faithfully in speaking out about the poor clinical practices at King Edward Memorial Hospital. It is the same Michael Moodie who spoke out about the rorting of trust accounts by doctors at Princess Margaret Hospital for Children. It is our responsibility, as members of Parliament, to use privilege to test the facts the best we can. I have already spoken to the then acting Director General of Health, the Under Treasurer and the Auditor General of Western Australia to check the core facts in this speech. These meetings lead me to believe—in fact, Mr President, I know—that there is a stench around the whole Fujitsu business that we must investigate. I cannot sort out all the detail of what has happened. The Auditor General's website, however, indicates that that office is currently investigating the whole process, including the unaccounted-for $20 million. I have much information but we need an inquiry to uncover the full story.

I turn now to the attempt to destroy Michael Moodie. I have the investigation running sheet of Ivan Evans from the corporate governance directorate of the Department of Health. I have numerous papers from the time of the investigation, including from a meeting with Michael Moodie and several officers from the Office of the Auditor General, concerning the information and communications technology contract. I also have Mr Moodie's employment contract and his termination letter. Mr President, I seek leave to table these documents.

Leave granted. [See paper 2225.]

Hon MAX TRENORDEN: As I have indicated, early in 2006 Mr Moodie had already expressed concerns about what was going on with Fujitsu. He was trying to prevent Fujitsu from compromising the Department of Health. At the same time, around April 2006, a health employee began an investigation into Mr Moodie's affairs and his family affairs. This was a Western Australian Department of Health investigation that must have been set up at the request of Dr Neale Fong, the then director general, and managed by Michael Pervan in Fong's office. The case officer was Mr Ivan Evans. Evans is one of the compliance officers employed by key government agencies to sit alongside internal auditors and report to the Corruption and Crime Commission anything that might be of interest to the CCC. Mr Evans had been a police officer in New South Wales. However, at the time of the inquiry into Mr Moodie, he was not a police officer. He was employed not by the CCC, but by the Department of Health. Why did this happen?

It gets worse. The Evans investigation into Moodie was covert. A government department instigated a covert investigation into a senior public servant. Where did he get his authority to act? He described in his running sheet how he investigated personal records and private accounts and carried out surveillance. Where was his authority? I have read the running sheet, and it was just to find something to pin on Michael Moodie. When did this Evans investigation start? It just happened to coincide with when Mr Moodie was asking questions about the InfoHEALTH Alliance. Mr Evans—one individual—gathered the evidence, wrote the report, spoke to Pervan in Fong's office, which it appears was managing Evans's role, and was encouraged personally to communicate with the CCC, but not through the normal channels of emails, faxes or postal mail. What was the role of Neale Fong in managing his lieutenant, Michael Pervan? Many questions need to be asked. Just think: if we were police officers, which Evans was not, gathering the same evidence as he did, we would have to verify our findings with someone in a senior position. In Evans's case, no-one in Health and no-one in the CCC checked his evidence. His running sheet clearly states that he carried out this work before reporting the findings to the CCC. This evidence failed quickly in the bright light of the court. Moodie was taken to court by the CCC, put through two trials and an appeal, and Moodie prevailed; he was acquitted and was awarded costs.

On the basis of these investigations by Evans, on 7 July 2006, Michael Moodie was presented with a letter containing various allegations against him and stood down from his position. Were these events and the timing just a coincidence? It is possible, but given the history, it is most unlikely. This matter must be investigated now that the Auditor General and the Under Treasurer have each confirmed to me that $20 million is missing from the Department of Health and Fujitsu contract, which must also be investigated. We also need to look at the manner in which Mr Moodie was stood down. The contents and the tone of the letter are interesting. I have tabled a copy. No attempt was made by Dr Neale Fong as Director General of the Department of Health to speak to Mr Moodie and seek a response to the allegations made against him before action was taken. Why not? Mr

Moodie was frogmarched out of his office in front of his staff on the basis of allegations that could have been and should have been checked before any action was taken. Why?

The Department of Health investigator, Ivan Evans, was sent on a witch-hunt by the Department of Health to try to find something to pin on Michael Moodie. The letter of dismissal was a result of this hunting trip. Reading this letter is chilling not just because all the allegations turned out to be false, not just because they could have easily been checked before any action was taken, and not just because Dr Fong should have confronted Moodie with them before taking action and not just because if all of that had happened, the horrendous past four years for the Moodie family could have been avoided. In the letter, Dr Fong states that Mr Moodie will remain on full pay. He later changed his mind and Mr Moodie's pay was suspended. Who above him got him to change his mind? There are only two possibilities—the minister or the cabinet. Who was it and why? The letter also contains five allegations. As the letter says, "could, if proven, constitute serious breaches of discipline and gross misconduct". There were five problems with these five allegations. They were all false. They were later proven to be false. There was no attempt to check whether the information was true. It is made all the more interesting because of the seemingly desperate tone of the writer, Dr Fong. Was he panicking? What was he scared of? What was going on here? Why this blunderbuss approach of seeking to blast a senior colleague with whatever unsubstantiated allegations came to hand? As a Parliament, we need to know.

I put it to the house that the charges brought against Michael Moodie were nothing more than a sideshow, a diversion, to get him out of the Department of Health and finish him off financially—to destroy him. This was not by the CCC but by some senior people in Health, most of whom, incidentally, are no longer in the system. What should have happened? In a well-ordered, non-vindictive world, Dr Fong should have spoken to Mr Moodie, determined for himself that no money was defrauded, and had the matter closed with a formal letter advising proper procedures be followed and Michael Moodie would go back to work. The alternative was that he could have been reported to the Office of the Public Sector Standards Commissioner. If Neale Fong was unable to determine whether money was missing, which there certainly was not, what is noteworthy and very important in this case is that Michael Moodie's contract states that the director general can terminate his contract at any time—why did that not happen? Why choose to conduct a witch-hunt instead of issuing a perfectly simple letter of termination? Another alternative was to take the investigation's findings to the police, which never happened—it went straight to the Corruption and Crime Commission. Western Australian taxpayers spent over $1 million on several court cases, all of which failed to find Mr Moodie guilty of anything.

Not central to my tale, but an important issue nonetheless, is that these compliance officers, such as Evans, who work in a key government agency should have their employment terminated. They are polluting the process. The current Corruption and Crime Commission Act requires a chief executive officer or director to report all matters of interest to the CCC immediately, so why have compliance officers at all? Minor matters such as the over-claiming of travel funds, stealing low-value public property and overuse of public assets such as computers should be reported to the new Public Sector Commissioner to be dealt with. Many people would then be disciplined and returned to duties; others would be dismissed. But, more importantly, the public service would be dealing with its own people. More serious matters should go to the CCC, which has the power to deal with them. I have heard anecdotal evidence from people who have the knowledge about what compliance officers are doing to people. I say again that compliance officers are polluting the process. They work in isolation, the oversight of their work is questionable, and they are surplus to requirements. They are an abomination and they should go.

I return to my tale. The Department of Health actively sought and pressured the CCC to prosecute Michael Moodie. The Evans running sheet—the document I tabled—shows that the Department of Health came after Michael Moodie, his wife and son, all with dire consequences. Why? Was this payback? Let me be clear: these are not examples of the CCC exercising its powers and using the appropriate checks and balances; these were officers of the Department of Health. They were public servants.

As a consequence of all of this, the Moodies face legal costs of over half a million dollars; his family life has been devastated and he has been under enormous emotional stress for almost four years; he lost his job; and he was ordered not to talk to Department of Health staff and they were ordered not to talk to him. Another very important and crucial point is that he is the only public servant in Western Australia who had his pay suspended before there was any judgement on whether he was guilty or innocent. His reputation is now severely sullied and taxpayers face an estimated bill of over $1 million, and for what? No money was ever fraudulently obtained; there was never any criminal intent by Michael Moodie. This case is not, and never has been, about deceiving a public officer or travel claims. Mr Moodie was charged with intent to deceive a public officer and was acquitted. Even if he had been found guilty, there was agreement on both sides that he had received no financial gain.

What are the consequences for the Western Australian public service? Given what happened to Mr Moodie, no sensible public servant will ever speak up about injustice again. What the Department of Health has done has made a mockery of protected disclosure legislation. This is not just about Michael Moodie; it is about public administration in Western Australia. We cannot allow disciplinary processes to go unchecked in this way. Such

vindictiveness in our public service is appalling. Indeed Mr Moodie said on national television that if he was faced with the situation again, or if he could live that period of his life over, he would keep quiet. Why did this witch-hunt happen? Why was a senior public servant and his family subjected to this? Is this how we want to treat our public servants?

Such misdemeanours, even if shown to be true—they were not—were certainly minor compared with lying to this Parliament; yet Dr Neale Fong did lie to this Parliament. He was guilty of that. Mr Moodie is innocent, yet he has been forced to live outside our state with his wife and family and has been subjected to almost four years of hell. The innocent Moodie cannot get a job; the guilty Fong is a CEO of Bethesda private hospital here in Perth. Mr President, please explain this to me. I simply do not understand. This is about senior people in the bureaucracy seeking to destroy a public servant for doing the best he could and protecting those who needed protection. Michael Moodie persevered and has prevailed. Why? This is an astonishing achievement by a self-resourced individual in terms of perseverance. He knew he was innocent and he suspected he was being targeted for his past roles. Remember the trust accounts of King Edward Memorial Hospital for Women and Princess Margaret Hospital for Children, and InfoHEALTH Alliance? I say to members of the house: this is a shameful story I have told. Many people must have known what was going on but no-one lifted a finger to intervene. Why?

This is Western Australia; our beloved state to which every one of us in this house has a responsibility. This is a tale of a most serious wrongdoing; wrongdoing to such an extent that anything I have ever come across in my parliamentary career pales into insignificance. Too many men and women have turned a blind eye, buried their heads, done nothing and said nothing. There might be some in this Parliament, in the public service and in the health service who knew enough of this tale and knew there was wrongdoing afoot and either chose to do nothing or consciously supported attempts to destroy Mr Moodie. We cannot let this happen and walk by on the other side. This is not just about Michael Moodie. It is about our public service and it is about the integrity of our Parliament; indeed, it is about the whole basis of our parliamentary democracy. Parliament must get to the bottom of this. If not, what are we here for?

What needs to happen next? Most importantly, there needs to be two inquiries—one into the Department of Health's actions against Michael Moodie and one into the InfoHEALTH Alliance and the unaccounted losses of $20 million. Moodie should be reinstated to his previous position and reimbursed all his costs as a result of the Department of Health's action. He has been acquitted. He has done no wrong. Moodie should get a vote of thanks from the Parliament for what he has done for the public of Western Australia. Moodie should receive a written and public apology from the Director General of the Department of Health. The people who conspired in these actions against Moodie must be brought to account. This behaviour cannot and should not be tolerated.

In my view the state public service in recent times has received many shocks. The actions against Michael Moodie show that we must re-examine how our public service works, examine the avenues to strengthen this role and identify faults. Some members may call for a royal commission. I have seen my fair share of royal commissions. I would prefer an inquiry headed by a person with appropriate knowledge. The role of information and communications technology in health could be examined by a parliamentary committee, but extra resources would be needed to assist the committee. The inquiry by the Auditor General will be very useful but will deal with only some of the core issues involved. The Office of the Auditor General will only expose the problems; it is our responsibility to act.

I will leave my concerns with the Parliament. The appropriate response would be for Parliament to act, but if this does not happen, I will bring motions to this house for action. The one shining light in all this is Michael Moodie. His example gives me hope, and should give us all hope. Remember the Douglas inquiry in 2003; it outlined what happened to whistleblowers long before most of these events happened in 2006. On that issue of hope, and seeking to recognise that in Michael Moodie there is a beacon of hope, let me conclude by quoting from a speech by Robert Kennedy in South Africa in 1966, when he said —

> Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance.

Let each man and woman in this chamber stand up; let this house be a centre of energy.

HON ED DERMER (North Metropolitan) [4.00 pm]: I am very pleased to address the estimates of revenue and expenditure 2010–11. In doing so, I intend to focus on a particular item of expenditure that relates to one that I addressed last year on 16 June when considering the consolidated fund estimates 2009–10. I intend to focus on expenditure by Main Roads Western Australia, and specifically focus on an expenditure, the urgency for which I explained in June of last year, a little more than a year ago. I hope members will recollect my explanation, but I will briefly cover it again just to make sure members understand my concern for the safety of

my constituents with serious disabilities who are at grave risk when they use Collier Avenue and Amelia Street to access Northlands shopping centre in Balcatta.

Members may recollect that my electorate office is on the corner of Collier Avenue and Amelia Street. From the windows of our electorate office, my staff and I regularly see people travelling on Collier Avenue towards Amelia Street, and then crossing Amelia Street to the shopping centre and back. It became very clear to us that there appeared to be a very high proportion of people using Collier Avenue to get to Amelia Street and crossing Amelia Street to the shopping centre who had quite serious levels of disability. This was shown by people who had various mobility assisting devices, such as wheelchairs—some motorised; some not—and other such devices. We noticed an unusually high proportion. We also noticed, much to our concern, the regular occurrence of near misses. People quite often use the road to traverse in their wheelchairs, particularly along Collier Avenue and then across Amelia Street. Obviously, they are pedestrians, albeit in a wheelchair, and the mixture of those people and cars often travelling at high speed is one of great danger. We have witnessed many near misses. Fortunately, we have yet to see a collision, but we remain concerned that there is a very high probability of such a collision, and terrible injury, occurring. We see a variety of mobility aids, wheelchairs and motorised wheelchairs referred to as gophers. One lady rides a large tricycle, which she uses to carry her shopping. Whenever I see her I become particularly anxious because she looks so very vulnerable on the tricycle when attempting to negotiate those two roads on the way to the shopping centre or on the way back from the shopping centre. We live in fear of seeing something terrible occur.

This matter was first brought to my attention, as I explained in June last year, by my electorate officers, Mrs Jane Saunders and Dr John Crouch. I have had the good fortune of having Mrs Saunders and Dr Crouch work in my electorate office since 1998. That is very much to my good fortune and that of my constituents. From that position, they have seen this problem with people, many of whom have serious disabilities, risking their life to access the shopping centre. As recently as last week, my relief electorate office staff, Mrs Margaret Pearce, saw a lady using a motorised wheelchair right in the middle of Collier Avenue returning from the shopping centre, so she was travelling from north to south. As she was proceeding along Collier Avenue, a car, travelling at significant speed, swung in from Amelia Street on the left. As the car dashed past her heading south, another car passed her going north. For a moment, the lady in the wheelchair was in the middle of the road with cars going past her in opposite directions. She was in the middle of the road. Mrs Pearce was quite shocked to see this incident. Sadly, Mrs Saunders, Dr Crouch and I have often seen these types of incidents. Although we continue to be shocked, it was a very bad experience for Mrs Pearce, who occasionally works in my office as relief staff, and she was prompted to raise her concern with me. I am now raising my concern again with my colleagues in the Legislative Council. I could see from my office window that a high proportion of pedestrians, including those travelling down the middle of Collier Avenue, had a range of serious disabilities. Many people are sight or hearing impaired, but the most visible are those with mobility impairment who therefore use wheelchairs and other aids for mobility.

Visible evidence seen from a window is one thing, but I wanted to get some hard data to confirm what was happening, so I sought written advice from the Minister for Disability Services and the then Minister for Housing and Works. The Minister for Disability Services, our colleague in this chamber, wrote to me on 24 March last year to advise that he had asked the Disability Services Commission to prepare a statistical profile of the area bounded by Main Street, Amelia Street, Wanneroo Road and Morley Drive. I had suggested this area, Madam Deputy President (Hon Helen Morton), as one that was likely to include the homes of a number of the pedestrians walking or using wheelchairs or similar devices to access the shopping centre. In his letter, the minister explained that whereas about three per cent of the Western Australian population has a disability of such a nature that they require assistance with daily activities, within the area indicated about seven per cent of the local residents have a disability and require daily assistance, including the use of mobility aids. We are not talking about disability in the broader sense, but about people with disabilities of such seriousness that they need daily assistance. They make up three per cent of the general Western Australian population and seven per cent of the population of the area in question. It is clear that more than twice the proportion of people with a serious level of disability live in this area than can be found among the general Western Australian population.

In his letter of 24 March, the Minister for Disability Services also wrote that although a proportion of the residents in the area described are aging, at least half are younger people with disabilities who live in supported accommodation homes immediately within the area around Collier Avenue and Amelia Street. The evidence visible from my office window is that a full age range of people with serious disabilities are, I believe, risking their lives on a daily basis to access the shopping centre.

I also received a letter dated 6 May 2009 from the principal policy officer of the then Minister for Housing and Works. The principal policy officer advised that the Department of Housing owned 230 properties in the vicinity and had identified 107 tenants of these properties who had a disability that justified them receiving a disability support pension. The policy advisor's letter went on to explain that the Department of Housing leased 28 properties to external agencies such as UnitingCare West and the Centre for Cerebral Palsy. Within that area,

Homeswest has leased properties to organisations that provide disability services. These two letters contain evidence to support what was evident to me and my staff by looking out the office window; that is, a very large proportion of the population in the area have serious disabilities.

It is probable that people with serious disabilities quite often would not drive to the shopping centre. Therefore, in that area an even higher proportion of people with serious disabilities would access the shopping centre by either walking or using a mobility aid. What I am trying to say is that in that area about seven per cent of people have serious disabilities—that is more than double the usual proportion, in the statistical sense, of people with serious disabilities found across the state. It is of even greater significance, because the people with serious disabilities are often the ones for whom driving is difficult; therefore, moving as a pedestrian is more likely to be their mode of transport when they are trying to get to the shopping centre. It might be someone walking with frailty or someone using a wheelchair or similar aid to get there. So for these people—it is a very significant proportion of people—it is a big issue because they are risking their lives dealing with the traffic on Collier Avenue and Amelia Street.

During debate last year I explained to the house my concern about the grave risk taken daily by people with serious disabilities when they endeavour to negotiate Collier Avenue and Amelia Street to access Northlands shopping centre. For people going to and coming back from the shopping centre there are two vehicle entry and exit points at the shopping centre. Once they actually get through the entrance, there is a car park they must negotiate. It might seem relatively straightforward, but when I go over there from time to time to get my lunch at Coles or somewhere when I am working at my electorate office, I need to be careful traversing part of Collier Avenue and then —

Hon Ken Travers: Particularly if Tim Daly is driving down the road!

Hon ED DERMER: Not wishing to be distracted by Hon Ken Travers, I am just trying to paint in words a picture that is difficult to paint in words when I see it in living colour out of my office window. It is particularly difficult. There are people with high levels of disability, many of whom find the existing path on the eastern side of Collier Avenue dangerous for reasons I will explain shortly. So, they go along that road and once they reach Amelia Street, they need to cross Amelia Street. There are cars travelling in both directions, fairly major roads and intersections nearby and multiple entries and exits in and out of the shopping centre. They then have the difficulty of negotiating the shopping centre car park to finally get to the shops. Obviously, when they have done their shopping, they have to go through all that again. I need to be careful; so, members can imagine what it must be like for a person with a serious disability, and often a person might have more than one disability, compounding the effect. It might be someone who has a mobility problem, a sight impairment and a hearing impairment—that combination exists in different people. Having to negotiate a series of very dangerous obstacles, it is a major hazard for them to do something as simple as visit the shopping centre.

My concern, obviously, remains, which is why I raise this matter again today. But I am pleased to report that some progress has been made, and I would like to make a progress report by way of this speech. Steps have been taken to enhance the safety of my constituents, but also of course I emphasise the continuing requirements. I share this chamber with the Minister for Transport, who obviously, unfortunately, has urgent parliamentary business to attend to. However, I am sure he will attentively read the *Hansard* and therefore hear in that sense what I have to say. The Leader of the House might draw it to his attention.

Hon Norman Moore: Absolutely!

Hon ED DERMER: I thank the Leader of the House.

This is a very important opportunity because it is also uniquely a fortunate event that the minister has the portfolios of both transport and disability services. If my speech illustrates nothing else, it is the obvious connection between those two portfolios and how the challenge of safely allowing those with serious disabilities transport is a particularly grave one that needs to be addressed. Having a minister with both portfolios is likely, I believe, to help bring about that understanding and to achieve progress. I do not know whether that was foremost in the Premier's mind at the time he allocated the portfolios or whether it is just a happy coincidence. Either way it is very good that the minister —

Hon Norman Moore: I think he was anticipating this speech when he made the appointment.

Hon ED DERMER: Was he? I missed that, so I thank the Leader of the House for that. It seems very logical to give that joint responsibility to one minister of the Crown.

As I explained last year, on 5 March 2009 I conducted an on-site examination of the various hazards confronting people who go down Collier Avenue and cross Amelia Street to access the shopping centre. I was joined in that examination by three senior officers of the City of Stirling, including Mr Geoff Eves, the director, infrastructure, for the City of Stirling. Also with me was Dr Crouch from my office, and a Mr Alex Clark, who is a very active member of the local community and who suffers from profound deafness. He is a worthy citizen and a very active advocate for people who have disabilities and who need to deal with those as they live their daily lives.

The on-site examination identified a number of specific hazards, and also entailed the consideration of potential solutions. It made sense, obviously, while we were conducting the on-site examination and looking at the hazards, to try to discuss among ourselves the feasibility of different potential solutions. I am very pleased to note that significant steps have been taken by the City of Stirling to address the need to ameliorate the hazards that were identified at the time of that on-site examination on 5 March last year.

One hazard I raised during the on-site examination was the foliage of trees that had at that time been recently planted on the median strip on Amelia Street, which foliage extended out horizontally across the road. For someone as tall as I am, it may not have been a problem, obviously, but what we need to visualise when we are considering these matters for people with disabilities is the line of sight of someone who might be sitting in a wheelchair when he or she is looking out across the road. This is particularly serious for people who have sight impairment, and other people who have hearing impairment may not hear a car approaching as readily as we would. One quite simple matter that we were able to identify at that on-site inspection was that the foliage was growing horizontal to the ground in an uncontrolled manner and therefore impeding people's ability to see approaching vehicles.

The City of Stirling appropriately dealt with this hazard by tying up the branches that were obstructing people's sight. The trees would have needed further attention at a later date as they grew. When I pointed this out, I used a digital camera, which is fairly high tech for me, and took photographs of the branches growing in such a way as to obstruct vision. I used an email to send those photographs to Mr Eves. People who know me well will realise that using emails and photographs and integrating them is not my natural talent. I was very ably assisted in that process by Mrs Saunders from my office. When I sent that to Mr Eves, I was very pleased on a subsequent date that the City of Stirling responded promptly and tied up the offending branches, therefore avoiding the obstruction of vision by the branches. The city can be sure that we will continue to bring this matter to the city's attention if in the future the branches again become a visual hazard.

On the eastern side of Collier Avenue between Amelia Street and Shakespeare Avenue, leading up to the shopping centre, there is an existing footpath on the eastern side of the street. It is quite common on that street for people to have brick or other significant front garden fences. These fences align immediately with the side of the footpath. This is a real problem for someone in a wheelchair. If a person is backing his or her car out of a driveway, and a person in a wheelchair is proceeding down that path, because the path is immediately alongside the garden brick wall or fence, it is very easy for the person in the car to not see the approaching wheelchair. People operating motorised wheelchairs might approach faster than walking pedestrians and they would find it more difficult to stop in the event of a possible collision with a reversing vehicle. This is a hazard and it is the reason that people in wheelchairs more often go onto the Collier Avenue roadway instead of using the existing path. That is part of the concern.

When I am reversing out of my electorate office driveway, I do my best to look and I make sure that I drive my vehicle extremely slowly. In the event of an unfortunate collision, it would occur at very low momentum because people in wheelchairs using the path would get plenty of warning. In doing that, I also have more opportunity to see an approaching wheelchair.

Members would understand that if a person in a wheelchair is supposed to use the path on the eastern side of the road that is right up against a brick wall, he or she would be reluctant to use it. Sadly, many people have found it safer to go onto the Collier Avenue roadway rather than use the existing path. It is a real problem. If someone is driving a wheelchair in a northerly direction towards the shopping centre and a car quickly enters Collier Avenue from Amelia Street, neither the driver of the vehicle nor the person in the wheelchair has any warning. There have been many near misses and we are lucky that nobody has been killed yet. As I explained earlier, Mrs Pearce saw the near miss the other day in which a wheelchair was between two cars travelling in opposite directions. It is very scary and the potential for tragedy is evident. It can be tremendously terrifying for someone who already has to deal with serious disability to manage the simple pleasure, often necessity, of accessing the local shopping centre.

I am very pleased that the City of Stirling has recognised this hazard and has responded by installing a path on the western side of Collier Avenue for approximately 30 metres, closest to where Collier Avenue intersects with Amelia Street. It has been very good. It has significantly enhanced the safety of pedestrians, including people in wheelchairs and other mobility aids. Most people will not use the path on the eastern side of Collier Avenue because of the problem I explained with cars backing out.

The tradition, which sadly is a dangerous one, has been to travel on the Collier Avenue roadway, because people see it as less dangerous than using the existing path due to reversing motor vehicles. At least now, for the last 30 metres before Collier Avenue intersects with Amelia Street, there is a suitable path, courtesy of the City of Stirling. I am very pleased that it has constructed this path. Most people in wheelchairs will now move onto the path for the last 30 metres before they reach Amelia Street. In my view the last 30 metres of Collier Avenue is the most dangerous because that is where problems arise with cars turning in off Amelia Street and not being

able to see a wheelchair. Now for the last 30 metres there is a suitable path. Of course not all people in wheelchairs use the new path. For example, the lady who had a near miss last week, which Mrs Pearce saw, did not use it. I hope that experience will lead her to use the new path next time. The problem is that before the new 30-metre path was constructed, many people in wheelchairs actually used the Collier Avenue roadway and that is still the case for some today. Although most people will use the new path when they reach it, others will not use it and continue on the roadway. That was the problem that Mrs Pearce witnessed last week.

At least for the most dangerous 30 metres of Collier Avenue closest to the Amelia Street intersection, pedestrians, including people in wheelchairs, are able to use a safe path rather than the road. For the same distance on the western side of Collier Avenue the path is safe. The path runs basically alongside a group of professional offices and, as the City of Stirling is proposing to extend it along Collier Avenue, it will ensure that it is not right up against the garden walls of the houses. That will prevent the same problem arising between pedestrians using the path and reversing vehicles.

My electorate office staff and I see through the window in the office that the new path is used frequently. My electorate office staff tell me that they have received very positive public comment about the installation of the new path. I have been pleased to pass on these positive comments to the City of Stirling.

As I have said, unfortunately some people persist in using the road, but I am hopeful that when this path is extended down the full length of Collier Avenue to the next street, Shakespeare Avenue, it will solve the problem. The safety enhancement achieved by this 30 metres of path on Collier Avenue is certainly worthwhile, and credit should be given to the City of Stirling for constructing it. The need remains for a path along the remainder of the western side of Collier Avenue between Amelia Street and the next street to the south, which is Shakespeare Avenue. The path needs to be appropriately set at a distance away from front garden walls on the western side, so there is the capacity for people in wheelchairs to see cars backing out, and for people in cars backing out to have plenty of visual warning of people in wheelchairs proceeding down the street. If this path were to be extended on the western side down the full length of Collier Avenue between Amelia Street and Shakespeare Avenue, it would provide safe passage for wheelchair pedestrians. It would be preferable for them to use that safe option rather than the unsafe options of the road or the existing path on the eastern side of Collier Avenue.

In considering the installation of a path for the full length of the western side of Collier Avenue between Amelia Street and Shakespeare Avenue, the City of Stirling, as a responsible local government authority, conducted a public consultation process with local residents. I was very pleased to receive a particularly positive letter from Mr Jon Offer, the special projects and support engineer at the City of Stirling. The letter is dated 28 May 2010, and I will read from it in part. It states —

> Dear Mr Dermer,
>
> **PETITION RESULTS FOR FOOTPATH ON COLLIER AVENUE, BALCATTA**
>
> I am pleased to advise that the public consultation demonstrated overwhelming support (65 for, 6 against) for the construction of the footpath to the West side of Collier Avenue, Balcatta. I can also advise that the City has scheduled construction for the beginning of the 2010/11 annual programme, subject to budget approval.
>
> The City has implemented a proactive approach to installing a footpath in every street that is not a cul-de-sac and is working to achieve this by providing the highest scoring paths first. While the City can identify and rate the various road classifications and facilities in the area, to prioritise path construction, it is difficult to account for abnormal or location specific levels of pedestrian flow or the proportion of disabled users. Input from all elements of the community is essential to assist the City in responding to those more complex factors.

The City of Stirling has taken into account people who have to live with disabilities. The letter also makes some encouraging comments about the actions taken to draw this to the city's attention. I was very encouraged to receive that letter from Mr Offer, and I am hopeful that we can look forward to progress over the coming months. Of course, this is subject to City of Stirling budget approval, which Mr Offer made clear in his letter.

I was similarly encouraged by a positive City of Stirling proposal to enhance the safety of pedestrians crossing Amelia Street to access the Northlands shopping centre. I received a letter dated 21 July 2009 from Mr Geoff Eves, the director, infrastructure, at the City of Stirling. It states —

> Dear Mr Dermer
>
> **PEDESTRIAN SAFETY CONCERNS – AMELIA STREET, BALCATTA**
>
> Thank you for your letter of 9 July 2009 regarding the ongoing concerns for the safety of pedestrians with serious disabilities endeavouring to negotiate the section of Amelia Street in Balcatta, between Main Street and Wanneroo Road.

I remind members that the shopping centre is on the northern side of Amelia Street, and that Collier Avenue intersects with Amelia Street on the southern side.

Debate interrupted, pursuant to temporary orders.

[Continued on page 4725.]

QUESTIONS WITHOUT NOTICE

DEPARTMENT FOR CHILD PROTECTION — DARCH PROPERTY

420. Hon SUE ELLERY to the Minister for Child Protection:

(1) Is the Department for Child Protection currently planning to purchase or lease a property in Darch?

(2) If yes to (1), for what purpose and at what stage is any proposal?

(3) Given that some residents in Darch are concerned that the department has not been proactively consulting over the use of the house, will the minister direct the department to commence meaningful consultation with all local stakeholders as a matter of urgency?

(4) What properties does the department currently own or lease in Darch?

Hon ROBYN McSWEENEY replied:

I thank the member for some notice of the question.

An offer was accepted for the Darch property on Wednesday, 16 June and is awaiting settlement. This has allowed little time for consultation on that purchase to occur. The Darch property is a tier 1 property and will be managed by UnitingCare West. Settlement is expected to occur in late July 2010, when the house will be passed on to UnitingCare West. UnitingCare West, a non-government community service organisation, has been contracted by the department.

For the benefit of other members, I will explain what a tier 1 house is designed for. A tier 1 house is to provide a safe family home living environment with live-in carers for up to four children who are unable to live with their parents. For one-third of these houses, we place sibling groups—it could be three, four or five siblings—that we do not want to split up because they have already been taken away from their parents; they do not need to be taken away from their siblings. The carers seek to enrol those children in school and involve them in normal community activities. The house has not been purchased to place children recently released from detention or for children with serious offending behaviours.

A response advising what I have outlined to the house has been forwarded to residents who have expressed concern. Additionally, an offer has been made to meet with residents.

Given that I said on 16 June that an offer to purchase was accepted, on 18 June a letter was circulated anonymously into people's letterboxes in that neighbourhood. The anonymous letter stated —

> **I WISH TO BRING TO YOUR ATTENTION THAT THE "DEPARTMENT FOR CHILD PROTECTION" HAS OFFERED TO PURCHASE —**

A house in Darch —

> **THE REASON FOR THIS PURCHASE IS TO LEASE THE PREMISES TO A NON GOVERNMENT ORGANISATION FOR HOUSING OF CHILDREN THAT ARE UNDER THE CARE OF THE DEPARTMENT. THESE CHILDREN CAN BE RECENTLY RELEASED JUVENILES FROM STATE DETENTION OR JUVENILES WHO DISPLAY ANTI-SOCIAL BEHAVIOUR. I AM CONCERNED THAT THE INTRODUCTION OF THIS KIND OF CARE IN OUR NEIGHBOURHOOD COULD PUT OUR SAFETY AT RISK AND WILL DRAMATICALLY REDUCE THE VALUE OF NEARBY PROPERTIES. IF YOU ARE CONCERNED, I STRONGLY ADVISE YOU TO EMAIL OR WRITE TO THE DEPARTMENT EXPRESSING YOUR OBJECTION.**

From that anonymous letter drop, the department received 13 letters from concerned neighbours whom the department has written to in a proper manner. Therefore, when the Leader of the Opposition asked about the consultation, it was very hard to consult within those two days but we do have a consultation process. I know that Hon Sue Ellery is familiar with that and that she also understands that these children do have to live in a safe place, they have a right to be safe and they have a right to live in the community. We both know and recognise that. Therefore, the answer to the member's question is as follows —

(1) An offer has been accepted to purchase a Darch property.

(2) The offer of acceptance occurred on 16 June. This property will operate as a family group home for four children—that is, with live-in carers—and will be managed by UnitingCare West.

(3) The department and UnitingCare West staff are consulting with the community.

(4) This is currently the only property in Darch owned or leased by the department.

DISABILITY SERVICES — COMBINED APPLICATION PROCESS

421. Hon SUE ELLERY to the Minister for Disability Services:

I refer to the recent combined application process funding bulletin.

(1) Can the minister provide a breakdown of the ages of those included in the 2009–10 funding outcomes for round 3?

(2) How many of these people were young people in the nursing home program?

(3) How many carers over the age of 70 years applied and how many received funding, and what is the breakdown of the ages of those who received funding?

(4) How many of those funded were done so through the young people in nursing homes funding?

Hon SIMON O'BRIEN replied:

I thank the honourable member for notice of the question, which was given on 5 May. The answer was compiled at that date, but obviously it relates to the same funding round so it would still be valid.

(1) The age break-up of the 107 individuals funded in the 2009–10 combined application process for round 3 is as follows: one individual from the one to six years age range; 15 individuals from the seven to 12 years age range; 22 individuals from the 13 to 18 year age range; 11 individuals from 19 to 25 years; 24 individuals from 26 to 40 years; 21 individuals from 41 to 50 years; 12 individuals from 51 to 60 years; and one individual from the 61 to 70 year age range. No individuals from the 71-plus age range were funded.

(2) Of the 107 individuals in total just listed who were funded, nine met the criteria for the young people in residential aged-care program.

(3) The number of carers aged 70 years and over with family members in the combined application process total 53, 14 of whom were funded. The ages of family members funded were: one from the 19 to 25 year age range; four from 26 to 40 years; three from 41 to 50 years; five from 51 to 60 years, and one individual from 61 to 70 years.

(4) Two individuals who met the criteria for young people in residential aged care were withdrawn from the third combined application round and were funded from the young people in residential aged-care program funding. Nine individuals who met the criteria for the young people in residential aged-care program were funded through the combined application process.

WESTERN POWER — STATEMENT OF CORPORATE INTENT

422. Hon KATE DOUST to the Minister for Energy:

I refer to Western Power's statement of corporate intent for 2009–10.

(1) Has the minister directed the Western Power board to take specified steps or to make specified modifications to the draft statement?

(2) On what date is the minister required by legislation to table the statement?

(3) Will the minister table the statement by this date; and, if not, why not?

Hon PETER COLLIER replied:

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

(1) No, but my office has asked Western Power to finalise the statement of corporate intent for 2009–10. Contrary to the honourable member's media statement of 28 June 2010, the board of Western Power does not disagree with me regarding the content of this document. I could not give my agreement to the 2009–10 statement of corporate intent as the Treasurer was not in a position to provide his concurrence at the time. As the honourable member would be aware, the Economic Regulation Authority did not publish its further final decision on Western Power's access agreement until 19 January 2010. The authority's final determination needed to be considered during the 2010–11 budget process.

As detailed on page 56 of budget paper No 3, additional capital expenditure may be required for Western Power to meet growth and undertake asset maintenance and replacement; however, this expenditure will be subject to government review and approval of business cases. The business case process is particularly important given that the authority determined that approximately $260 million of capital expenditure in the first access agreement period, primarily under the Labor government, was

inefficient or reflected process deficiencies. As a result, Western Power could not earn a return on these assets. The Liberal–National government is implementing a robust process to ensure that the situation does not occur in the future.

(2) There was no specific date. The legislation only requires a statement of corporate intent to be tabled within 14 days of agreement.

(3) Not applicable.

EIGHTY MILE BEACH — PROPOSED MARINE RESERVE

423. Hon SALLY TALBOT to the Minister for Environment:

(1) Has the draft management plan for the proposed marine reserve for the Eighty Mile Beach area been completed?

(2) If yes to (1), has it been released publicly?

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

Hon DONNA FARAGHER replied:

I thank the member for some notice of the question.

(1)–(2) No.

(3) Work is being undertaken by the Department of Environment and Conservation; however, this has not been considered by the Marine Parks and Reserves Authority and has not been provided to me for consideration at this stage.

CORONER'S COURT — INQUEST REPORT WEBSITE PUBLICATION

424. Hon GIZ WATSON to the parliamentary secretary representing the Attorney General:

I refer to the Family Court's publication of anonymised judgement on its website.

(1) Is the Attorney General aware that the Coroner's Court of Western Australia does not currently publish inquest reports on its website?

(2) Subject to section 49 of the Coroners Act 1996, will the Attorney General arrange for those reports to be published on the website, if appropriate, in anonymised form?

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

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

Hon HELEN MORTON replied:

I provide the following answer on behalf of the parliamentary secretary representing the Attorney General.

I thank the member for some notice of this question.

(1) Yes. The Coroner's Court used to publish findings on the website. However, this facility was suspended following complaints from families. In summary, families were concerned that details of the death of their loved ones were publicly available and open to voyeurism.

(2) No.

(3) Not applicable.

(4) The provision of anonymised findings is no guarantee that the deceased will not be identified. Almost every death has its own unique set of circumstances from which it is relatively easy to identify the deceased. Findings are made publicly available following the inquest and, to facilitate bone fide requests thereafter, the Coroner's Court will make them available by application via its website. An online application form will be added to the website by the end of August 2010. Once an application has been approved, the finding will be sent electronically to the applicant.

PUBLIC BUS SERVICES — FARE REGULATION

425. Hon KEN TRAVERS to the Minister for Transport:

(1) Can the minister advise what regulations, if any, authorise the amount/rate of fares to be collected on Transperth and regional town bus services?

(2) If there is no regulation, on what basis and under what authority is the amount fixed to be paid by a person using public transport?

(3) Will the minister table any regulations or other instruments that set the current fares to be collected on Transperth or regional town bus services?

Hon SIMON O'BRIEN replied:

I thank the member for some notice of this question.

(1) There are no regulations that authorise the amount or rate of fares to be collected.

(2) The Public Transport Authority Act 2003 gives the authority all the powers it needs to form its functions. The power to determine fares for key services that the authority provides is an implicit power granted by section 13 of the act.

(3) No. As indicated just now, the Public Transport Authority Act 2003 gives the authority the power to set fares on Transperth and regional town bus services.

Part (3) of the member's question related to tabling any regulations or other instruments. I have taken the term "instrument" to mean a legislative instrument.

Hon Ken Travers: I was asking for any instrument.

Hon SIMON O'BRIEN: Obviously, my answer does not refer to just the scheduled fares, which I have previously provided to the member.

MINES — ASBESTOS MANAGEMENT PLANS

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

(1) How many mines in Western Australia does the Department of Mines and Petroleum classify as having high potential for the incidence of asbestos?

(2) What are their names and who are they operated by?

(3) Can the minister table all the asbestos management plans for each of these sites?

Hon NORMAN MOORE replied:

I thank the member for some notice of this question. The answer to this question cannot be collated in the time provided. I therefore ask the member to place the question on notice.

GNANGARA PARK DEVELOPMENT — STATE BUDGET 2010–11

427. Hon ALISON XAMON to the Minister for Environment:

I refer to page 824 of the budget papers and reference under the heading "New Works" to "Gnangara Park Development".

(1) How much money has been budgeted for revegetation at this site?

(2) What species will be included in the revegetation effort?

(3) How much land will be revegetated?

Hon DONNA FARAGHER replied:

I thank the member for some notice of this question.

(1) The amount budgeted for revegetation of the Gnangara park is $500 000 over the four out years—$125 000 a year.

(2) The Department of Environment and Conservation has prepared comprehensive lists of species that will be used to revegetate cleared pine plantation on the Gnangara system. The list of species is extensive. However, the key species are the five banksia species and their respective understorey.

(3) DEC has established revegetation trials over two to four hectares annually since 2001 to 2009 using direct seeding. These operational trials to determine the most successful and cost-effective techniques for restoring post-pine sites will continue as a component of new works being undertaken with the funding for the Gnangara park development provided in the budget papers.

PRODUCTIVITY PLACES PROGRAM — FUNDING

428. Hon LJILJANNA RAVLICH to the Minister for Training and Workforce Development:

I refer to the productivity places program.

(1) Is the minister aware that registered training organisations have been advised on three separate occasions of different release dates for calls for funding?

(2) Is the minister also aware that many registered training organisations that expected that calls for funding would occur in March, as has occurred in previous years, continue to pay their trainers instead of making alternative plans because of the advice given to them?

(3) As some registered training organisations have had to make staff redundant because of the delays in funding, will the minister immediately inform RTOs of their funding allocations; and, if not, why not?

Hon PETER COLLIER replied:

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

(1)–(3) I am not aware that there are three different dates for the calls for funding.

Hon Ljiljanna Ravlich: I am because you gave those separate dates in this house—but keep going.

Hon PETER COLLIER: No, I did not give separate dates. The honourable member has raised on a number of occasions the issue that somehow the productivity places program was stopped. It was not stopped and I emphasised that again last Wednesday. I said last Wednesday in response to a question that if there were any contracts, those contracts would be borne out. Interestingly, I suggested to the honourable member—I do so again—that if any private RTOs feel that that runs contrary to the advice —

Hon Ljiljanna Ravlich: I'll give you a whole lot of them; don't worry about that.

Hon PETER COLLIER: Good. Rather than the member making these imputations and insinuations, I highly recommend that she do something productive and constructive and work with the department to try to overcome the issues. I am not aware of the three different dates that she has referred to. I said that calls for funding are going out at the moment. I have said that quite consistently. Interestingly, I said to the honourable member last Wednesday that if she has any issues or she knows of private RTOs that have a grievance or do not agree with that, I would be happy to assist those RTOs. On Thursday the member sent an email to all private RTOs, no doubt in response to my question, under the name of Hon Ljiljanna Ravlich, MLC, member for East Metropolitan Region. It states —

> Dear Registered Training Organisation
>
> Below is a copy of a question I asked in Parliament recently on funding for the above program.
>
> If your RTO is experiencing difficulties because you haven't received the funding you expected, please let me know.

Hon Ljiljanna Ravlich: And they did!

Hon PETER COLLIER: The horse has actually bolted. Why on earth did the member send this out after the event?

Hon Ljiljanna Ravlich: You still haven't fixed them. There are plenty of them; it's not just one!

Hon PETER COLLIER: It is like listening to a cracked record. We go over it again and again. She gets caught out every time. I said at the time that if there were particular instances whereby an RTO —

Hon Ljiljanna Ravlich: You said that there was one.

Hon PETER COLLIER: If the member does not mind! I said that if there were particular instances whereby a private RTO has an issue that runs contrary to what I have stated and contrary to the assertions made by the honourable member, I would be delighted to assist that RTO. There is nothing clandestine about it. All I am saying is "if it runs contrary to what I have said". These RTOs would have contracts in place. If they have contracts, that funding will remain for the contract. If the honourable member knows of an instance whereby funding has stopped in the middle of a contract, I would like to hear about it. Does she have evidence of that? I presume that her silence means no. She does not have evidence of that. I can only assume that the contracts have been fulfilled. As I said before, we were very conscious of the fact that there has been a great increase in demand under the productivity places program because the policies that we have put in place over the past 18 months have been successful, which again is contrary to the assertions of the honourable member that it has failed and that there has been a decline in uptakes of apprentices, trainees et cetera. In fact, we have been very successful. There has been an increase in demand.

Hon Ljiljanna Ravlich: No-one thinks you're successful. They think you are an abject failure.

The PRESIDENT: Order!

Hon PETER COLLIER: The honourable member has no credibility because she carries on the way she does. She asks a number of questions about productivity places and then after the event sends out an email to the private RTOs to ask whether they have anything that they would like to feed her or any dirt they can give her, but it is too late. The honourable member has lost it since she has been in opposition; she used to be quite reasonable.

Yet again, we have a perfect situation where Hon Ljiljanna Ravlich has been exposed. She does not do her homework. I said this last Wednesday. We got to a situation where she was evidently working on a private RTO

that had some issues. We have hundreds of private RTOs. If there are some issues with those private RTOs, it is incumbent on me as Minister for Training and Workforce Development to do something about it. It is also incumbent upon Hon Ljiljanna Ravlich, if she is going to be an effective shadow minister, to take on board those issues, identify those issues and do something about it. Rather than make all these insinuations, I suggest she writes a letter to me, which is exactly what I used to do to her when I was in opposition.

Hon Ljiljanna Ravlich: Answer the question or sit down.

Hon PETER COLLIER: I would write a letter and get a result.

Hon Kate Doust: Just answer it.

The PRESIDENT: Order! The interjections have got out of control. I want members to stop interjecting. The question has been asked. Members should let the minister wind up his answer.

Hon PETER COLLIER: As I was just saying to the Leader of the Opposition, I will take as long as I like if I get questions without notice, particularly questions without notice that are without substance. I can argue about this day in and day out. We will not get anywhere on this issue and we will not be able to placate the RTOs that Hon Ljiljanna Ravlich is talking about unless she actually does something constructive and takes it upon herself to say she really does want a positive outcome for this RTO.

Point of Order

Hon KATE DOUST: Hon Ljiljanna Ravlich asked a question of the minister. He should have answered it. All he is doing now is degenerating into personal attacks and past history. I do not believe he is responding to the question that was asked. He is deliberately wasting the time of this chamber by not answering the question.

Hon PETER COLLIER: The question specifically related to private RTOs. That is exactly what I am referring to.

The PRESIDENT: I think it is time the minister wound up his answer. It is also much more helpful to the whole chamber if there are no interjections after the question is asked, and then the minister has absolutely no excuse for drifting off the substance of the question. I believe the minister is finalising his remarks.

Questions without Notice Resumed

Hon PETER COLLIER: I am. I conclude by saying that in every bit of evidence that has been provided to me, all contracts have been met with regard to the productivity placements and private RTOs. All funding has been met. If there is any evidence to the contrary to that advice, I would very much like to hear about it from either Hon Ljiljanna Ravlich or the private RTOs.

ERINDALE GROVE DEVELOPMENT — CONTAMINATED SITE CLASSIFICATION

429. Hon ED DERMER to the Minister for Environment:

(1) Is any of the land in or around the Erindale Grove development in Gwelup classified as a contaminated site?

(2) If yes, when was the classification put on the site and why?

(3) If no, has any land in question been classified as a contaminated site in the past?

(4) If yes, when and for what reason was the classification removed?

Hon DONNA FARAGHER replied:

I thank the member for some notice of this question.

(1) Lots 1, 11, 71 and 73 on North Beach Road, Gwelup, are classified as "remediated for restricted use".

(2)–(4) These lots were classified on 22 February 2010. The reasons for this classification are summarised in the attached basic summary of records, which is the same for all of these lots. I seek leave to table the attached document. The classification has not been removed.

The PRESIDENT: That document is tabled; you do not need to seek leave.

[See paper 2226.]

DEPARTMENT OF COMMERCE —RETURNED AND SERVICES LEAGUE WYOLA CLUB INC

430. Hon LYNN MacLAREN to the Leader of the House representing the Minister for Commerce:

(1) Is the Department of Commerce undertaking an investigation into the Returned and Services League Wyola Club Inc?

(2) If yes to (1), does this include transfer of ownership of a heritage property in Fremantle?

(3) If yes to (1), when will the investigation be completed?

(4) Does the department have the authority to seize club documents?

(5) Has it exercised this authority?

Hon NORMAN MOORE replied:

I thank the member for some notice of this question. The minister has provided the following reply —

(1) Yes, the department has confirmed that it is investigating a number of complaints about RSL Club Wyola Inc.

(2) The complaints cover a range of issues, some of which relate to the transfer of ownership of a property.

(3) These are complex matters about which legal advice is being sought, so the department is unable to anticipate a date by which the investigation will be complete.

(4) Under section 39 of the Associations Incorporation Act 1987, the commissioner has the authority to give a direction to an incorporated association requiring production of records relating to the affairs of the association.

(5) Yes.

DEPARTMENT OF HEALTH — ASBESTOS GUIDELINES

431. Hon LINDA SAVAGE to the minister representing the Minister for Health:

(1) What are the Department of Health's guidelines and/or standards for exposure to asbestos?

(2) What does the Department of Health regard as an acceptable level of asbestos exposure?

Hon SIMON O'BRIEN replied:

I thank the member for notice of the question. The Minister for Health has provided the following reply —

(1) The Department of Health has published "Guidelines for the Assessment, Remediation and Management of Asbestos–Contaminated Sites in Western Australia". These guidelines are also being considered as a basis for national guidelines.

(2) In contaminated sites the acceptable levels are 0.001 per cent, on a weight-for-weight basis, for free asbestos; and 0.01 per cent, on a weight-for-weight basis, for asbestos cement material in residential sites.

DEPARTMENT OF EDUCATION — UNPLACED TEACHERS SEEKING POSITIONS

432. Hon HELEN BULLOCK to the minister representing the Minister for Education:

(1) Does the Department of Education have a list of teachers not currently employed in government schools who are seeking positions with the Department of Education; and, if so, how many teachers are on that list?

(2) Of those teachers, how many are seeking positions in —

(a) secondary schools exclusively;

(b) primary school exclusively; and

(c) either secondary or primary schools?

Hon PETER COLLIER replied:

I thank the member for some notice of this question. The Minister for Education has provided the following reply —

(1) Yes; as at 23 June 2010 there are 3 601 applications from unplaced teachers.

(2) (a) The figure is 1 299.

(b) The figure is 2 091.

(c) The figure is 211.

SCHOOL HOLIDAY DATES CHANGE — IMPACT ON SOUTH WEST TOURISM

433. Hon ADELE FARINA to the minister representing the Minister for Education:

I refer to the minister's recent decision to change school holiday dates for the first term of 2011 and the impact that will have on South West region tourist operators who are facing financial losses as a result of bookings being cancelled or cut short.

(1) Was the Department of Education aware of the National Assessment Program – Literacy and Numeracy test dates as far back as 2007?

(2) If yes to (1), why were the NAPLAN test dates not taken into consideration when first setting the 2011 school term dates?

(3) Why was the tourism industry in the South West region not consulted before a decision was made to change the dates?

(4) Will the government compensate South West tourism operators for financial losses incurred as a result of the government's decision?

Hon PETER COLLIER replied:

I thank the member for some notice of this question. The Minister for Education has provided the following reply —

(1) Yes.

(2) These dates were first decided in 2006 by the previous Labor government.

(3) Verbal advice was sought and received from the chairperson of the board of Tourism WA and the chief executive officer of Tourism WA.

(4) It is not yet clear that such losses will necessarily occur.

WESTERN POWER – DOWNER EDI – TENIX ALLIANCE — TERMINATION

434. Hon KATE DOUST to the Minister for Energy:

(1) What was the total cost to terminate Western Power's alliance with Downer EDI and Tenix?

(2) What amounts were paid to each alliance partner to terminate the agreement?

Hon PETER COLLIER replied:

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

(1)–(2) The power alliance was terminated on 15 March 2010. The terms of the termination are subject to confidentiality requirements between all parties.

CATTLE DEATHS — AUSTRALIAN QUARANTINE AND INSPECTION SERVICE INVESTIGATION

435. Hon LYNN MacLAREN to the minister representing the Minister for Local Government:

I refer to the Australian Quarantine and Inspection Service investigation into the deaths of 260 cattle en route to Egypt aboard the MV *Ocean Shearer*.

(1) Is the minister advised of progress in this investigation?

(2) Does the federal investigation include examining activities at export assembly feedlots in WA?

(3) Does the federal investigation include examining activities at the port of Fremantle?

(4) Is the state government assisting AQIS in its inquiries?

(5) Will the federal investigation also include information on the health and welfare of the cattle upon arrival in Egypt to determine the full number that died due to the voyage?

Hon PETER COLLIER replied:

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

(1) Yes. The minister has been advised that the Department of Local Government is awaiting official findings from the AQIS investigation.

(2) As this is a federal matter, the minister is unable to respond.

(3) As this is a federal matter, the minister is unable to respond.

(4) The Department of Local Government has not been requested by AQIS to assist with its inquiries to date.

(5) As this is a federal matter, the minister is unable to respond.

CONTAMINATED SITES — IDENTIFICATION

Questions on Notice 2423 and 2424 — Answer Advice

HON DONNA FARAGHER (East Metropolitan — Minister for Environment) [5.02 pm]: Pursuant to standing order 138(d), I inform the house that the answers to questions on notice 2423 and 2424 asked by Hon Alison Xamon on Wednesday, 19 May 2010 to me as Minister for Environment will be provided in due course.

ESTIMATES OF REVENUE AND EXPENDITURE

Consideration of Tabled Papers

Resumed from an earlier stage of the sitting.

HON ED DERMER (North Metropolitan) [5.02 pm]: Before we were interrupted by question time, I was reading a very important letter that I received from Mr Geoff Eves, director, infrastructure, at the City of Stirling. It will be clearer to members if I start reading the letter from the beginning. The letter is dated 21 July 2009, and reads —

> Dear Mr Dermer
>
> **PEDESTRIAN SAFETY CONCERNS – AMELIA STREET, BALCATTA**
>
> Thank you for your letter of 9 July 2009 regarding the ongoing concerns for the safety of pedestrians with serious disabilities endeavouring to negotiate the section of Amelia Street in Balcatta, between Main Street and Wanneroo Road.
>
> As advised in previous correspondence, Main Roads Western Australia (MRWA) has indicated that they cannot support the installation of midblock pedestrian signals along Amelia Street, adjacent to Collier Avenue, on the grounds that the number of pedestrians crossing the road within close proximity does not meet the minimum numerical warrants for such signals.
>
> Given this information, the City considers that the only remaining possibility to have pedestrian signals installed at this location is to seek co-contributions for the project under a shared agreement between the City of Stirling, MRWA and the Northlands Shopping Centre. As such, the City will now seek consideration of a one-third funding contribution from both MRWA and the owners of the Northlands Shopping Centre (which is likely to be in the order of $30,000–40,000 each), with the remaining one-third to be funded by the City of Stirling.
>
> Given the relatively high costs involved, all parties would need to be willing to contribute for the project to proceed and the contribution would likely need to be funded from future Annual Budgets. However, the City will advise you of any response that is received from both MRWA and the owners of the Northlands Shopping Centre in due course.
>
> I trust this information responds to your queries. Should you or your staff wish to discuss these matters further, please do not hesitate to contact the City's Traffic Design Engineer, Mr Paul Giamov on 9345 8711.
>
> Yours sincerely
>
> Geoff Eves
>
> DIRECTOR INFRASTRUCTURE

I have read the letter in full because I think that is the clearest way of explaining the proposal to the house. I have long held the view that normal formulas for usage do not apply in this case, because the area has more than twice the usual proportion of people with serious disabilities. Main Roads had made its position quite clear. The City of Stirling therefore proposed a specific type of pedestrian signal. The money involved was significant, so it was seeking equal contributions from the shopping centre owners and Main Roads Western Australia to match the contribution being put forward by the City of Stirling. The city, the owners and Main Roads Western Australia would fund one-third each to achieve the objective.

I was very pleased to receive the letter. I fully support the proposal outlined in the letter for this particular type of crossing. I communicated both to Mr Eves and to the Minister for Transport my support for the proposal suggested by the City of Stirling.

Hon Simon O'Brien: Can you remind the house again of the date of the letter you were quoting from?

Hon ED DERMER: The date of the letter from Mr Eves was 21 July 2009.

Hon Simon O'Brien: So it was last July; yes.

Hon ED DERMER: That is right. I am very pleased that the minister has dealt with the serious parliamentary business that he had earlier and he is able to join us. I earlier reiterated the problem, for the recollection of members, and said how pleased I was that the City of Stirling has put in place a 30-metre path on the part of Collier Avenue most proximal to the intersection with Amelia Street and the attention it paid to making sure that the foliage on the trees on the median strip on Amelia Street is tied up so that it does not create a horizontal visual hazard for pedestrians. That is just to give the minister an abstract of what we discussed earlier on.

Hon Simon O'Brien: I was actually listening.

Hon ED DERMER: Good; I am very pleased to hear that. I understand that there are serious parliamentary duties that sometimes are a distraction, but I am delighted that the minister has come back now and was listening earlier.

Hon Simon O'Brien: As we have discussed in the past, you made several representations, and I acknowledge that these constituents of yours in many cases do have specific needs.

Hon ED DERMER: That is very good to hear from the minister. The minister will probably have noted an earlier discussion I had with the honourable Leader of the House about how I thought it was very fortunate that the one minister of the Crown held both the portfolios of disability services and transport. I learnt today from the Leader of the House that that was part of the Premier's intention at the time when he made that decision. I am very pleased that he made that decision.

I thought the proposal from Mr Eves was very positive. I communicated my support for the proposal to both Mr Eves and the Minister for Transport very soon after I received the letter dated 21 July 2009. I was also very pleased to receive a letter dated 4 August 2009 from the Minister for Transport, which read —

> Dear Ed,
>
> Thank you for your letter of 23 July 2009, concerning safety for vulnerable road users crossing Amelia Street between Main Street and Wanneroo Road in Balcatta.
>
> As you are aware, the City of Stirling has approached Main Roads and proposed that pelican signals be installed to assist pedestrians with disabilities cross this section of Amelia Street. I am advised that Council has suggested a cost sharing arrangement with Main Roads providing one third of the necessary funds and the City of Stirling funding the balance.

The other aspect of that was the City of Stirling seeking one-third of the funding from the owners of the shopping centre. It continues —

> I am very supportive of this approach and agree to a one third contribution from the State towards the installation of a pelican signal system at this location.

I thank the minister. I am very pleased that he made that decision. I think the proposal for the pelican crossing would significantly enhance the safety of pedestrians concerned. I was delighted to receive the minister's letter of 4 August, which continues —

> Further to the above, I understand that Council has indicated its intention to seek a one third contribution from the owner of the Northlands Shopping Centre. You are encouraged to contact the City of Stirling should you wish to discuss matters pertaining to the delivery of the works.
>
> Thank you for taking the time to write to me regarding this matter. Your ongoing interest in the safety of your constituents is certainly appreciated and I feel that the provision of the proposed facility will be of considerable benefit to people living in the area.
>
> Yours sincerely
>
> Hon Simon O'Brien, MLC
> MINISTER FOR TRANSPORT

I also appreciate Hon Simon O'Brien's interest in this matter and look forward to its progress.

Given that the City of Stirling and the Minister for Transport had both agreed to each meet one-third of the cost of installing the proposed pedestrian signals on Amelia Street, the outstanding requirement was, of course, the shopping centre owner's agreement and the need to seek the owner's commitment to meet one-third of the cost. As part of that process, I invited Mr Andrew Pratt, the asset manager for the shopping centre, to join me for an on-site inspection to go over the problems. I was very pleased to have Mr Pratt accompany me on-site to look at the issues. We also had the opportunity to discuss the matter with some of the pedestrians concerned, including people with serious disabilities. I think that that was constructive. In time, the management of the shopping centre advised me of the owner's willingness to contribute $20 000 plus GST to the cost of installing the signals. And this very welcome contribution is certainly appreciated. However, $20 000 is not one-third of the cost. As much as I appreciate the owners contributing $20 000—it is very good and very welcome—it does leave a gap, because the $20 000 is less than one-third. The City of Stirling was proposing to provide one-third, as was Main Roads. Obviously, with the owner's less than one-third contribution, that does not add up to the whole. The gap in the funding remained. The prospects for the installation of these important traffic signals is clearly described in an email I received on 29 April this year, from Mr Eves of the City of Stirling. I will read most of this email into the record of the house because it is the simplest way to explain the current situation as it was on 29 April and as it was at the time of my communication with Mr Eves' office last week. Mr Eves' email reads as follows —

> Dear Ed,
>
> Thank you for forwarding the letter dated 17 March 2010 from Mr Andrew Pratt of Lease Equity, property managers of the Primewest Northlands Shopping Centre, in which he advised that the shopping centre owners were willing to contribute up to $20,000 towards the cost of installation of pelican (pedestrian-controlled) traffic signals on Amelia Street, between Collier Avenue and Campion Avenue.

That is the location of the part that leads onto the main entrance off Amelia Street—the main pedestrian entrance off Amelia Street and through the shopping centre car park. Therefore, it is the point at which most people endeavour to cross Amelia Street to and from the shopping centre. Mr Eves' email continues —

> The City has sought a preliminary quote from Downer EDi (who are Main Roads WA's preferred traffic signal contractor) for the traffic signal component of the works. Downer EDi has advised that the installation of signal lanterns, posts and associated electrical works would cost in the order of $76,000. When added to the costs for design, project management and civil works (i.e. modification of pram ramps and traffic islands), the total project cost is estimated at $117,000.
>
> The Agreement in Principle provided previously by Main Roads WA indicated that they would be willing to make a one-third contribution (originally estimated at $30,000–$40,000). If MRWA contributes $39,000 toward the project (being one-third of $117,000) and the shopping centre contributes $20,000, the City would then be required to make up the remaining amount of $58,000.
>
> The timing of the agreement from the shopping centre has meant that this project has unfortunately missed the City's (and I expect MRWA's) deadline for consideration of new projects to be included in the coming year's Annual Budget. For a project to be considered and completed in a financial year, the design needs to be completed prior to 31 December of the previous year, to enable approvals, estimates and consultation to take place. As such, the City does not have any funds available at this stage to complete the civil and electrical component of the works in the 2010/11 year. The City will, however, proceed with the design component of the works and will endeavour to have this project considered for a mid-year budget review (in February 2011), to allow the project to be brought forward, or included as part of the 2011/12 year. The City will also write to Main Roads WA to request that they now make provision within their budgets and forward plans for their required contribution towards this project.

Mr Eves' email then concludes with a reference to seeking confirmation from the owners of the shopping centre of the continuation of their commitment, as the time frame for installing the lights will now be later than the initial plan as proposed by the City of Stirling in the way that was explained in Mr Eves' email of 29 April this year. The email is in the name of Geoff Eves, Director Infrastructure, Infrastructure Administration, City of Stirling.

The response of Main Roads WA to the City of Stirling's request that Main Roads WA make provision in its budget and forward plans for its required contribution to the pelican traffic signals project appears to me to be pivotal in bringing this project to reality. That is why I am very pleased that the Minister for Transport; Disability Services is listening to me right now, because if the project is to go ahead in the way described in Mr Eves' email, it would need a positive response from Main Roads WA. If the minister wants to interject on me and say that it will certainly get a positive response, I would be delighted to accept that interjection. If the minister chooses not to interject on me now to confirm that Main Roads WA will make the appropriate provision in its budget and forward plans to bring this project to realisation, I will understand it. But I and the City of Stirling would like to hear from the minister, hopefully, positive news as soon as possible.

Hon Simon O'Brien: If you would like me to interject majestically from my place, and not in an unruly way at all, I assure you that any undertaking that has been given by me will be honoured.

Hon ED DERMER: Okay.

Hon Simon O'Brien: I will review this matter and the comments that you are making and are still to make today, and respond to you accordingly.

Hon ED DERMER: I thank the minister. That is very encouraging.

The point at issue is that the original proposal that Main Roads WA and I had already indicated support for was to be completed at an earlier time than the time frame in which the proposal has now become possible. That is why Mr Eves' email is seeking a fresh indication that, notwithstanding the later time for the project, Main Roads WA will make provision in its budget and forward plans for its contribution. The point of my request is for confirmation of Main Roads WA support for the project, notwithstanding the fact that it will now come into effect at a time later than originally envisaged.

Really the central point of my speech today is to make that request to the minister. Obviously I would be very happy to discuss that further with the minister. I still remain very happy to go with the minister one day and have

a look at the streets in question. However, for the reasons explained in Mr Eves' email, the project will now be implemented at a later time than was originally envisaged, and that is why he says in that email that the City of Stirling is looking for a response to its request that Main Roads WA make provision in its budget and forward plans. Last year a positive response was given; that is terrific. The project is now delayed. The City of Stirling, as I understand Mr Eves' email, is looking for confirmation of that positive support, notwithstanding the fact that the project will now be implemented —

Hon Simon O'Brien: And it has asked Main Roads.

Hon ED DERMER: It has asked for that confirmation. In Mr Eves' email to me of 29 April, he explains —

> The timing of the agreement from the shopping centre has meant that this project has unfortunately missed the City's (and I expect MRWA's) deadline for consideration of new projects to be included in the coming year's Annual Budget. For a project to be considered and completed in a financial year, the design needs to be completed prior to 31 December of the previous year, to enable approvals, estimates and consultation to take place. As such, the City does not have any funds available at this stage to complete the civil and electrical component of the works in the 2010/11 year. The City will, however, proceed with the design component of the works and will endeavour to have this project considered for a mid-year budget review (in February 2011), to allow the project to be brought forward, or included as part of the 2011/12 year. The City will also write to Main Roads WA to request that they now make provision within their budgets and forward plans for their required contribution towards this project, …

As I understand Mr Eves' words, the project will now be implemented, should it be implemented—I certainly think there is an urgent need for it—at a later stage. Therefore, the city will write to Main Roads WA to request that it now make provision within its budgets and forward plans for the required contribution towards the project. The main point of my raising this issue tonight and bringing it to the attention of the minister is to seek a positive response to that letter that Mr Eves, in this email of 29 April, advises that the City of Stirling will write to Main Roads.

Hon Simon O'Brien: Has it done so?

Hon ED DERMER: Not as yet.

Hon Simon O'Brien: Let me reassure you, if I may, by interjection. Main Roads has many, many projects that it enters into with local governments all over the state all the time, and it is not uncommon that the timetables shift. But, as I have already said, I will personally follow up this matter on your behalf.

Hon ED DERMER: If I understand the minister's interjection correctly and he is saying that Main Roads will be happy to continue its support for the project notwithstanding the delayed timetable, in my 13 years in Parliament that is probably the most welcome interjection I have ever received. Am I correct in understanding that?

Hon Simon O'Brien: Unless there is something that I am not aware of. When support is given for a project, just because there has been a brief delay does not mean that the support is going to be withdrawn.

Hon ED DERMER: I thank the minister for the encouraging interjection.

The installation of the pelican traffic signals on Amelia Street has important potential to enhance the safety and peace of mind of my constituents, and, most importantly, my constituents who live with serious disability. I am very pleased to hear the encouraging words of the minister this evening.

Within the context of the estimates of revenue and expenditure, I remain confident that the minister will make sure that this modest request is met. I am very encouraged by what he has said today. I am confident that the City of Stirling and Main Roads Western Australia will work cooperatively to ensure the successful installation of the Amelia Street pelican traffic signals. I am delighted to receive the minister's indication that Main Roads Western Australia will act in such a cooperative fashion, if I am understanding the minister's interjection correctly.

Hon Simon O'Brien: Based on what you have said, I see no reason why any partnership should not continue.

Hon ED DERMER: I thank the minister. That is very nice to hear.

Although planning and budgeting for such projects, of course, takes time, the needs of my constituents remain urgent, and the fullest cooperation between Main Roads and the City of Stirling is very encouraging.

I thank the City of Stirling for its commitment to the safety of my constituents. I particularly want to thank Mr Eves, Mr Offer and the other city officers and staff who have contributed to the progress achieved to date. I would like to thank Councillor Peter Rose, who represents the City of Stirling ward that encompasses Collier Avenue and the relevant section of Amelia Street. I have known Councillor Rose for some time and he accepted my invitation to inspect those roads and that turned into constructive discussions with Mr Eves. I would like to thank Hon Simon O'Brien, the Minister for Transport and Minister for Disability Services, and thank the Main

Roads Western Australia officers and staff who supported the pelican traffic signals project. I would like to thank Mr Andrew Pratt, who, as the asset manager for the shopping centre, accepted my invitation to an on-site inspection and presented the case for the pelican traffic signals project to the owners of the shopping centre. I also thank the shopping centre owners for their commitment to contribute to the project.

I would like to thank Mr Alex Clark, who, as I explained earlier, is a local resident and a highly effective advocate for people dealing with disabilities. As I said, Mr Clark has profound deafness. Mr Clark, with his experience of a serious disability, played a terrific role. He joined us for most, if not all, the on-site inspections and with his experience was able to get officers and the shopping centre asset manager to understand as best they could the scale of the problem disabled people face in safely negotiating their way to and from the shopping centre.

I also thank Hon John Kobelke, the member for Balcatta, who provided important support. He also joined me for the on-site inspection with Mr Pratt. I thank the *Stirling Times*, the local newspaper, that assisted in June last year by drawing attention to the needs of my constituents. I thank my electorate officers Mrs Saunders and Dr Crouch, who first brought to my attention the road safety concerns of my constituents with serious disabilities. Mrs Saunders and Dr Crouch continue to provide a wealth of advice on and support for this and so many other matters. I also thank my relief electorate officer, Mrs Margaret Pearce, who brought my attention to the unfortunate incident last week involving a woman proceeding down Collier Avenue, away from the shopping centre, on a wheelchair. The wheelchair was between cars travelling in opposite directions.

It is very pleasing for me to have the attention of members. I would like to thank my colleagues for their attention to my presentation. In particular I thank the Minister for Transport and Minister for Disability Services for his attention and his encouraging contribution to the debate. It is interesting. The minister has been paying attention to these matters for some time. We have not always agreed. When I spoke in this house this time last year, I put the case for a reduced speed limit on the relevant section of Amelia Street alongside the shopping centre between its intersections with both Main Street and Wanneroo Road. I did not succeed in convincing the minister that the 60-kilometre-an-hour speed limit should be reduced. Currently on that section of Amelia Street—that is, between Main Street and Wanneroo Road—the speed limit is 60 kilometres an hour. I am advised that the normal speed limit in suburban areas is 50 kilometres an hour. I put the case for 40 kilometres an hour because of the difficulties people with disabilities experience in trying to cross Amelia Street to access the shopping centre. I was unable to convince the minister to support my proposal. While the minister is listening, I repeat my concern that the 60-kilometre-an-hour speed limit on that section of Amelia Street is entirely inappropriate and needs to be reduced. That was a point of difference last time the minister and I discussed these matters. I ask the minister to reconsider —

Hon Simon O'Brien: I never dictate speed limits. I ask questions of my agency officers, but I never dictate that the speed limits be changed. I take the advice of experts.

Hon ED DERMER: I do not claim expertise in engineering.

Hon Simon O'Brien: And I don't grant it to you.

Hon ED DERMER: I had a modest education in physics, but I understand that force equals mass times acceleration. The speed at which a vehicle hits a pedestrian would have a direct bearing on the degree of force at which the collision occurred and, therefore, the state of the health of the pedestrian. Perhaps the minister could raise that question with Main Roads again and ask that it reconsider the speed limit on Amelia Street. The speed limit remains at 60 kilometres an hour, but even if it were to be reduced to a more sensible limit such as 50 kilometres an hour or 40 kilometres an hour—I think 40 kilometres an hour is best—there is still an urgent need for pelican lights. Whether the speed limit on Amelia Street is 60 kilometres an hour, 50 kilometres an hour or 40 kilometres an hour, I believe the pelican lights are very important. I believe the speed limit should be lower, but Main Roads obviously has a different view, given its persistence in its mistaken view that the speed limit should be 60 kilometres an hour. Although the need for the pelican lights is more urgent given the higher speed limit, the need for them on that section of Amelia Street would be urgent regardless of the speed limit.

I thank the minister for listening and I hope he will again ask the question of Main Roads officers, and that they will reconsider their decision. The minister might remind them that force equals mass times acceleration; the engineers should have a good enough grip on physics to understand that.

Hon Simon O'Brien: That's why I prefer not to lecture them.

Hon ED DERMER: I am not suggesting lecturing; I am just suggesting an appropriate professional inquiry.

Hon Simon O'Brien: Possibly the way ahead is for you to put a motion on notice to discuss speed limits generally, and then when we come back after sessional orders are finished, you as the proposer and I as the government respondent can have unlimited time before the house to debate the matter.

Hon ED DERMER: I have already thanked members of the house for their attention; I do not believe in stretching a friendship, but if I thought the minister's invitation would work to convince Main Roads to reduce the speed limit on that section of Amelia Street to a reasonable level, I would be happy to take it up.

I am now into my last three minutes, so I will be careful to not be distracted. I ask the minister to revisit this issue with the appropriate officers and ask them again to reduce the speed limit. However, if they insist on a speed limit of 60 kilometres an hour, the need for pelican lights is even more urgent; I think we all understand that. I look forward to seeing all concerned committing their work and resources to the earliest possible installation of the signals. Achieving safety and peace of mind for my constituents, particularly those with serious disabilities, is a very important objective. I understand that there are a number of initiatives that can be taken to enhance safety and peace of mind. I have explained a few of those this evening, and have revealed where there has been progress and where progress remains to be achieved. I will do my very best to encourage progress towards achieving a safer environment. I am very pleased to hear the evidence I have heard about cooperation between Main Roads and the City of Stirling. I am also very pleased about the initiative that the City of Stirling has taken and I believe the pelican lights will be helpful. I am hoping that Main Roads will continue to maintain an open mind on the issue of an appropriate speed limit for that part of Amelia Street, with a view to understanding that a lower speed limit there would also enhance the safety of those concerned. Particularly, in the absence of a reduced speed limit, the need for pelican lights is urgent. I look forward to progress based on cooperation between all parties concerned and appropriate resourcing. I will conclude my remarks at this point.

Debate adjourned, on motion by **Hon Ken Baston**.

APPROVALS AND RELATED REFORMS (NO. 4) (PLANNING) BILL 2009

Committee

Resumed from 24 June. The Chairman of Committees (Hon Matt Benson-Lidholm) in the chair; Hon Robyn McSweeney (Minister for Child Protection) in charge of the bill.

Clause 43: Part 11A inserted —

Progress was reported after the clause had been amended.

The CHAIRMAN: The Minister for Child Protection has an amendment on the supplementary notice paper.

Hon ROBYN McSWEENEY: I want to move to delete lines 9 to 14 on page 34.

Hon SALLY TALBOT: The minister's amendment applies to page 34. I want to discuss an earlier part of clause 43; can the Chairman tell me how to do that, please?

The CHAIRMAN: It is just a matter of drawing attention to the chamber the page and the lines that the member wishes to discuss.

Hon SALLY TALBOT: Should I do that now before the minister moves that amendment?

The CHAIRMAN: Is it prior to page 34, lines 9 to 14?

Hon SALLY TALBOT: Yes, it is prior to that; it is page 32.

The CHAIRMAN: Minister, if you are in favour of that, it will not pose any problems, then.

Hon SALLY TALBOT: I have a question for the minister about page 32 of the bill. Proposed section 171C(1) sets out the arrangements for the gazettal of local development assessment panels for a district and joint development assessment panels for two or more districts. I have two questions about clause 43. In an earlier stage of the debate I raised the question about what would happen where amalgamations took place between councils, which effectively moved a council from one designated area to another. My question is based on my understanding that the areas currently relating to this clause are the areas and regions used by the Western Australian Planning Commission; therefore, a council by amalgamating could effectively cross one of those boundaries. I wonder whether the minister can indicate whether the government has taken that into account.

Hon ROBYN McSWEENEY: In that case, the DAP boundaries would be altered to suit what was happening.

Hon SALLY TALBOT: Which would necessitate a re-gazettal, presumably?

Hon ROBYN McSWEENEY: Yes, the member is correct, it would necessitate a re-gazettal.

Hon SALLY TALBOT: I move on to proposed section 171D, which deals with the constitution, procedure and conduct of development assessment panels. My question relates to the matter that was raised by Hon Wendy Duncan in her second reading contribution. It relates to the cross-subsidisation that I believe the government is putting in place to give effect to the cost-recovery component of these amendments. How does the government propose to put this into effect when what it is effectively doing is cross-subsidising bodies that are constituted as separate entities? Earlier in the debate I compared this to the State Administrative Tribunal hearings, and when

SAT moves around the state it is always constituted as the SAT. However, when a joint development assessment panel sits, it is constituted as an individual entity, so that cross-subsidisation will involve different entities established for different purposes in different parts of the state. Could the minister include in her answer some clarification of whether the cross-subsidisation will include the local development assessment panel? For example, will the LDAP that will be set up for the City of Perth be involved in that cross-subsidisation?

Hon ROBYN McSWEENEY: No to both questions, because there is no cross-subsidisation. The DAP fee is a user-pay fee based on the Department of Treasury and Finance cost-recovery model and it is not cross-subsidised, as Hon Sally Talbot keeps saying. It is a state fee based on statewide cost recovery and the fees are paid by the applicant.

Hon SALLY TALBOT: Mr Chairman, am I allowed to refer to the daily *Hansard* in some form? I believe there would be a corrected copy now.

The CHAIRMAN: Yes, but it is probably appropriate, given a previous ruling earlier this year, to cite the fact that you are quoting from an uncorrected proof.

Hon SALLY TALBOT: Thank you, Mr Chairman, for your guidance. I am quoting from page 44 of the daily *Hansard* of 22 June. I notice that Hon Wendy Duncan, who unfortunately is not here because she is out of the chamber on urgent parliamentary business, referred specifically to cross-subsidisation and I did not notice Hon Robyn McSweeney correct Hon Wendy Duncan when responding to the second reading debate. This is very problematic, as Hon Ken Travers made clear during that second reading debate on the same page of the same daily *Hansard* by way of interjection, "Can I make it clear that I do not have a problem with the cross-subsidy issue? It is more the process by which it is done." That is precisely the point I am making now. Would the minister like to respond before I go on?

Hon ROBYN McSWEENEY: Hon Wendy Duncan did refer to cross-subsidisation, but it was a misunderstanding. The member was referring to a High Court decision and not the DAPs.

Hon SALLY TALBOT: In that case, I am thoroughly confused, and I would love to be able to cross-reference with Hon Wendy Duncan, were she in the chamber, whether she is also confused; it means that I have to reread her contribution to the debate in quite a different light. I cannot understand now how the minister has resolved the problem that I understood was troubling Hon Wendy Duncan, which seemed, from what she had said, to have been resolved by introducing cross-subsidisation. How has the minister resolved the problem that a DAP application—assuming that the cost recovery will be done at the point of application so that it is the developer, the submitter of the application, who is paying the costs—will cost much more, say, in Karratha, Broome or Kununurra than it does in Kalamunda? Surely on the cost-recovery model we will have to charge the applicant in Kununurra, or anywhere in the north west, an amount to cover the airfares for the three experts to be flown, I presume, from Perth to the meeting of the JDAP.

Hon ROBYN McSWEENEY: The state cost pool will set the fee. I think the Minister for Planning went back to Treasury and discussed the issues that the member and Hon Wendy Duncan raised and they were advised that a state cost pool will set the fee. There will be a standard fee regardless of whether it is located in the Kimberley or here. I believe I am providing the right information, but I will just check. It will be the same as the WAPC subdivision fees, which is a set fee regardless of location. It is now a set fee at the state level.

Hon SALLY TALBOT: With respect, the goalposts seem to have changed again. That has been my constant commentary ever since the committee stage began. We now seem to be dealing with a different explanation from the one that has been given to us at all stages since last Thursday afternoon. How can it be a cost-recovery model? If the fee for applications is going to be the same throughout the state, will it not be the case that somebody will pay more than the actual cost? Someone in one part of the state will pay more than the actual cost of convening the JDAP than someone in a more remote part of the state where it simply must cost more to provide the membership of the JDAP so that the JDAP is properly constituted and there is a quorum at the meeting. I think the house is owed a much more detailed explanation than the one the minister has been able to give us to this point.

Hon ROBYN McSWEENEY: As I said, a state cost pool will set the fee. The minister went back to Treasury and Treasury advised that it meets the cost-recovery model. This model is set at the WAPC fees regardless of location. It does not matter where in Western Australia the location is. I understand the member's confusion because, last week, Hon Sally Talbot talked about cross-subsidisation and I kept saying that there was no cross-subsidisation, and I stand by that. But when Hon Sally Talbot was briefed, I believe we were told there would be different fees, but Treasury did not accept there would be different fees. I apologise for that confusion on my part. But this is Treasury advice.

Hon SALLY TALBOT: I thank the minister. It is not unusual for the minister to accuse the opposition of being confused, but it is generous of the minister to concede that the confusion was caused by her. What is a state cost pool? I have never heard of such a thing before. The minister has referred to a state cost pool a couple of times.

Can the minister also tell us a bit more about Treasury's cost-recovery model? Can the minister table something that will enlighten us on it? I did not know that Treasury had a cost-recovery model. She seems now to be relying on two things, the basis of which we are certainly not aware of.

Hon Helen Morton interjected.

Hon SALLY TALBOT: Hon Helen Morton may well be right that a cost-recovery model is widely applied to different mechanisms. I think that is what she was indicating by way of interjection. My question is: why was it not applied to this at the beginning? We have seen a change in the way in which the government plans to do this. I think my question is legitimate.

Hon ROBYN McSWEENEY: I certainly did not say that I was confused; I was just saying that last week I mentioned the cost-recovery model. This is not the first time that the member has heard about the state cost pool; it is in *Hansard*. The cost-recovery model for setting fees is obviously done by Treasury and is on the Treasury website. The member can look it up on the Treasury website.

Hon Sally Talbot: So why didn't you use it from the beginning?

Hon ROBYN McSWEENEY: Yes; that is a good question. But, as I said, I mentioned it last week when I was giving a response.

Hon ADELE FARINA: This goes to the concern that I raised during the second reading debate about how the application is being used to enable one standard fee to be set for all the development applications that go to a development assessment panel. I think that the comparison with the subdivision fee that is paid has been made in error. In that case, one body, the Western Australian Planning Commission, makes all the decisions on subdivision applications, so the collection of a standard fee right across the state for subdivision applications makes sense; the same body considers those subdivision applications. It does not move; the meetings are held in Perth. It is quite capable of making those decisions and it does not incur any additional cost as a result of where it meets and having to get members to another area in the state.

The situation with the joint development assessment panel is very different. Different costs need to be covered, depending on where the JDAP is meeting. If we simply say that a statewide fee can be collected, which is paid into some account and then paid to the JDAPs, we start getting into serious questions about cross-subsidisation because we are no longer paying on a cost-recovery model. The cost-recovery model for some JDAPs will be much lower than it will be for other JDAPs, as Hon Sally Talbot mentioned. The cost of convening a meeting of a JDAP in Broome, for example, will be far more expensive than the cost of convening a meeting for an application in the Shire of Kalamunda. I think the government is missing a very important point; that is, there is a distinction. We cannot apply the same principle that applies to the WA Planning Commission making decisions on subdivision applications to a situation in which a number of different bodies make decisions on the applications that go before the DAPs, all of which have different cost-recovery models. That is where the point of distinction is. We simply cannot apply one cost-recovery model right across the state when a number of different bodies will make decisions and incur different costs.

Hon ROBYN McSWEENEY: I will explain it this way: the application of one standard fee was for subdivision applications. The member quite rightly pointed out that there are different areas in the state. For the cost-recovery pool for the DAPs, there are sitting fees, travelling costs, administration costs, other local government costs and fees on the basis of costs per annum. The member is right in what she says. There are differing costs, but it will be only one cost per application. They will all be the same, but obviously there will be different costs involved.

Hon KEN TRAVERS: If that is the case, can the minister assure us that the cost that will be charged to an applicant will be the lowest cost that will be incurred with that particular DAP? So long as the cost that is being charged is the lowest cost of administering any of the DAPs and the rest of the cost is picked up by a government subsidy, it will not be in breach of the rules. If the government is charging an amount that is above what it costs to run the cheapest DAP, I would have thought the issue of cross-subsidy does come in and the question of whether that can be done is applicable.

Hon ROBYN McSWEENEY: It will be the base cost of the DAP.

Hon Ken Travers: What does that mean?

Hon ROBYN McSWEENEY: It includes administration and overheads and, as I said, the sitting fees, travelling costs, administration costs and other local government costs will come out of the cost pool. It will be on the base. The answer to the member's question is yes.

Hon ADELE FARINA: I am really confused now. The minister needs to step through the basis on which the fee will be calculated. Her answering yes to the question that Hon Ken Travers just asked indicates that the government is not planning on recovering costs for the operation of the DAPs and that this will be subsidised by the government because it will only charge the lowest possible cost incurred by a DAP right across the board. If

that is the case, there needs to be subsidisation by the government. In which case, where in the budget can we find those moneys that have been allocated? If that is not the case, the answer to the question asked by Hon Ken Travers should have been no.

Hon ROBYN McSWEENEY: Base cost was not the lowest cost. Ernst and Young is still working on the model, and that will go into the regulations. I have always said that they will be in the regulations. I said that from the start.

Hon SALLY TALBOT: Would it perhaps help if we could talk in concrete figures? We all know how much it costs to fly three people from Perth to, say, Kununurra. We have a real difficulty here. When the minister started her explanation, I hoped that we might just be talking about a semantic difference; we could nut out what we actually meant and arrive at a point where we all had a clear understanding of what is happening. I cannot find an answer in what the minister is saying to the basic question that if I put in a development application in Kununurra and we are working on a cost-recovery model, which the minister is insistent we are doing, the cost of my application will be substantially different to the cost of an equivalent application made in Kalamunda. If we are talking about cost recovery, it seems to me that the minister has taken that term into an area where it does not apply any more. If it does not apply, surely we stepped over the boundaries so that we are now talking about a cross-subsidy. I cannot put the last half dozen answers that the minister has given into a coherent explanation about what we can expect if this legislation is passed in this form.

Hon ROBYN McSWEENEY: I can only say again what I have been told, which is that the pricing will be in the regulations. Those regulations will go to the Joint Standing Committee on Delegated Legislation when they come in. They will be there for all to see. I have been told that it will not be any different, whether it is in Kalamunda or Kununurra, and that is all I can say. It will be a cost pool and all those sitting fees, travelling costs, administration costs and other local government costs will all be in there and they will be the same fees.

Sitting suspended from 6.00 to 7.30 pm

Hon SALLY TALBOT: Before we broke for dinner we were trying to get to the bottom of the difference between a cross-subsidy and a cost-recovery model. The minister is clutching a piece of paper—I think she wants to make a speech, so I will sit so she can do that.

Hon ROBYN McSWEENEY: Hon Sally Talbot must have had a nice dinner—she is smiling and is not being argumentative!

Hon Sally Talbot: And you, too!

Hon ROBYN McSWEENEY: With regard to development assessment panel fees, the original fee model was that local governments were going to be responsible for the payment of costs and expenses of DAPs and the collecting of fees. Now, the proposal is for the state to receive the fees and be responsible for the payment of all costs of DAPs across the state. The state intends to put all costs of DAPs into a pool and strike a uniform fee to recover costs. The full costs of the service, as defined by Treasury's guidelines in "Costing and Pricing Government Services"—I am prepared to table that document, which has probably got the Labor government's logo on it —

The DEPUTY CHAIRMAN (Hon Max Trenorden): Minister, are you seeking leave?

Hon ROBYN McSWEENEY: I am seeking leave to table that—obviously the opposition should know all about that!

Leave granted. [See paper 2230.]

Hon ROBYN McSWEENEY: The full costs of the service, as defined by Treasury's guidelines in "Costing and Pricing Government Services", must be determined by explicitly considering all of its components, such as direct costs and indirect costs, which may include resources received free of charge and capital-related costs. We have been advised by Treasury that at the whole-of-state level there is no over-recovery of costs on the DAP fee model. In some cases there will be over-recovery; in other cases there will be under-recovery of costs of DAPs in metropolitan and regional areas. This is unavoidable when a uniform fee is charged for all locations.

Hon Sally Talbot: Is it possible for me to ask the minister to table the document that she is reading from?

The DEPUTY CHAIRMAN: Of course that is possible.

Hon Sally Talbot: If I could ask for that, please.

Hon ROBYN McSWEENEY: I do not have a problem with that; I can table it after I have read from it. I know I do not have to, but I am happy to do that.

As is standard practice, the fees will be prescribed in the regulations and will be subject to the scrutiny of the Joint Standing Committee on Delegated Legislation, as I said before. I do not consider it good use of the committee's time to debate the model of fees any further. We have already spent a long time on it. It will be in

the regulations. I was happy to talk about it because I believed it was not clear enough before we broke for tea. I asked my advisers to come back with the information that I have now given to members in the form of the tabled document. As I have other information on it, could I get a photocopy of the front page that I have just read from?

The DEPUTY CHAIRMAN: Hon Sally Talbot may allow the minister to continue to use the paper to be tabled at a later date—or does she need it now?

Hon SALLY TALBOT: I am happy with a photocopy of the information. I would like to see the information.

The DEPUTY CHAIRMAN: We will ask for the document to be photocopied.

Hon SALLY TALBOT: I am happy to keep moving while we are waiting for it, in the interests of trying to get through this stage.

We have heard the minister give an explanation. It sounds complicated and it sounds very different from the explanation we received up until the start of committee today. The key is that we have the minister's assurance that a development assessment panel application in Kununurra will cost the same as a DAP application in Kalamunda.

Hon ROBYN McSWEENEY: That is what I was trying to tell the chamber before tea. I give my assurance; that is what I have been told.

Hon SALLY TALBOT: How that does not become a cross-subsidy, I do not know, but we will wait to see how it plays out in practice. The reality is that the whole issue of the cost and fees associated with development assessment panels has been poorly thought through by the government. With that in mind, I move the amendment standing in my name. I move —

Page 32, line 23 — To insert after "matters" —

, other than for fees,

The proposed amendment has been circulated. It was circulated on the last day we debated this bill in this place—Thursday afternoon.

The DEPUTY CHAIRMAN: The minister has sought leave to table the paper.

Hon ROBYN McSWEENEY: Yes, I have sought leave to table that paper.

Leave granted. [See paper 2231.]

Hon ROBYN McSWEENEY: The government opposes Hon Sally Talbot's amendment. The Governor needs to be able to make regulations regarding fees for the operation of DAPs. We have spent considerable time talking about fees for DAPs, and I really do not understand why this amendment has been proposed. It does not make a lot of sense to me given that we have just spent a long time on DAP fees. I have indicated that DAP fees will be put into regulations and will be open to all sorts of scrutiny, including delegated legislation.

Amendment put and a division taken with the following result —

Ayes (12)

Hon Helen Bullock	Hon Sue Ellery	Hon Ljiljanna Ravlich	Hon Giz Watson
Hon Robin Chapple	Hon Adele Farina	Hon Sally Talbot	Hon Alison Xamon
Hon Kate Doust	Hon Lynn MacLaren	Hon Ken Travers	Hon Ed Dermer *(Teller)*

Noes (16)

Hon Liz Behjat	Hon Brian Ellis	Hon Nigel Hallett	Hon Helen Morton
Hon Peter Collier	Hon Donna Faragher	Hon Alyssa Hayden	Hon Simon O'Brien
Hon Mia Davies	Hon Philip Gardiner	Hon Col Holt	Hon Max Trenorden
Hon Phil Edman	Hon Nick Goiran	Hon Robyn McSweeney	Hon Ken Baston *(Teller)*

Pairs

Hon Jon Ford	Hon Wendy Duncan
Hon Matt Benson-Lidholm	Hon Michael Mischin
Hon Linda Savage	Hon Norman Moore

Amendment thus negatived.

The DEPUTY PRESIDENT (Hon Max Trenorden): The question before the Chair is that clause 43, as amended, be adopted.

Hon SALLY TALBOT: I rather assumed the minister wanted to move her amendment before you put clause 43, Mr Deputy President.

Hon ROBYN McSWEENEY: I move —

Page 34, lines 9 to 14 — To delete the lines.

Hon SALLY TALBOT: I find myself a little mystified about why the minister rejected so vehemently the amendment that I moved just now to take the reference to fees out of the bill, which would have had the effect of ensuring that the state government picked up the costs associated with DAPs. The minister has now gone to the other end of the spectrum and has moved an amendment that I heartily support. Every member on this side of the chamber is very happy with the minister. I see that the minister is looking surprised, but we do know good policy when we see it. I do not know why the same objective could not have been served by supporting my amendment; nevertheless, having said that, I am not being churlish about it. We will support the minister's amendment.

Hon LYNN MacLAREN: I would like to speak to this amendment. I want to get some clarification. I know that in the other place there was an amendment to proposed section 171E(2)(a) that referred to support being provided to DAPs by the chief executive officer of the Minister for Planning or the relevant local governments. But the minister here, in seeking to delete proposed section 171E(2)(c), is not also deleting proposed section 171E(2)(b). I just wanted the minister to clarify why that is.

Hon ROBYN McSWEENEY: Deleting proposed section 171E(2)(c) removes the requirement for local government to pay fees and costs of DAPs. Proposed section 171E(2)(b) is just an administrative requirement, which reads —

> (b) requiring local governments to provide staff, facilities and services or any of these to a DAP as directed by the Minister; …

That is because the DAPs go to local governments. Put in very basic terms, if a DAP wanted staff to use the photocopier to photocopy something, the DAP would use those premises and that staff to get the photocopying that it needed.

Hon LYNN MacLAREN: It is just a bit confusing because proposed section 171E(2)(a) refers to —

> …the staffing, facilities and services that are to be provided to DAPs by the chief executive officer or by local governments; …

It just seems like that is inclusive of resources that would be provided by local governments, yet there is a specific clause following it about resources that would be provided by local government. I am just clarifying that. It seems a bit redundant.

Hon ROBYN McSWEENEY: No. There will be some overlap, but to me that is very clear, and I cannot be any clearer than I was. The DAPs meet at the offices of the local government they go to. There would be staffing requirements there and help for the DAPs. Because everything is set up in the local government area that they are in, there will always be an overlap there.

Hon LYNN MacLAREN: I want to be clear also that I support the deletion of the lines that the minister is proposing in this amendment. It just seems as though there is no provision relating to the costs that local governments will incur by providing those resources.

Hon ROBYN McSWEENEY: I cannot really see where the member is coming from. I know that some staff will be asked to do photocopying, and some staff might be asked to do something else, but it will be minimal. Although there will be an overlap, I do not believe that there will be a huge cost to local government simply because the photocopier is there and the paper is there. I use that as an example because it is the most basic one that I can think of at this time. There really is nothing sinister in this. It is as it says it is.

Hon LYNN MacLAREN: Maybe an explanation of a kind of thing that might be an additional cost to a local government is that conditions may come out of the development assessment panel decision that the local government may have to enforce and that may incur a significant or an unreasonable expense. I understand what the minister is saying about meetings themselves and it being a minimal cost to hold a meeting of the development assessment panel, but other costs may be incurred by local governments. There seems to be no reference to how those costs might be recouped.

Hon ROBYN McSWEENEY: There is a development application fee that is separate from DAPs and that would cover any administrative costs to do with those conditions; therefore, local government is not out of pocket.

Hon ADELE FARINA: I am curious about why proposed section 171E(2)(b) states "as directed by the minister". Is the minister seriously suggesting that, with the passage of this legislation, the minister will be able to direct, not staff who are employed by the state government or staff who are employed by the minister, but, staff who are employed by a local government authority? Is the minister really going to have that much of a hands-on role in this process that he will be in a position to direct local government about the provision of staff, facilities and services every time a DAP meets?

Hon ROBYN McSWEENEY: I do not read it in the same way that the member is reading it. I see the words "as directed by the minister". The minister directs the DAP, and when the DAP goes to that local government—the member is right—the minister does not have a hands-on approach like that, but he or she would certainly direct the DAP process.

Hon Adele Farina: No, he wouldn't.

Hon ROBYN McSWEENEY: No—not the DAP process. The minister will appoint the DAPs, so that is how I take that. I do not take it as read that the minister is going to interfere and direct local governments down to that level. If the member reads it that way, she must be reading something into it that I am not.

Hon ADELE FARINA: Let me read proposed subsection (2)(a).

Hon Robyn McSweeney: Yes, I did read it.

Hon ADELE FARINA: It reads —

> … regulations may be made —
>
> (a) about the staffing, facilities and services that are to be provided to DAPs by the chief executive officer or by local governments;

Proposed subsection (2)(b) reads —

> … regulations may be made —
>
> (b) requiring local governments to provide staff, facilities and services or any of these to a DAP as directed by the Minister;

The only substantive difference between subclause 2(a) and subclause 2(b) are the words "as directed by the minister". If it is the minister's submission to Parliament that the words "as directed by the minister" do not really mean anything, why not delete subclause 2(b) because it adds nothing to what is already in subclause 2(a)? Clearly, at the time this bill was drafted, there was a specific purpose for subclause 2(b). Hon Lynn MacLaren and I are asking what is that special purpose. In what circumstances will the minister direct local governments to provide facility services and staff that could not be covered by any regulations that are made under subclause 2(a)?

Hon ROBYN McSWEENEY: Subclause 2(a) was amended by the lower house. My reading of the bill is that local government will not have that amount of interference. I am not prepared to stand here all night and talk about it. Therefore, because subclause 2(a) was amended in the lower house, the member is correct in saying that it really does not add anything to or take anything away from the bill. I am prepared to move an amendment to delete subclause 2(b).

The DEPUTY CHAIRMAN (Hon Max Trenorden): The Committee of the Whole needs to deal with the current amendment before it moves on to a further amendment. Minister, we will require your proposed amendment in writing. Members we are still on the amendment to delete lines 9 to 14 at page 34.

Hon ADELE FARINA: Am I to understand that the minister has moved the deletion of subclause 2(b)?

The DEPUTY CHAIRMAN: No; the minister will move that amendment. We need first to deal with the amendment that is before the Chair.

Hon LYNN MacLAREN: Mr Deputy Chairman, can we move to amend the motion before the chamber to delete subclause 2(a) as well as subclause 2(b) at the same time?

The DEPUTY CHAIRMAN: We probably could, member, but it is just as quick to go through two procedures. The amendment before the chamber is to delete lines 9 to 14 at page 34.

Amendment put and passed.

Hon ROBYN McSWEENEY: I move —

> Page 34, lines 6 to 8 — To delete the lines.

Amendment put and passed.

Hon SALLY TALBOT: Mr Deputy Chairman, have we got to the end of clause 43? If we have finished the substance of clause 43, I have one amendment to insert after line 25. I move —

> Page 34, after line 25 — To insert —
>
> **171F. Review of Regulations**
>
> (1) The appropriate Standing Committee of the Legislative Council is to carry out a review of the operation and effectiveness of all regulations made under this Part as soon as practicable after the expiry of 2 years from the day on which regulations made under this Part first come into operation.

(2) The Standing Committee is to prepare a report based on the review and, as soon as practicable after the report is prepared, is to cause the report to be laid before each House of Parliament.

I think I have already covered in previous debate the reasons I think this would be a good move, and I understand that the government has, in principle, supported the idea of a review. It is still my firm belief, and the belief of members on this side of the house, that that review would be most efficiently and effectively done by a standing committee. At the time the legislation comes up for review, the Legislative Council can determine which standing committee it will go to. I believe the minister would be happier if the review were to be carried out by the minister. I would happy to move that subsequent amendment by the minister after I have moved this one, but I want to first move that the review be carried out in the terms I have just enumerated—by a standing committee of the Legislative Council.

Hon LYNN MacLAREN: I rise to speak in support of this amendment. One of the concerns that the Greens (WA) have had about this legislation and the planning reforms in general is the centralising of decision-making power in the minister's hands. This is a very sensible way of reviewing how well the legislation will be working two years from now. A standing committee of the Legislative Council would be a very appropriate body to carry out such a review, and the Greens (WA) support this amendment.

Hon ROBYN McSWEENEY: Obviously the government would prefer the review to be carried out by the minister, but the minister is quite happy for a standing committee of the Legislative Council carry out the review, and how can I disagree, as a member of the Legislative Council? Throughout the passage of this bill, the government has tried to be open and transparent. Yes, we have amended a few things, but I really cannot see where the Labor Party is coming from. Every time a member opposite says something, it is to suggest that the government is trying to hide something, and we certainly are not. The Legislative Council is here to —

Hon Ken Travers: Tell us what you're hiding and we won't have to keep asking!

Hon ROBYN McSWEENEY: No, there is nothing to hide! That is a typical reaction from the Labor Party, Hon Ken Travers! I think somebody had some raw bones for tea!

The government will accept the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 44 and 45 put and passed.

Clause 46: Section 77A inserted —

Hon LYNN MacLAREN: I have a query about proposed section 77A(2)(b) in relation to state planning policies. I refer to page 18 of the 10 June 2010 version of the question and answer document about this bill, and specifically subsection (2). Will the minister please provide more information on why the decision was made to insert section 77A, rather than, for example, have SPPs with statutory effect? Does the minister follow me?

Hon ROBYN McSWEENEY: I did not really understand the member's question. Can the member flesh it out a bit more, please?

Hon LYNN MacLAREN: By way of assisting the minister, basically, proposed section 77A(2)(b) states that the minister must not make an order under subsection (1) unless the state planning policy does not apply throughout the state. Our particular interest in this, as I am sure the minister is aware, is the coastal setbacks, which obviously affect the whole state. I wonder in what circumstances the minister would exercise this power.

Hon ROBYN McSWEENEY: I think it refers to coastal setbacks and it applies only to local governments that are on the coast, as an example in response to the member's question of SPPs having to apply throughout the whole state. That SPP applies only in coastal areas, not across the whole state. Does that answer the member's question?

Hon ADELE FARINA: As I read proposed section 77A(2)(b), it actually states that the minister must not make an order under subsection (1) unless the state planning policy does not apply throughout the state. I find that curious because members will find that most state planning policies will apply across the state, or are at least applicable across the state. I would have thought that the government would want the minister to have the power if an SPP is brought down that does have effect throughout the state, where applicable, to order local governments to amend their local planning schemes to bring that into effect. I would have thought that that would be one of the objectives that the minister would seek in relation to this matter. However, in terms of the issue that Hon Lynn MacLaren raised, I think her question was: why are we requiring orders to be made by the minister to amend the local planning scheme rather than simply saying that state planning policies have legal effect and that they override local planning policies? I think that was the question that the member asked initially.

Hon ROBYN McSWEENEY: State planning policies are not in a form that will have immediate statutory effect; they contain aspirational provisions. The government wanted to give limited statutory effects to scheme amendments where needed.

Hon LYNN MacLAREN: Perhaps it would help matters if the minister could advise whether there are any current SPPs or parts of current SPPs that the government may seek to enforce through this proposed section, and I understand that they will need to be written in a different way. I understand that this proposed section is the provision by which we may be able to enforce what is currently an SPP. I wonder if there are any other SPPs or parts of SPPs that may be applied in this way. This may help us understand how this clause is intended to play out.

Hon ROBYN McSWEENEY: Two good examples of matters for which SPPs would need to be revised are wetland buffers and coastal setbacks.

Hon ADELE FARINA: I do not know whether that answers my question. Why would the government not want to make orders to local governments to amend their schemes in relation to an SPP that has effect throughout the state?

Hon ROBYN McSWEENEY: Provisions across the state are covered under general provisions relating to model scheme text, whereas this provision is targeted at SPPs. This is a foreign language to me, and I apologise. I am more around child protection and community services. I do not know what a model scheme text does, but I have seen the document.

Hon Ken Travers: It is a scheme text that is a model!

Hon ROBYN McSWEENEY: Yes! And I am being very honest by saying that it is like a foreign language to me.

Hon ADELE FARINA: I do not know that that helps answer the question. If the minister is seeking, through this provision, the power to make orders to require local governments to amend their town planning schemes to incorporate state planning policies, why would the government limit that only to a state planning policy that " does not apply throughout the state"? This provision has a double negative, which makes it a bit difficult. Why would we not also want the minister to have the power to require local government schemes to be amended in accordance with town planning schemes that have application throughout the state? It seems to me that, with this provision, we are creating two classes of state planning policies—one class in which local governments will be required to amend their town planning schemes to incorporate state planning policies and another class under which they will not be required to do that. I do not understand why that will be the case. I would appreciate it if the minister could explain that to me.

In terms of the minister's comment about the model scheme text, I would have thought that that would go to the issue Hon Lynn MacLaren raised the first time; that is, to make state planning policies legal instruments that override, and to write them in a way so that they will fit with the model scheme text. But let us not go down that path. Let us just try to understand why we are creating a distinction with some state planning policies under which the minister may order local governments to amend their scheme, and others that do not give the minister that power.

Hon ROBYN McSWEENEY: I am going to have to get some more advice on that—I am not happy standing here giving Hon Adele Farina something I do not understand and that I want to understand; I will move to report progress.

Progress reported and leave granted to sit again at a later stage of the sitting, on motion by Hon Robyn McSweeney (Minister for Child Protection).

RETAIL TRADING HOURS AMENDMENT (JOONDALUP SPECIAL TRADING PRECINCT) BILL 2009

Second Reading

Resumed from 26 November 2009.

HON LJILJANNA RAVLICH (East Metropolitan) [8.18 pm]: I rise to support this fairly small bill. We on this side of the house are pleased to do so. It is very clear that the purpose of the bill is to, firstly, amend the Retail Trading Hours Act 1987 to change the term "tourism precinct" to "special trading precinct", and, secondly, to establish a new special trading precinct in Joondalup in addition to the existing precincts of Fremantle and Perth. In large part, it is quite a mechanical bill.

I want to put on the public record that Labor went to the last election with a clear policy on trading hours. That included the creation of outer metropolitan shopping districts, which was part of our policy. I want to put on the public record what we said we would do if we were re-elected. There was a five-point policy. Firstly, standard

trading hours for general retail shops would be extended until seven o'clock on weeknights. Secondly, domestic goods shops—that is, shops that sell whitegoods, furniture and major electrical items—would be allowed to open on Sundays from 11.00 am to 5.00 pm. Thirdly, new outer metropolitan shopping districts would be created—this is clearly consistent with this bill—to allow for Sunday and public holiday trading from 11.00 am till 5.00 pm. Labor's policy was to enable major shopping centres to trade on Sundays and public holidays in Midland, Joondalup, Armadale and Rockingham, which currently has special holiday trading hours. They would retain this status and also have the same opportunities to trade on Sundays and public holidays. Fourthly, shopping hours in the Perth and Fremantle tourism precinct would be increased. Fifthly, small businesses and employees would be supported. We have already put out a package that deals with the protection of small businesses; in fact, I understand that as part of an agreement between the government and the opposition, there is support for the introduction of a small business commissioner. I think that is a very positive move.

The local member for Joondalup, Tony O'Gorman, MLA, has put on the public record that he supports the state government's plan to designate the centre of Joondalup as a special trading precinct. There is no doubt that what Mr O'Gorman has put on the public record—it is being proposed in this bill—is consistent with the policy that Labor took to the last state election. In his view and in our view, it will help Joondalup, which is supposed to be Western Australia's second biggest city, develop further. To all intents and purposes, this legislation is supported by virtually all parties. I understand—I was hoping that we would not go into committee on the legislation—that Hon Robin Chapple has an amendment to clause 5 of the bill to delete the reference to Joondalup, which would defeat the purpose of the bill; therefore, it is not Labor's intent to support the amendment. I clearly put that on the record because, in view of our position, the honourable member may want to reconsider his position on this matter.

It is quite a mechanical bill. Wherever there is reference to a tourism precinct in the legislation, there is to be a change in the nomenclature. One thing that I think could be a bit problematic is the question of boundaries. When I looked at the original map that accompanied the bill, I found that the boundaries were not as clearly defined as perhaps they could have been. Certainly, there is no doubt that there could have been some State Solicitor's advice on these boundaries. I do not know whether the government sought some advice from the State Solicitor on that matter. Perhaps in her reply the parliamentary secretary might advise us on that matter.

We see this as a positive way forward. There has been an agreement between the major parties on retail trading reform. We have sought to negotiate a comprehensive solution to avoid frequent piecemeal and discriminatory changes to trading hours. I think this is a key way forward to achieving that objective. There is no doubt that the Leader of the Opposition and the government have agreed and made public that the implementation of this legislation will settle retail trading hours for the remainder of the parliamentary term and avoid that piecemeal approach. There is agreement on that.

In principle, the major parties have reached agreement on the appointment of a small business commissioner, a shopping centre lease register and Sunday trading for durable consumer goods, including whitegoods, and weeknight trading to 9.00 pm across the Perth metropolitan area. The legislation before us is a very strong, positive step forward. I commend the bill to the house. We are very happy to support the legislation. We will not be supporting the amendment to clause 5.

HON LIZ BEHJAT (North Metropolitan) [8.25 pm]: I rise to speak very briefly on the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009. It would be remiss of me not to do so, considering that Joondalup is in my electorate. As honourable members know, I am a very strong supporter of the deregulation of trading hours. Members may recall that in September last year I moved an urgency motion on the deregulation of trading hours. I am very pleased to see that today we have the support of the opposition for this important piece of legislation. It is a way forward to hopefully see a further deregulation of trading hours across the metropolitan area in months to come. During my speech on the urgency motion, members will recall that I spoke about how I wanted to shop at my favourite shop in Joondalup, Sisters Supa IGA, other than during the day and also on Sundays. Hopefully, in the very near future, maybe even by next Sunday if we can deal with this legislation, we will be able to go shopping at Sisters Supa IGA. Only this morning I was walking down Grand Boulevard with the Mayor of Joondalup, Troy Pickard, and the member for Ocean Reef, Albert Jacob. We happened to be walking past the Jim Kidd Sports store, which had a sign on the window that said it was closed on Sundays. I commented that hopefully next Sunday we can also shop at Jim Kidd Sports.

I am really pleased to be supporting this legislation today. I will sit down now so we can pass it. I commend this legislation to the house.

HON COL HOLT (South West) [8.27 pm]: Obviously, the Nationals have been opposed to this legislation. I quickly want to run through some of the reasons we have stood by our conviction. We have said it before but we will say it again. We had a referendum on this issue in 2005. Nearly 60 per cent of the people in WA voted for the non-introduction of extended trading hours. It was a pretty clear message. If we listen to some talkback radio or debate, or speak to the people who contacted us since we have debated this issue again, it would still be pretty

clear that not everyone wants extended trading hours; in fact, the majority do not want extended hours. It is pretty clear that the people of WA have spoken. We listened to that intent.

It is interesting that Hon Liz Behjat talked about a Jim Kidd Sports store. I would be interested to hear the feedback if it is open on Sundays. It would be nice to know people's thoughts. Clearly, this is an issue about market dominance by the large supermarket chains of Coles and Woolworths. All the arguments about vibrancy and getting over Dullsville do not really wash. It is about market dominance and the market share of the big supermarkets.

I want to highlight a couple of things that have come out since this debate started. I have an article that appeared in the *Subiaco Post* dated 21 November last year when we were talking about retail trading. When the regulations were debated, there was a motion to introduce extended trading hours to the special tourist precincts of Perth, Subiaco and Victoria Park. The headline reads "Traders to sink tourist town?", which is really about most of the smaller shops or those shops that support the bigger supermarket chains seeing themselves not opening. Although the legislation was passed to allow many of the shops to open, which members would expect to add to the vibrancy of that area, that article states that it has not. On 23 January —

Hon Jim Chown: How does it work in regional Western Australia where they have the option of extended trading hours—in places like Bunbury and Mandurah? I mean, this is crazy!

Hon COL HOLT: — after the legislation was introduced, the *Subiaco Post* had an article entitled "Coles, Woolies cash in".

Hon Jim Chown: You're not going to answer that question, obviously!

Hon COL HOLT: The member can get on his feet and answer it himself, mate!

THE DEPUTY PRESIDENT (Hon Max Trenorden): Members, there has been an attitude that we need to get on with the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009, and I think having it finished by Thursday night is appealing to some. I suggest members allow the member to give his address, or they can extend the debate—it is up to you! I note that the two previous speakers spoke for a short period of time, so I think we should allow the member to complete his contribution to the debate.

Hon COL HOLT: I will not speak for too long, and every other member can stand and say their piece, as they are allowed to.

The article from the *Subiaco Post* on 23 January is entitled "Coles, Woolies cash in" and it states —

> **Coles and Woolworths are booming with the government's new late night tourism trading laws, but other shops aren't interested in opening.**

Unless members think that vibrancy and having a great family night is going out and selecting your best fruit and vegetables for the week down at Woolworths in Subiaco, I do not think the legislation has added a lot of vibrancy to the town.

There was also an article in *The West Australian* of 9 April 2010 headed "Shops not buying new trading hours plan", which stated that the smaller shops will not open during those extended trading hours.

I do not buy the view that extended trading hours will add vibrancy to our city; it is more about that market share for the bigger shops. It kind of reminds me a bit about the daylight saving debate we had not long ago, when people talked about Perth being Dullsville and being two hours and 10 years behind the eastern states and said that people would not come to Western Australia because we did not have daylight saving. I remember people saying they were going to leave the state because we did not have daylight saving. It is a bit the same with this debate, because people are saying that because we do not have extended trading hours people will leave the state and that people will not come to WA because we do not have extended trading hours—I do not think so. An article in *The West Australian* of 23 September 2009 was entitled "State's population grows by 220 a day", and although some of those people are immigrants, others are from the eastern states. It is not as though not having extended trading hours turns people off the state; people still come. Western Australia has lots of things to offer besides extended trading hours.

I will take the argument about increasing market share a bit further. In other parts of Australia where trading hours have been deregulated, around 80 per cent of the packaged grocery market is dominated by the major supermarket chains—in WA it is about 62 per cent. There is no doubt that independent stores and regulated trading has helped to share that market share around. According to my notes, page 17 of the Chamber of Commerce and Industry of Western Australia's September 2007 report, entitled "Retail Trading Hours: A Case for Reform", states —

> Independents have a larger market share in WA than in any other state. It is likely that the current trading hours regime has contributed to this result by providing independent retailers with a monopoly on week night and Sunday trading.

Those regulations maintain a level of diversity within our supermarket retail market share. The National Party thinks that is advantageous for Western Australia, the main reason being that small businesses have an opportunity to operate. But I also believe that we should look at it from the viewpoint of the growers in WA who provide fresh produce to the state's supermarkets.

Let us say I had a bag of carrots to sell. Is it best to have one person in the market or two, three, four or five people in the market to buy those carrots? I have worked a lot with fruit and vegetable growers around the state. If one grows mangoes or bananas in Carnarvon or beef in the south west and there are a number of buyers in the market, they will compete for the produce. Already we have seen that major supermarkets have the ability to offer growers lower prices. If we take more suppliers out of the market by Coles and Woolworths getting a greater share, the poor grower selling his produce has fewer people to sell to. I know that growers are being offered lower prices already. It is not like perishable items can be put on the shelf and growers can wait for the next available market upswing or downswing; growers have to take what they are given. We need more buyers in the market. I do not see how extended retail trading hours will provide more buyers in the market. There are other suppliers besides fruit and vegetable growers who will be affected by this. We have all seen newspaper articles and current affairs programs in which it is reported that the predatory pricing activities of major supermarkets has driven away competition. Having deregulated trading hours will provide more opportunity for those activities.

I want to quickly talk about the effects of extended trading hours on small businesses in shopping centres, including places like Joondalup. Many shopping centre stores have a set lease as per their opening hours or their ability to open and their ability to bring in revenue. Let us say they are open 40 hours a week. They have a set lease rate based on that. If the opening hours increase to 50 or 55, their lease payments can go up as a result of being open for more hours, believing they will get more income. We all know that there is no extra money out there. This is not about spending more money; it is about the convenience of shopping when we like. Small business owners who operate in places like Joondalup, if they decide to open at the same time as major supermarket chains, will probably not earn any extra money. All they are going to do is increase their overheads by paying staff more, and they will probably work longer hours themselves. They will be worse off. If they decide not to open, they will still be charged the increased lease arrangements. Retailers are charged on potential opening hours. They are either put under the pump to open to try to gain more income, or they close down and decrease the margin.

Another debate relates to the convenience of shopping. It has been promoted that mum and dad can go with their kids and browse a shop and have a night out shopping together. We probably do not think enough about families who actually work during those hours. With all those extended hours, what about the poor mum and dad workers who work in those industries—in those supermarkets or the smaller businesses around them?

Hon Donna Faragher: What about those who cannot shop by six o'clock?

Hon COL HOLT: They can.

Kids with a part-time job will now have to work extended hours because they are needed to work in the shop. I am sure everyone received an email like I did from a bloke who talks about how his daughter works part time in the city and attends university. It poses two problems for him. In his email he writes —

> The first she will have to cancel her evening classes thus impacting upon the time it will take her to complete her course. She can not afford to be out of work.
>
> Secondly she catches buses to the city to her place of employment however due to the poor transport service of an evening and safety concerns on buses travelling late in the evening it is not an option I want to expose my daughter to so I go into the city and pick her up. However even if she was to catch buses and managed to get out of work on time there is no direct bus service of an evening after 6:00 pm. At best after 3 buses she could expect to get home by 11:00pm.

Impacts on families are greater than we suspect. When we think of families being able to shop together, we need to consider other impacts such as transport options for people if shops close at 9.00 pm, because perhaps there will be another peak demand for bus and train services. The minister might consider that and monitor the impacts of late-night shopping on those sorts of services.

Hon Simon O'Brien: I am listening closely to your remarks. What happens if somebody's daughter works for IGA, and the shop is open until nine, 10 or 11 o'clock now? Do they have trouble getting home?

Hon COL HOLT: They probably do, but there are not as many IGA stores open as there will be other supermarkets open. Those others will impact on it. We all have different opinions on this. We are allowed to put our opinions as clearly as everybody else.

Hon Donna Faragher: We respect your opinion.

Hon COL HOLT: I thank the minister—as we do hers.

Hon Ken Travers: That is so sweet!

Hon COL HOLT: This is a respectful place, is it not?

Just to reiterate, we will stand by our conviction to oppose extended retail trading hours in any legislation. It is a question of respect for the result of the referendum that the state voted on in 2005. I do not think that too much has changed since then. We want a diversity of supermarkets to ensure that suppliers and people in the regions have more people buying in the market. We think that the effects of this legislation on small business will be far more detrimental than on larger businesses. The impacts on families are not all positive. They will not all shop together, because basically the only shops that will be open will be those of Coles and Woolworths. It is not a case of some families possibly spending time together at home or away from their work schedule.

HON LYNN MacLAREN (South Metropolitan) [8.42 pm]: I rise to support the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009. The bill amends the Retail Trading Hours Act 1987. The bill seeks to change the term "tourism precinct" to "special trading precinct". This is a more accurate description of the areas where the government intends to extend trading hours. The term "holiday resort" remains, which is also appropriate. Clearly, not only tourists shop outside regulated trading hours, to which most of Perth is restricted, so it makes sense that the government has proposed to change the terminology from "tourism precinct" to "special trading precinct". I support that change wholeheartedly.

Hon Helen Morton: And for Joondalup?

Hon LYNN MacLAREN: I will get to that. I do not want to labour the point about a tourism precinct versus a special trading precinct, but clearly there are residential suburbs included in the proposed extended trading hour zones of Fremantle and Perth, such as Spearwood and Kensington, that are not best known as tourist destinations. As a member of the South Metropolitan Region who lives in Fremantle, I can say that personally I occasionally take advantage of the extended shopping hours that Fremantle enjoys as a designated tourism precinct; in fact, people who live across the city enjoy visiting Fremantle to browse in Fremantle Market or to pop into a supermarket on the weekend. That is often because their local shops are closed. Fremantle also has a strong small business sector as well as major supermarkets and a very thriving local, interstate and international tourist industry. That is interesting now because with the proposed new zones in Joondalup, Midland, Armadale and the extended Perth zone, it is possible that Fremantle visitor numbers will drop. That may be a consequence of these changes, but there are no hard and fast rules about consumer behaviour, which is complex and responsive to a wide range of factors. Some people, for instance, believe that consumerism will rise when we extend retail trading hours. But, having listened very carefully to Hon Col Holt, some believe there is only a certain amount of money that people will spend and they will spread it over a number of hours. The science, therefore, is not exact. In fact, the material that was provided to the Joint Standing Committee on Delegated Legislation indicates that in some cases there is very little research to draw upon that identifies visitors per locality. That is evidenced by the fact that the government went to what we would say were extreme lengths in an attempt to justify expanding the Perth zone.

For instance, I will quote from public material that was provided. The public document entitled "Tourism Enquiry Response: Research Team & Experience Perth Regional Manager" has, among its material, tables that list the localities, the estimate of tourists and visitors, and the tourist attractions that might be possible. I will just give a couple of examples. The Town of Victoria Park was not able to estimate the number of tourists and visitors. The tourist attractions identified included things like Burswood Casino, which is a tourist attraction; and also TAFE colleges; clubs and bars; Curtin University of Technology et cetera; and Technology Park, which may actually draw tourists to special events.

The table for the Town of Cambridge listed only data from Tourism WA. Again the town was unable to estimate the number of tourists and visitors; there were no events and/or festivals; and among the tourist attractions was something called "West Leederville and Wembley town centres", not often visited by tourists I know who come to visit me. The Greens (WA), therefore, felt when examining this material that the case for a tourism region was not well made; however, the case for a special trading zone would be interesting to read.

In this bill we are not considering a city-wide extension of hours, but, rather, the creation of one more special trading zone, which is Joondalup. I therefore have to make some remarks that are in contrast to Hon Col Holt's assessment in which he made quite a few generalisations about how extended trading hours would impact on consumer behaviour in general. I do not believe that such impact on consumers will be the case as a result of this proposed amendment to the Retail Trading Hours Act. Concerns remain about the impact of extended trading hours on small business; Hon Col Holt mentioned that. In earlier briefings provided by the previous minister, I asked that the impact on small business be carefully monitored to determine whether these new commercial regulations result in negative impacts, such as limited or reduced profitability of small shops. I do not want to see the demise of the small corner shop or the deli, and I believe the City of Joondalup is well placed to gauge these impacts. If it is possible for the Small Business Development Corporation or the Department of Commerce to

monitor these changes as they play out, we might be able to learn more about how these extended trading hours impact on small businesses. The Greens are concerned to learn whether large retailers in Joondalup will develop an unfair advantage under the change in conditions. Like Hon Col Holt, I would like to see the small business sector thrive and that big business not be unduly advantaged due to these changes.

The bottom line is that I support the establishment of the Joondalup special trading precinct for several reasons. The first is that the local council and the City of Joondalup support this request. Secondly, the planning strategy for Perth, Directions 2031, identifies Joondalup as an activity centre; so let us give it some activities. Thirdly, the change permits retailers to open for much longer hours but it is not compulsory; people can participate in that as they see fit based on their own business decisions. The extension of shopping hours in Joondalup will benefit working families by increasing the flexibility of shopping outside business hours.

The final point I make is that the Premier made a statement in the other place last week, in which he stated —

> This government is dealing with the result of over 100 years of regulation of the retail industry in this state.

He further stated that —

> Values and judgements have varied over the past 100 years.

The Greens (WA), reflective of the wider community, have diverse views on deregulation and its potential impacts. My support of this bill takes a principled approach based on grassroots decision making through the support of the locally elected council and sustainable planning policy that identifies activity nodes where commercial activity is concentrated in specific localities.

HON KEN TRAVERS (North Metropolitan) [8.50 pm]: I also want to say a few words about the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009. As members who have spoken previously have pointed out, this bill effectively does two things. It changes the terminology used to describe the special areas in the metropolitan area that are allowed to trade outside the standard trading hours that are set for the rest of the metropolitan area, and it adds an additional precinct to that—that being the precinct of Joondalup.

I want to come at it from a completely different angle from the issue that has been talked about tonight as a reason why we should support this bill. In regard to the issues about retail trading, I have some sympathy for the views expressed by Hon Col Holt. Much of the debate that we have had to date about retail trading hours has been about market share. It is not the case that we have had a real debate about a number of underlying issues. It is interesting that on numerous occasions I have asked groups that support the extension of retail trading hours to provide the studies that they keep referring to about the benefits to the economy, and they have never been able to produce them; they have never delivered them to me. Logic says to me that we cannot expand the dollars in the economy, but we may shift them from one section of the economy to another. There is a question about whether the type of employment that the money is spent on would change the impacts on the economy. However, if we are buying imported goods versus spending on local coffee shops, I suspect the local coffee shops would have a greater economic impact.

Why would people support this legislation if they hold those views, as I do? We are faced with a tide of people such as the Premier pushing for the change to trading hours. If we are to have change, it is important that it be gradual change, so that we do not have the dramatic impacts that were experienced, for instance, when the dairy deregulation legislation went through this house 10 years ago. Overnight, people had their capital assets wiped out completely when, by a stroke of the pen, the government of the day wiped out dairy regulation. That cost people massive amounts of money.

Hon Robin Chapple: Potatoes.

Hon KEN TRAVERS: I did not know that we had deregulated, and I would not encourage members on the other side if I were Hon Robin Chapple.

I also come from a position of saying that we should have regulation only when there is a net benefit to the community from having that regulation. As I said, if it is going to be changed, it needs to be gradual.

The other thing that I wanted to talk about today is Perth, and the structure of Perth, and how this legislation will assist to achieve some of the planning goals that the previous government under Network City was, and the current government under Directions 2031 is, trying to achieve in the way in which the metropolitan area of Perth is structured. I will go back and touch on a bit of the history. If we go back to when the original precincts for Perth and Fremantle were introduced into Western Australia, at that stage the Perth metropolitan retail heart and the Fremantle retail heart were dying. They were in serious decline. At that stage David Jones had moved out of the Perth city centre and Myer was threatening to close down its store at Fremantle. Retail trading hours for those city centres was brought in under the concept of those centres being a tourism precinct, but it actually revived those retail centres. What happened for the city of Perth was a growth in local residential population. Interestingly, although a number of the major traders could have traded for longer than they did, they did not

take up that opportunity. Nonetheless, it allowed for a revival of the retail centres in both Perth and Fremantle. What happened was the re-creation of dynamic activity centres, which included a combination of the dynamic activities of employment, and residential, retail and commercial activity. I have outlined the history of what happened as a result of an amendment to retail trading hours in Perth and Fremantle.

I will move now to the northern suburbs. One problem that is most pronounced in the northern corridor, as well as in the eastern corridor and the south–east corridor, is that there are no dynamic centres. The retail component of some rather large shopping centres overperform, but they significantly underperform in the activities that are needed to create a dynamic activity centre. In addition, many of the identified strategic regional centres are significantly underperforming in their role as activity centres—Armadale, Midland and Joondalup fall into that category. For some other activity centres it is probably arguable that the retail component is doing okay.

I know the northern suburbs better than the other areas of the metropolitan area, and that is the reason that I will focus on the northern corridor. Whitford City and Warwick shopping centres are probably overperforming in the volume of retail that they attract, but the city of Joondalup, which is the strategic regional centre for the northern corridor, is actually underperforming in that area.

It is interesting to note that except for the desire to increase the infill, the "Directions 2031" document is not dissimilar to the previous government's document "Network city". That document identifies Rockingham and Joondalup as primary centres, with city centres in Armadale, Midland, Cannington, Morley, Fremantle, Stirling, Mandurah and Yanchep. Yanchep is a long-term proposition. The occurrence of the dynamic activity centre in Stirling is growing organically. The retail side of Morley is not the problem. It has a very strong retail centre but it needs to have greater growth in commercial and other activities that go towards making up those retail centres. The retail side of Cannington is performing well. It is arguable that the Armadale and Midland retail centres, like the Joondalup retail centre, is underperforming.

In the northern corridor there is a low level of self-sufficiency in employment. Currently, only 41 per cent of the people who live in the northern corridor do not leave that corridor on a daily basis to go to other parts of the city for employment. There are currently 56 000 jobs in the area. If Joondalup is to become a functioning city, it needs to achieve a figure of about 60 per cent in employment self-sufficiency. To do that, the retail centre of Joondalup must grow significantly. Between now and 2031, in the order of 69 000 jobs must be encouraged for that corridor to have 60 per cent self-sufficiency in employment. A great challenge for any government is to work out how to achieve that growth. If the government allows this bill to sit in place for an extended time, people will know that they can accrue a benefit from the regulatory framework and will be given the confidence to make long-term investments in those regional centres. That will assist in creating the types of activity centres outlined in the Planning Western Australia discussion paper of June 2009 entitled "Planning Activity Centres for Communities and Economic Growth". The document details the sorts of things the government wants to achieve in an activity centre. The reality is, however, that we are not achieving all those activities.

Some of the work I did when the Labor Party was last in government suggested that we needed close to 85 000 new jobs in the area by 2031. Of those 85 000 jobs, a number will come about organically. There needs to be a core of driver jobs in the region. At that stage, the required number of driver jobs was somewhere in the order of 17 000. As a result of that there would be construction jobs. If we get those driver jobs, the other jobs will occur as part of the servicing of the driver jobs. How do we attract those knowledge-based jobs and produce service businesses into areas like Joondalup, Midland and Armadale so that we can fulfil the vision outlined in "Directions 2031"? One of the key elements is to have a vibrant, thriving retail heart. How do we do that when dysfunctionality is already built into our city as a result of past planning policies? One way is to provide a benefit. To make that work requires a commitment from all sides of politics to put this process in place in the expectation that it will be left in place for a considerable time; then we will get investment and create dynamic regional centres. As a follow-up, we will then attract those driver jobs that will solve the dysfunctionality in the structure of our metropolitan area. This bill will go a long way towards that.

I actually agree with the Mayor of Joondalup—even though he sits on the opposite side of the political fence—on the need for Sunday trading in Joondalup. He argued for it on the basis of making Joondalup a tourism precinct, and I told him to his face that he would be laughed out of town; people will not take Joondalup seriously as a tourism precinct. The member for Joondalup, Tony O'Gorman, made the same comments when the issue was discussed on radio. We cannot say that Joondalup is a tourism precinct. The boundaries that have been extended by the current government into the outlying areas of Perth are not about tourism; in fact, they will in some ways distort the issue. However, once we have scrambled the egg, it is just about impossible to unscramble it. That decision was made when the boundaries were moved by the government earlier this year. The retail centres need to thrive and Joondalup needs to be given some sort of regulatory head start, for want of a better term, so that it can fulfil its role as the second CBD of Perth, as do Armadale and Midland. We need to provide alternative places for high-level, knowledge-based jobs outside the Perth CBD. If we do not do that, it will come to a grinding halt. When we debate the Railway (Butler to Brighton) Bill 2009, I will talk about some

of the problems we will face in trying to shift people out of the northern corridor into the CBD of Perth. When the Labor Party was in government, from time to time I hosted people who were looking to move high-value, knowledge-based jobs into Western Australia. They would come out to Joondalup, and there was no doubt in my mind that they were looking for thriving activity centres in which to base those jobs. They are not going to base them in an area that has nothing more than a shopping centre, and they are not going to base them in an area that does not have a sense of dynamic activity about it. I hope that under the government's new centres policy we do not see places like Whitfords shopping centre allowed to grow its retail size even further. That will detract from the ability to grow Joondalup to fulfil its potential. It will also not allow us to fix existing problems in the north west corridor of Perth. For those reasons, I support the idea of giving special trading precinct status to Joondalup, and I will also support it in the Armadale and Midland areas for the same reason.

I urge the government to hold back on this constant charge towards deregulation and instead put this legislation in place and allow it to actually work, and work with us to get the functionality that we need. I note that the Minister for Transport is looking at me and we share an interest in transport. I know the minister understands the task of moving people as well as I do. If we do not create activity centres that are employment nodes outside the Perth central business district, Perth will grind to a halt. The freeway system and even the railway system coming in from the northern suburbs will not be able to cart the extra 60 000 or 100 000 people who would want to come down that corridor if all the jobs were based in Perth. Jobs have to be shifted into areas like Joondalup. I really do believe that this bill—if it is allowed to be bedded down and to stay in place for some time, and if the government gives the message and a signal that that is what it will do—will go a long way to assist the Joondalups, the Midlands and the Armadales to grow. Something in the order of every train carrying 1 000 people into and out of the city from the northern suburbs costs the government about $700 000 a year in subsidies; therefore, there would be a financial benefit to the state if we relocated those jobs into the corridor. However, to do that we have to create that retail heart. Joondalup is now getting a Myer store. I hope that we will also get a David Jones, because when we get David Jones and Myer alongside Sisters Supa IGA, Hon Liz Behjat —

Hon Liz Behjat: Yay!

Hon KEN TRAVERS: — then we will have the ability to attract those knowledge-based jobs that can co-locate around Edith Cowan University. We will see that co-location around Murdoch with the university and we will, hopefully, see it around Joondalup as a result of that. That is why I support the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill.

I do not think that what the government did in expanding the precincts in and around Perth was a particularly smart idea, but I also accept that once someone has made those decisions it is almost impossible to reverse them. What we also know—I think it was demonstrated last week—is that the government requires this bill to ratify the current precincts that it has put in place. I have no doubt in my mind that if the government were taken to the Supreme Court the current legislation would be ruled ultra vires. It is interesting that the second reading speech did not note that this legislation seeks to ratify those current precincts, but it is very clear. When we got the briefing last week, it became even clearer. When I read this bill, my first reaction was that it is about ratifying the Perth and Fremantle trading precincts because they actually do not meet the test. I think the future Leader of the House, the current Leader of the Opposition, went through and outlined the advice we received from the State Solicitor, which I have to say at best was pretty equivocal. I think the Leader of the Opposition summed it up best, but basically we could argue that it was ultra vires or we could argue it was intra vires. It was not a particularly convincing argument to me coming from the State Solicitor that everything the government had done was correct, but when we got down to it, we said, "Hang on, if we pass this bill will it effectively ratify?" It is like the Australia Acts (Request) Act 1985 that actually ratified a number of previous decisions of this house that were questionable as to whether they had any legal enforcement. However, once the Australia acts were passed it cemented them in place forever and a day into the future. That is what this bill does. I think it is a bit disappointing that the government, prior to last week, was never really honest that that was one function that this bill would perform.

Another thing that I think was very disappointing in dealing with this legislation is that a committee of this house looked into this matter. We were due to deal with the disallowance motion about the issues of the legalities of the Perth and Fremantle precincts that will be effectively ratified by this legislation, but when we came into this place last Wednesday to have that debate, we did not have a report from that committee. That is an absolute disgrace. I know that Hon Ray Halligan, who was a former, very active deputy chair of that committee, would be horrified that a matter of that substance had been investigated by a committee—we know that it had public hearings—without the courtesy of providing a report to this place. I do not know why we ended up in the situation last week where we did not have the benefit of the advice of that committee by way of report to this chamber. The members on that committee should take note of that and think about it into the future. Why did we not get a report? I have no idea why we were not able to get that report, but in the past that joint standing committee would have provided a report to give us the committee's advice. I suspect it is because when one

listens to the advice and looks at the legal opinions, the one conclusion—the only conclusion, in my view—would be that the current precincts for Perth and Fremantle are illegal and are outside the current act. The passage of this bill tonight will finally ratify those precincts, and we will move forward.

In a perfect world, if I had my way, I would take the precincts back to the original heart of Perth, because that would provide benefits to retailers. What we will now get in terms of the issues I was talking about such as dynamic activity centres is a slight distortion into places like Subiaco and Victoria Park and the inner northern suburbs. I also accept that once we have scrambled the egg, it is impossible to unscramble that egg. That is why I think, even if we do not support the deregulation of trading hours, there is still a very solid and sound argument for developing the Perth metropolitan area to be a functioning metropolis that will be assisted by the passage of this bill. It requires one thing: it requires the government to understand that. That is one of the reasons that the Labor government developed the policy in the way that it did prior to the last election. It was not just about picking a couple of areas around Perth and plonking them into the mix and saying, "Let us have special trading in Armadale, Midland and Joondalup." The policy was underpinned on the basis of building a better city for the Perth metropolitan area. However, for that to be the case, it is a requirement that the government understands that. In order to realise the benefits of that, the government must look back at the history of what happened in 1994 when the tourism precincts were first brought in and what that did for Perth and Fremantle. The government must realise that that can now be done in those other areas, but it requires the government to put the policy in place for an extended period of time so that investment will occur and we can develop those dynamic activity centres. If the government does not do that, we will either end up with a Perth metropolitan area that is completely dysfunctional—that is the simple answer to it—or the government will spend millions and billions of dollars trying to develop transport infrastructure to somehow find another solution to the problem. It is not going to be easy to find those driver jobs into Joondalup that the government needs to do—somewhere in the order of 2 000 a year.

The government has to get on with it. We have all got to get on with it. It is not the easiest thing in the world, and we need to use all of the regulatory arms of government to try to achieve this. My appeal to the government tonight is to try to understand that this bill is broader than a simplistic debate about retail trading hours and that it has a deep and resonating reason for its existence: it will help develop a better functioning Perth and it will set Perth up for the next 20 or 30 years. If the government charges ahead and goes out next week and says that after the election it will deregulate everything on a Sunday, then it will have wasted the opportunity for what we are trying to achieve in this legislation from a planning point of view. We have been dealing with the development assessment panels and trying to get that side of it right; this is another part of that package. It is up to the government whether it understands that and whether it wants to pursue it. From a trading point of view, it will provide an opportunity. To call Joondalup a tourism precinct was nonsense. I support 100 per cent the argument that it needs a special trading precinct to allow it to fulfil its potential. That is a reason I think members can still support this bill while acknowledging that we do not want to see wholesale deregulation of retail trading hours in Perth.

HON MAX TRENORDEN (Agricultural) [9.14 pm]: I was not going to speak on this bill. Like everyone else, I am looking forward to Thursday night, after which I can have some normality in my life. However, I want to make a short speech because Hon Ken Travers has motivated me to say a few words. There is an issue here that we skirt around and do not talk about. This whole question of commercial tenancy, which is basically what we are talking about, is something I cut my teeth on many years ago in another chamber. A couple of amendments to previous bills are entitled the "Trenorden amendments", even though the bill was introduced by a Labor minister.

Before we develop the likes of Joondalup—when it is a patch of bush—we create a planning act and we allow an area to be a shopping centre. But we do not allow anyone else to do the same. The shopping centre is a monopoly from the moment it is put in place. I am not saying we should, but if we had the money and wanted to buy 200 or 300 properties nearby and create a new shopping centre, we could not do so because of planning law. No-one else can own that patch other than the person who has purchased it once it has been established in planning legislation. Then what happens? Along comes a developer who decides to build a shopping centre. What is the first thing the developer does? He finds one or two anchor tenants. What is the benefit of being an anchor tenant? The anchor tenant gets cheap rental space. Those tenants do not pay anywhere near the rental rates that other people in that shopping centre pay. We say that that is private enterprise. Explain to me how that is private enterprise. Explain to me how that is the market. I do not understand that, because it is actually a monopoly.

The core anchor tenants are allocated their area and given a special rate for it. What happens then? Once the core tenants have signed up, the shopping centre is built, and the small businesses—those that many people in this place talk about—come into the shopping centre and rent their space at many times the rate the anchor tenant pays. Why is that? The argument is that Coles, Woollies or whoever is the anchor tenant, is the key store where people are interested in shopping. That is the argument. The rest of the small businesses are hanging around;

they are flotsam and jetsam. The anchor stores are the stores where the shoppers wish to shop. In light of that argument, the small businesses have to pay many times the rental rate of the core tenants.

Hon Ken Travers: That is one of the things we tried to deal with as part of the arrangements in terms of the government's plan.

Hon MAX TRENORDEN: I am making a speech because I heard Hon Travers speak before; I understand that. But I want to make these points: no-one is talking about changing those arrangements. If we were foolish enough to pick up our superannuation cheque, or whatever else enabled us to do so, and we opened a small business, so many of us would not understand that the big tenant at the end of the shopping mall will pay very few of the overheads. It is in the lease. We, the small operator will pay those bills—not Coles, Woolworths, Kmart, Target or whoever it may be. When the place is open for longer hours and the lights and the air conditioning are on for longer, will the anchor tenants be asked to pay more? No, they will not be. The small tenant actually will be made to pay it—and it goes on from there.

I argued in the other place many years ago that in the past shopping centres have looked at the turnover of small shops, and when their leases were up, they doubled or trebled the rent so that other people could take over the lease. The shopping centres would show those other people the turnover of the small shops because they knew that they made money out of those shops. In that way, the shopping centres squeezed the small shops a little harder. There is a whole range of provisions in commercial tenancy that is right on the nose. Despite all the speeches on this topic over the years, I really do not mind who does what. The reality is that we have a responsibility to make this process somewhat fair. Are we doing that? No, we are not. In fact, we are not interested in it. I would suggest that not too many people have given the outline that I have just given. I know that Hon Ken Travers has argued those points before.

Hon Ken Travers: I don't disagree with a word that you've said. I think that some of the things that the Leader of the Opposition has sought to negotiate with the government deal with the very issues that you're talking about. I don't for a moment disagree with them.

Hon Ljiljanna Ravlich: We put up amendments on commercial tenancy, but the government won't accept them. We're ready when you're ready.

Hon MAX TRENORDEN: To use the words of Hon Ken Travers, if we are going to charge ahead into these wild territories, we should look at the waters that we are charting. The reality is that we need to look at the operating conditions and the problems that are put in front of small business. Our job is not to protect them. When I was heavily involved in small business, 80 per cent of all small businesses went bust. Our job is not to protect them, but why do we protect the other end of the process? I repeat: it is a monopoly; we do protect it. When large investors buy shopping centres, they have a guaranteed goldmine. By whom is it guaranteed? It is guaranteed by us; we guarantee them. Do we guarantee anything to the small operators? No, we do not. Where is the fairness in that? I am a market person; I am a free enterprise person. If that is the case, why are we not changing the rules for trading so that they are much more free enterprise inclined? Over the many years that I have been alive, unfortunately—not that it is unfortunate that I have been alive—two places really annoy me, and they are Mandurah and Midland. Both those communities have ruined the CBD. They are just a mess. The other place is poor old Dunsborough. What a mess that is. Whoever designed Dunsborough probably should be marched up against a brick wall and dealt with. It is like someone has used a shotgun in Midland and Mandurah. Retailers are spread over the whole community and the community does not gain too much at all. The motivation that I have received to speak is that if we are to head into these waters, why do we not chart them? Why are we not thinking about what we are doing? The argument is that I think not enough thought has been put into this proposal.

HON HELEN MORTON (East Metropolitan — Parliamentary Secretary) [9.24 pm] — in reply: I thank everybody for their contributions to the debate on the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009. Obviously, it will be relatively straightforward. Hon Robin Chapple might even consider withdrawing his amendment so we do not have to go to the committee stage.

I want to provide members with some additional information on a couple of areas. I know we have talked about the complications and the potential complications of this bill but it is actually very simple. All it does is re-designate the existing Perth and Fremantle tourism precincts to special trading precincts and adds Joondalup to it. My comments will supplement some of the information that I already provided in the second reading speech. I will also make some comments about some of the issues that have been raised today.

There has been quite a lot of debate recently in the Parliament and in the community about retail trading hours. Unfortunately, this bill has got confused with the regulations that have been considered and discussed. There is some connection but I think we need to understand that those regulations and the issues around them are separate.

Hon Ken Travers: There's a huge connection between this bill and the ratification for Perth and Fremantle.

Hon HELEN MORTON: The member says that, but when I look at the time line of the sequence of events with regard to everything, this bill preceded those regulations by quite a long time.

Hon Ken Travers: Why do you think the disallowance motion was deferred last week?

Hon HELEN MORTON: I can tell the member that this business got underway a long time before the regulations.

The other thing I wish to mention is that the expansion of those zones, whether we call them existing tourist precincts or the new special trading precincts, is done by regulation, and that will be protected in the act. That will not change. They will continue to be able to be amended by regulations. We all seem to recognise that one of the big issues around this—that is, why we do not need to go on and on about these regulations and what came first and what did not—is that there is a much broader use of what will be called special trading precincts than just tourism precincts. These areas are actually being accessed by lots of people who live there and by lots of people who travel there for non-tourist activities. I do not want to see those people denied the opportunity to access the goods and services that they are purchasing through that process. I am sick to death of travelling into the city from Kalamunda on a Sunday just because I want to buy something that is available in Kalamunda but the shop that sells it is not open on a Sunday. The majority of people I talk to say the same thing.

A fair bit of this bill is about a change in terminology. I totally agree with what Hon Ken Travers said about people wanting to move into those areas and the need for extra jobs in those areas, but a lot of people who are moving into those areas and buying houses and units et cetera do not have cars. They are starting to rely on transport.

Hon Ken Travers: That is what I mean about building dynamic activity centres. It is about residential, commercial, retail and employment.

Hon HELEN MORTON: They do not have the means to travel to the one or two places that are open to purchase those bigger goods if they also work five days a week. They need to be able to access those services in their local areas.

Hon Ljiljanna Ravlich raised the issue about defining the boundaries—in particular, the Joondalup tourism precinct. The first thing to indicate is that those boundaries will continue to be flexible because they can be changed by regulations. The boundaries are fairly clear around Joondalup according to the information I have. I have had a good look at the map—as members know, I do not come from that area—and the boundaries up there seem very clear and quite expansive to me. I cannot imagine that they would want to be any wider at this stage. Does Hon Ljiljanna Ravlich know these areas?

Hon Ljiljanna Ravlich: Yes, I do.

Hon HELEN MORTON: The precinct is bounded by Moore Drive in the north; Lakeside Drive and Joondalup Drive in the east; Ocean Reef Road in the south; and Mitchell Freeway in the west. I do not know how much simpler it would need to be to make those boundaries really easy for people to understand. There are a couple of pictures in there to clarify that.

The Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009 will retain the mechanism in the act whereby the area or areas of each of these precincts can continue to be prescribed by regulation. That is, of course, necessary because, as Hon Ken Travers also said, it is expected that these regulations will be in place for a long time and that there will be—what is the matter?

Hon Ljiljanna Ravlich: We will be going into committee.

Hon HELEN MORTON: I do not understand. Hon Ljiljanna Ravlich is trying to tell me something but I do not know what she is saying.

Hon Ljiljanna Ravlich: I'm telling you that if you don't hurry up, you won't be going into Committee of the Whole and you won't get your bill tonight! That's what I'm trying to tell you.

Hon HELEN MORTON: I am hoping we will not have to go into committee.

Hon Ljiljanna Ravlich: Well, you should have withdrawn the amendment.

Hon HELEN MORTON: I know.

The government indicates that the central business district and the shopping district of the City of Joondalup are encompassed within the area that Hon Ljiljanna Ravlich was trying to better understand. We have also talked about the potential changes to Midland and Armadale in the future.

I will take this opportunity to pass on to Hon Col Holt some really good information that came out of the work done by the City of Joondalup in putting its project forward, which is that 82 per cent of all the local shops currently permitted to trade outside of the normal hours support the longer hours and Sunday trading that this

legislation will bring, and 97 per cent of local shops not currently permitted to trade outside the normal hours also supported the legislation. There has been quite a reasonable level of support for the change to the Joondalup precinct.

The boundaries of the Fremantle special trading precinct will continue to be largely—but not entirely—based on those of the Fremantle local government area, reflecting that the precinct will serve residents and tourists. The Perth special trading precinct will continue to include portions of localities and local government areas that adjoin either the Perth central business district or the locality of Perth or the City of Perth, to reflect that inner city tourist activity extends beyond the City of Perth and remains an important factor in the composition of the Perth special trading precinct. Tourists visiting the state capital do not confine themselves to the central business district or to a single local government area, but take advantage of a range of entertainment, sporting and shopping facilities. The boundaries of the Perth special trading precinct will reflect that. At the same time, the Perth precinct will support strong existing demand from domestic consumers for a range of shopping requirements.

The robust retail sector was an issue raised by Hon Col Holt and Hon Lynn MacLaren. In every state in Australia that has relaxed its retail sector trading regulations there has been an expansion of the industry. The retail sectors of states that have had a deregulated retail sector for 10 years or more have grown the most.

Hon Ken Travers: What study is that based on?

Hon HELEN MORTON: That is the Chamber of Commerce and Industry of Western Australia study of 2007, which is based on the years 1997 to 2006. States that have had a deregulated retail sector for 10 years or more have experienced the most growth in that sector. In Victoria it grew by 30 per cent; in Queensland by 25 per cent; in New South Wales by 15 per cent; and in the same time frame Western Australia only grew two per cent. A whole lot of information has been provided about the benefits to the general community, but I will not go into that in the interests of trying to get this bill through.

The other area I want to comment on relates to the level of choice this opens up. I do not understand what people do not understand about the fact that not all shops have to open. Already, when we go into areas that have deregulated shopping, a number of shops are closed and a number are open. People choose—shop owners make decisions about whether their customers are coming to them or not coming to them. They make decisions whether they will open for a full day, a half day, part of a day, or whatever they want to do. That is the way the market determines what is appropriate for that particular shopping area. This is what we are trying to achieve. Some consideration and discussion has revolved around the creation of a small business commissioner or something similar. The government is investigating the creation of an entity similar to a small business commissioner. I am not saying it is or is not to be that; I am just saying that it is being looked at. The role would be similar to a small business commissioner or small business advocate. It will operate in a manner similar to the Victorian model in that the advocate or commissioner could represent the retailer, could seek mediation and could act on behalf of the tenant to take disputes through to the State Administrative Tribunal, for example.

I indicate to Hon Lynn MacLaren that there are many, many different ways that monitoring already takes place in relation to the viability or otherwise of the various shops that decide to open. That information is already captured in a range of different ways. That will not be difficult to monitor. I agree that we have to have it in place for a reasonable length of time to allow people to start to adjust their own lifestyle around the knowledge that shops are now open, or encouraging shops to open that are not yet ready to open et cetera so people feel a sense of reliability about going to a certain place because the shops will be open. That will take a little while, and we should be prepared to see that happen. I would be quite happy to see the bill rushed through.

Question put and a division taken with the following result —

Ayes (24)

Hon Liz Behjat	Hon Phil Edman	Hon Nigel Hallett	Hon Ljiljanna Ravlich
Hon Matt Benson-Lidholm	Hon Sue Ellery	Hon Alyssa Hayden	Hon Linda Savage
Hon Jim Chown	Hon Brian Ellis	Hon Lynn MacLaren	Hon Sally Talbot
Hon Peter Collier	Hon Donna Faragher	Hon Robyn McSweeney	Hon Ken Travers
Hon Ed Dermer	Hon Adele Farina	Hon Helen Morton	Hon Alison Xamon
Hon Kate Doust	Hon Nick Goiran	Hon Simon O'Brien	Hon Ken Baston *(Teller)*

Noes (5)

Hon Robin Chapple	Hon Philip Gardiner	Hon Col Holt *(Teller)*
Hon Mia Davies	Hon Max Trenorden	

Question thus passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

DEATH OF MR WARD — CRIMINAL PROSECUTION

Statement

HON GIZ WATSON (North Metropolitan) [9.45 pm]: I want to make some comments to the house this evening about a matter that I have been following over a considerable period, and to talk about the findings from the Director of Public Prosecutions about the Ward case and the fact that the DPP has not recommended that criminal prosecution be proceeded with. I want to put on the record on behalf of the Greens (WA), on behalf of the family of Mr Ward and on behalf of the Deaths in Custody Watch Committee, the extreme level of despair and anger about the fact that this matter will not proceed to criminal prosecution. There is one thing that is fairly clear from —

The PRESIDENT: Order, members! There are too many audible conversations around the chamber.

Hon GIZ WATSON: There is a level of surprise and outrage that the justice system and indeed the state have again failed the family of Mr Ward in respect of the justice that we would expect to occur in this case. It is very clear that the Director of Public Prosecutions was frustrated in his comments that he made publicly yesterday, particularly noting regrettable aspects about the quality of the police investigation. Members will be aware that the State Coroner in his report, which was an extensive document, criticised the role of the police in that they allowed the two employees of G4S to spend time together, and more than likely to corroborate their evidence, before they were interviewed by the police. That, in itself, I am sure, would have been one of the aspects that obliged the DPP to suggest therefore that the prospect of a successful criminal prosecution had been greatly reduced. I note that *The West Australian* reported that the DPP said —

> … there was not enough evidence to support a case of manslaughter by criminal negligence.
>
> And even if there was, there was "no reasonable prospect of conviction".

It is worth noting that the level of evidence that is required to pursue a case of criminal negligence is very high, and no doubt that was one of the factors in making the prospect of a successful prosecution unlikely. I also note that the DPP raised the prospect of the family pursuing civil action, and that it seems to be the only further recourse that the family has in this regard. But, of course, that is not an easy course to take. It requires resources, and for the family of Mr Ward the prospect of actually pursuing civil action is probably pretty minimal.

Mr McGrath, the Director of Public Prosecutions, said a number of other things. The newspaper article continues —

> "In 2008, deaths like this should not happen — it is wrong, the issue though is this: I have a very narrow role in public life, it is a question of whether or not a person can be punished through criminal prosecution."
>
> Mr McGrath said police investigators had failed to separate the two security guards after the death and before they were interviewed by police.

Again, that is a point I have just made. The article continues —

> "In such circumstances for a prosecutor there is always the prospect of contamination between two witnesses," …

I guess, from what has been put on the public record, that this was probably the key reason why a prosecution was not likely to be successful.

It is worth noting that the Director of Public Prosecutions also sought an independent opinion from a Sydney criminal law barrister, and apparently he agreed with the DPP's position. Unfortunately, that advice is not going to be made available on the basis of claiming legal professional privilege, although I would argue that it is probably in the public interest in this case that that advice be made public. I realise that whether that is made public is a matter of discretion. I strongly suggest that in this instance that independent advice would be useful. At the very least, it should be considered by the state in making any other changes needed to ensure that justice can be done.

It seems very clear to me that in this situation the coroner found that there were three areas of culpability or three areas that contributed to the death of Mr Ward. The first was the two employees; the second was the company itself; and the third was the Department of Corrective Services. All three were found to have contributed to his death. It is exceedingly frustrating that it seems likely that the two employees are not going to be pursued for criminal offences.

It is worth putting on the record and reminding members of a couple of things that the coroner said in his report, because it is pretty damning and pretty evident to anyone who reads the coroner's report that these people were negligent in their failure to provide a duty of care to Mr Ward. The coroner, Mr Hope, said on page 69 of his report —

> In my view the evidence of both of these persons in respect of the journey was untruthful on occasions and certainly mistaken on other occasions.

Here refers to the period when the people were allowed to collaborate about the interview. On page 70 he said —

> There was then a substantial period during which the three persons were together prior to any interviews …

That is, the two employees, Ms Stokoe and Mr Powell, along with Ms Jenkins, who was the supervisor from Kalgoorlie for G4S. The report continues —

> The first interview, which was with Ms Stokoe, took place at 9:26pm and it was not until 11:15pm that Mr Powell was first interviewed by police.

Therefore, there was approximately two hours when those two employees were able to talk to their supervisor before the police commenced their interviews. The report continues —

> During this period reports were prepared for GSL by all three persons. Although the events were not openly discussed in detail as such, it is clear that Ms Stokoe and Mr Powell were aware of the account which each was preparing for GSL and each spoke of the incident in the presence of the other.

That was clearly a breach of basic police procedure. The coroner goes on to say at page 72 —

> For both witnesses to have given the same estimates of distance in these circumstances suggests that either there must have been some form of collusion or, alternatively, one was aware of the estimate given by the other, and adopted that estimate.

The report goes on in those terms. Finally, I want to quote from page 84. The coroner says —

> As well as demonstrating a lack of compassion for the deceased, their failure to check that the air-conditioning for the deceased was working at any stage and the failure to make any welfare checks in the context of the known hazards contributed to the death.

The role of these two employees remains pretty damning reading. If criminal charges cannot be brought against the employees, it is left to members to ponder whether surely charges must be brought against the company. It is clear from the coroner's report that the company's training was inadequate and that its instructions to its employees were inadequate. This evening I re-read the coroner's report to remind myself of exactly what he said in that regard. Therefore, the company should be pursued for its culpability in this matter and the contract with the company should be ceased immediately. Otherwise, how can we be sure that something like this will not happen again? In a case like this in which it is so clear that the two employees contributed to the death but are unable to be charged with a criminal offence, something is seriously wrong with the contract and the way in which the company employs its employees and someone must be held accountable for the death of Mr Ward. The Greens (WA) will continue to look for justice for Mr Ward's family and to ensure that such a terrible event does not occur in Western Australia again.

PRODUCTIVITY PLACES PROGRAM — REGISTERED TRAINING ORGANISATIONS

Statement

HON LJILJANNA RAVLICH (East Metropolitan) [9.56 pm]: I welcome the opportunity to make some comments once again about the productivity places program. I do so on behalf of the many registered training organisations that have not secured funding since March this year to deliver training to a range of people, most notably those who are the most disadvantaged and sometimes the less fortunate within our community.

Members might remember that in March I raised the issue of the PP program. At that time I was assured by the Minister for Training and Workforce Development that his department had assured him that the money would be forthcoming so that these RTOs could get on with the job of providing training. Obviously that did not happen. The minister did not subsequently come into this place to correct the record by saying that the money had not yet been advanced. It is now nearly four months since I first raised this issue in this place. Last week, again on behalf of these registered training organisations, I asked a question without notice in this Parliament. I was at that time advised by the minister as follows —

> … RTOs are both public and private. The RTOs that the member —

That is me —

> is referring to—obviously she has a disenchanted RTO out there somewhere —

I replied as follows —

> Lots of them!

Hon Peter Collier then said —

> There are not! The honourable member has to stop listening to one person.

I have in front of me no fewer than 16 cases from RTOs that have contacted my office. This is a sample of the RTOs that have contacted my office, and there are many more on my database. I will take members through this. I will not mention names, because many of them are fearful of repercussions for future funding, or the lack of funding, by this government and a minister who they believe will take punitive action against them when it comes to funding applications.

Hon Simon O'Brien interjected.

Hon LJILJANNA RAVLICH: I will give the flavour of one RTO that is dissatisfied, times 16. Next time the minister advises me that I have no idea what I am referring to, he may think again. One RTO has been holding out paying wages to two trainers and an administrator for the PPP release as it had received the email advising that the job seeker/existing worker 2010 Western Australian PP program would be advertised in May. Accordingly, it did not attempt to take part in any of the federal enterprise-based PPP, as it would overcommit its business. Now it is stuck with no contract for the PPP at a state level and no way of gaining funding through the federal enterprise-based PP program. This RTO reported that it had heard on three separate occasions different release dates for funding applications and expected training commencement dates. The department advised this RTO that if it did not have the people's names and could not start delivering within a fortnight of places being allocated, that funding would be lost. Therefore, it geared up to be ready to deliver in that manner and it is now stuck with losing students and staff and the prospect of increasing overheads from pre-booking facilities and equipment. It says that it is certainly not the only RTO that worked out its structure around the department's requirements.

In the next case, case two, the training centre was a provider of PPP courses in 2009–10 and is yet to receive final payment for its service. The training centre concerned expected that PPP funding would be advertised during the first half of this year; however, for unknown reasons, this has not occurred. It said that, based on its history of successful outcomes, it could have anticipated an allocation of places. Inquiries for PPP course vacancies at the training centres are received regularly from people who are working and people who are not in employment, and referring agencies calling on behalf of their clients. They are unable to advise them with any certainty when this may occur.

In the next case, case three, an RTO was definitely experiencing difficulties obtaining funding. It attended a private providers' forum in April and was assured that funding would be released before the close of the financial year. It received on a daily basis copious numbers of calls from Job Services Australia providers, asking if it had any PPP funding available to assist jobseekers. It also had jobseekers directly contacting it to inquire about funds for training. Of course, it cannot help them.

Case four involves an RTO that has been telephoning the Department of Training and Workforce Development for many weeks, waiting for the tender process to be available for PPP funding. As a training organisation, the RTO is requesting funding for two certificate IV courses in electrical instrumentation and hazardous areas, as it has students waiting to do these courses. However, with no funding available, it cannot advise the students about costs or dates.

The RTO in case five has been anxiously awaiting new funding applications to be released for this program. It was initially told that it could reapply in May 2010. The RTO is constantly receiving inquiries from jobseekers and Job Services Australia agencies wishing to engage in this program, and it currently has a waiting list. It offers a certificate II course in business and its program is very popular, especially with early school leavers. Not being able to offer this program not only disadvantages its clients, but also jeopardises its financial viability.

The minister advised me that I have only one case; we are now up to case six of 16 cases that I have brought to this place. The RTO in case six delivers aged-care training under jobseeker funding through the PPP. It has to first find the trainees, and then can only apply for the people who register. This RTO did not encounter any problems until the current minister became Minister for Training and Workforce Development. It has been providing this service for 10 years.

The situation in case seven is that funding for this RTO is being given to eastern states RTOs that have access to national retailers, and use these funds to deliver fly in, fly out qualifications. It has to keep applying for numbers of 10 at a time, which is not always conducive to building relationships with employers in terms of continuity of delivery. As a Western Australian local RTO, how can it survive and compete with national providers? This is its biggest challenge.

And so on and so forth. I do not think I am missing anything here. My office has been inundated with complaints by concerned RTOs that have had people clamouring at their doors wanting training and to be able to get on and complete their qualifications. In their interests, I came to this place in March and brought to the attention of the house their concerns and my concerns about the fact that funding was not forthcoming. People could not get training, and many of these providers now face financial ruin. I was told then and have been told repeatedly since that there is no problem, that there is no issue and that I do not know what I am talking about.

I was then insulted by this minister who said that as far as he was concerned, there is only one RTO that has not been funded and, furthermore, I am speaking to the wrong people. I have to say to the minister that the sample I have read out is exactly that—only a sample. In fact, many, many, many private training providers have been in contact with my office and many, many private training providers have also made legitimate complaints to the Department of Training and Workforce Development. Those complaints are falling on deaf ears as are the concerns that I have brought into this place time and again; they too have been falling on deaf ears. The minister simply will not listen and will not take on board that there is genuine hardship because of his lack of willingness to do something to address these concerns. I want the minister tomorrow to release the funding for the productivity places program. I want funding guaranteed to these registered training organisations so that they can get on with their business.

PRODUCTIVITY PLACES PROGRAM — REGISTERED TRAINING ORGANISATIONS

Statement

HON PETER COLLIER (North Metropolitan — Minister for Training and Workforce Development) [10.06 pm]: I will respond to the comments made by Hon Ljiljanna Ravlich and I say at the outset that this is the first time she has actually identified some specific instances. I want to make that perfectly clear. I also want to make —

Hon Ljiljanna Ravlich: You've denied it all!

Hon PETER COLLIER: I listened in silence and I want the member to listen to me in silence. I give the undertaking, yet again, that if there are specific instances, I ask the member to do the honourable thing and speak to me privately behind the Chair and I will deal with those issues.

Hon Ljiljanna Ravlich: You will deal with them anyway!

Hon PETER COLLIER: I am not listening to you—you talk rubbish!

The PRESIDENT: Order! I will not listen to anybody; I will sit anybody down and we will go home if that is what people really want. You know the rules of this place: whoever is on their feet addresses the chamber through the Chair and everybody else listens without interjection.

Hon PETER COLLIER: Thank you, Mr President. I will make a couple of points because Hon Ljiljanna Ravlich has this innate capacity to sort of stretch the truth in some instances. We saw that with her media release just last week in which she misinterpreted something that the now Prime Minister said. Therefore, this is constant. The member keeps talking about points that I purportedly made on 30 March. The member said in a member's statement on 30 March 2010 —

> I just quickly want to go through and put this on the public record because the concern that has been expressed by registered training organisations is that their funding seems to have been stopped.

That is, stopped. I interjected, "It should not have been." I stand by that: it should not have been stopped. Hon Ljiljanna Ravlich then said —

> If the minister can give me some assurances in this regard, I would be most appreciative.

I interjected, "The advice I have received is that it has not been." I stand by that: no funding—I repeat that yet again for at least the sixth time—has been stopped. Somehow by that we are saying that contracts have been broken and private providers have had their funding stopped. Every single contract that was provided through the productivity places program has been honoured. Again I throw the challenge out to Hon Ljiljanna Ravlich that if she can identify one example of a contract that has been broken to give that information to me. Once again, I throw that challenge out to her because it has simply not happened. The member keeps going on about this so-called comment that I said that I would not provide additional funding. However, I said yet again that if it had been stopped I wanted to know about it. On 15 June the member asked a question and tried to muddy the waters by saying that somehow I was spending commonwealth money inappropriately. The member asked —

> Given that the commonwealth government announced on 29 March that funding would double from $25 million to $50 million, why did the department not reopen the PPP variation process?

I answered, quite legitimately —

> The commonwealth government announcement relates to the Enterprise Based Productivity Places program, which is administered by the commonwealth. No funding from this program is provided to Western Australia.

Again, I stand by my constant comments that the $19.4 million that we have put into training in the current budget for an additional 7 600 places was from state funding—that is, state money altogether.

I have some pearlers here, Mr President! Let us look at other comments that Hon Ljiljanna Ravlich made in relation to this issue on 22 June, when she said —

> I made a member's statement on 30 March in which I expressed my concern about registered training organisations and the fact that, at that time, those organisations had been notified that their funding had ceased.

The member continues —

> … in other words, he gave me an assurance that the funding had not been ceased and that these organisations could, in fact, apply for some readjustment to their funding so they could continue to provide training services.

I put another challenge out to Hon Ljiljanna Ravlich. I want her to come into this house tomorrow and show me where on 30 March I made such a commitment. I did not. Yet again I stand by my comments: no funding has been stopped through the PPP. All contracts have been honoured.

Hon Ljiljanna Ravlich also said —

> He has not acknowledged that on 30 March he said in this place that the funding should not have been stopped and that he advised me incorrectly that his department had advised him that the funding had not been stopped.

Again I challenge Hon Ljiljanna Ravlich to show me where I have actually stated that. She also said in the same member's statement —

> They were denied that training because the department and the minister refused to advance that money. The minister needs to provide an explanation to this place about why this has occurred and why many registered training organisations have had to say to prospective clients, or even those who are part-way through their training, that they cannot complete the training that they have started or, alternatively, that their training program cannot be commenced because this government has failed to advance moneys which it has received from the commonwealth and which should have been advanced during the 2009–10 financial year and yet again in the 2010–11 financial year.

That is manifestly wrong—yet again. I can only stand up here and counter the arguments of Hon Ljiljanna Ravlich. Tonight she has got up and done something positive; she has identified some specific instances—which I will look at. Hon Ljiljanna Ravlich talked about one instance. There is one very real reason, which she did not deny, that Hon Ljiljanna Ravlich has got some other instances now; that is, the email that I mentioned in question time today that she sent out to private providers last Thursday. I will read that email from Hon Ljiljanna Ravlich again —

> Dear Registered Training Organisation
>
> Below is a copy of a question I asked in Parliament recently on funding for the above program.
>
> If your RTO is experiencing difficulties because you haven't received the funding you expected, please let me know.
>
> Regards
>
> Hon Ljiljanna Ravlich MLC

Of course, if there are issues members can come into this place and raise them, but Hon Ljiljanna Ravlich should not come in here in a piecemeal fashion and provide snippets of information from RTOs. There is every likelihood that in most instances there is a legitimate reason why there are problems with those particular contracts. I am not saying that there are problems; I am saying that if there were, there is every likelihood there would be a legitimate reason. I need to have the whole picture. I am not asking too much! As a minister I am holding out an olive branch. I am saying, yet again, if there are instances of RTOs that have been treated inappropriately, I want to hear about them. I really do. I cannot offer any more than that. Rather than come in here and listen to Hon Ljiljanna Ravlich—which is such a bad tactic on the part of the shadow Minister for Training, because she will not get a just outcome—I will say to the RTOs yet again that I will look after them, and if there are instances, as I said, in which they feel their funding has been stopped, and I would be staggered if that is the case, I want to hear about them. If there is an instance in which their contracts have not been honoured, I want to hear about it. That is not too much to ask.

The situation with training at the moment is a result of the stimulus package we introduced in the budget last year. We have had a phenomenal uptake in training and we are bursting at the seams with our public and private providers, which is wonderful. Training is booming at the moment. Every cent of the $19.4 million that we put into the current budget is going into training; and every cent of it came from Western Australia. As far as the RTOs and future funding arrangements are concerned, RTOs were advised yesterday that the calls for applications for funding for the productivity places program will be advertised on 30 June—that is, tomorrow. Private registered training organisations will get the opportunity yet again to put in an application for training fundin g. Can I emphasise again, with all sincerity, that the issues Hon Ljiljanna Ravlich raised tonight are a

start. I would take great comfort if Hon Ljiljanna Ravlich would perhaps talk to me behind the chair and give me some specific instances. I will identify them, and, if at all possible, ensure there is a just outcome for those RTOs; otherwise, I am only boxing at shadows and I cannot help.

HEALTH AND DISABILITY SERVICES LEGISLATION AMENDMENT BILL 2009

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Simon O'Brien (Minister for Disability Services)**, read a first time.

Second Reading

HON SIMON O'BRIEN (South Metropolitan — Minister for Disability Services) [10.15 pm]: I move —

That the bill be now read a second time.

The Office of Health Review is an independent statutory authority established under the Health Services (Conciliation and Review) Act 1995. A review of the Office of Health Review was conducted in 2003 pursuant to section 79 of the Health Services (Conciliation and Review) Act 1995. An independent reference group appointed by the Minister for Health conducted the review. The report of the review was tabled in Parliament in December 2003, and the then government accepted 44 of the 47 recommendations. Of the recommendations that were accepted, 18 required amendments to either the Health Services (Conciliation and Review) Act 1995 or the Disability Services Act 1993. The recommendations of that review form the basis of this Health and Disability Services Legislation Amendment Bill 2009.

The Office of Health Review was established to provide consumers with a formal channel for health complaints and disability complaints since 1999, in both the public and private sectors, and to allow clinicians and other health and disability service providers to respond in an environment of conciliation. Recommendations made by the reference group and accepted by the then government include the continuation of the Office of Health Review as the principal independent complaints mechanism for health and disability in Western Australia, and its continued operation as an alternative dispute resolution agency within a broad conciliation framework.

The bill provides for the change of name of the office. This will assist in making the office more visible and therefore more accessible to consumers, especially those with special needs that make them more vulnerable. The name change will better reflect the office's role as the principal health and disability complaints agency in Western Australia.

The bill will reduce the number of operational inconsistencies brought about by differences between the powers and processes of the Health Services (Conciliation and Review) Act 1995 and the Disability Services Act 1993. Several amendments proposed to part 6 of the Disability Services Act 1993 will ensure that people with disabilities have equal access to the complaints process with the rest of the community. This bill will enable people with disabilities to make a complaint that a provider has acted unreasonably by not properly investigating a complaint or causing it to be properly investigated, or not taking or causing to be taken, proper action on the complaint. People with disabilities will also be able to complain when a provider has acted unreasonably by charging an excessive fee or otherwise acting unreasonably with respect to a fee. These amendments remove inconsistencies between health and disability complaints.

Complaints are a useful source of feedback on the effectiveness or otherwise of organisations and systems. A careful analysis of complaints will provide vital information on why the activity causing the complaint occurs and how the situation at both an individual and systemic level can be rectified. The bill requires the director to collaborate with groups of providers or users when suggesting ways of removing and minimising the causes of complaints and to bring them to the notice of the public. These amendments will change the process by which complaints are managed by the office, which will streamline and simplify the processes of receipt, acceptance and resolution of complaints and make reporting more meaningful.

The bill provides the director with discretion to accept a complaint whether or not the complainant, or the person acting on behalf of the complainant, has taken steps to resolve the complaint with the provider. Whilst it is ideal that complainants should attempt to resolve their complaints with the disability or health service provider before approaching the office, there may be some cases in which this is neither practicable nor desirable. Examples could include situations in which a complainant alleges issues such as sexual impropriety or threatening behaviour and in which further contact with the provider would be traumatic, stressful or otherwise deleterious to the person's wellbeing.

The bill will expand the options available to the director in dealing with complaints to include a negotiated settlement. Once the director has accepted a complaint, he or she can, by negotiating with the complainant and the provider, attempt to bring about a settlement of the complaint that is acceptable to the parties. If the complaint is not settled by negotiation, the director must refer the complaint for conciliation if, in the director's

opinion, the complaint is suitable for conciliation, or investigate the complaint if, in the director's opinion, an investigation is warranted, taking into account the likely costs and benefits of an investigation.

The bill provides that evidence of anything said or admitted during a negotiated settlement or during conciliation for health or disability complaints will not be admissible in proceedings before a court or tribunal. These legislative changes will safeguard the integrity of the alternative resolution process, and will deter those whose real interest lies in litigation. The bill increases the time limit for making a health complaint from 12 months to 24 months. The time limits for health and disability complaints will now be consistent.

The bill enables a complainant to allege that any provider, not just a public provider, has acted unreasonably by not providing a health service for the user. When ample choice of providers exists, this may not be a serious issue for health consumers. However, in rural or remote areas of the state, where choice of providers may be extremely limited, the issue of refusal of service becomes more serious. There may be valid reasons for refusal of service, such as threatening or unseemly behaviour by a client. However, there is no comparable exclusion of the right to complain against a private provider for refusing to provide a disability service. It would therefore be inequitable to impose this distinction in relation to health complaints.

The bill enables a complainant to complain that a provider has acted unreasonably in the manner of providing a health or disability service for the user, whether the user or a third party requested the service. This amendment will enable people who undergo an examination for the purpose of workers' compensation or other insurance claims to be able to complain that a provider has acted unreasonably in the manner of providing a service for the user. This bill authorises the director to recognise as a user's representative a person who is not chosen by the user, and may allow that person to complain to the director on the user's behalf if the user has died and, in the director's opinion, the prospective advocate is a person who has sufficient interest in the subject matter of the complaint.

The bill provides greater encouragement to resolve complaints in a timelier manner. The director can request a written response to a complaint within a specified time period. If the provider fails to provide a response to the complaint concerned, the director must include in the office's annual report the details of any breach that, in the director's opinion, was committed without reasonable excuse. The bill ensures that evidence of anything said in a provider's written response is not admissible in proceedings before a court or tribunal. This protection is consistent with the statutory protection afforded to parties in conciliation and is intended to encourage candour between the parties to facilitate the successful resolution of complaints. If, after a finding of unreasonable conduct, a notice is given that includes any action that the director considers ought to be taken by the provider to remedy the matter and the provider does not take the action within such time frame that, in the director's opinion, is reasonable, the director must give the minister a copy of the notice and a written report about the refusal or failure by the provider to take action.

The bill introduces a new requirement that, in deciding what remedial action should be taken to remedy the matter in circumstances in which unreasonable conduct is found to have occurred, the director must first consult the relevant provider. Furthermore, if the action that the director considers ought to be taken to remedy the matter is likely to have an impact on other providers, the director will be required to consult a group of those providers.

This bill removes the operational inconsistencies between disability and health complaints in relation to penalties imposed for providing false or misleading information or statements.

Finally, the bill provides for the minister to conduct a further legislative review five years after the bill has been passed and to report the findings of the review to Parliament.

I commend the bill to the house.

Debate adjourned, pursuant to standing orders.

House adjourned at 10.23 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

TELECENTRES IN REGIONAL AND REMOTE AREAS

2431. Hon Helen Bullock to the Parliamentary Secretary representing the Minister for Regional Development

I refer to the telecentres at the following locations —

(a) Leonora;
(b) Laverton;
(c) Tjuntjuntjara;
(d) Warburton;
(e) Irrunytju;
(f) Kambalda;
(g) Coolgardie;
(h) Norseman;
(i) Leinster; and
(j) Cue

and I ask —

(1) On how many occasions have the videoconference room facilities been used, between 1 July 2009 and 31 March 2010, at each telecentre?

(2) How many training courses have been delivered at each telecentre during the same period?

(3) How many computers are based at each telecentre?

(4) How many people on average does each of these telecentres serve on a weekly basis?

Hon WENDY DUNCAN replied:

Statistics are collected on a six monthly basis and are only available to the end of December 2009.

(1) The number of times video-conferencing has occurred at the following Telecentres from 1 July to 31 December 2009:

(a) Leonora: 0
(b) Laverton: 6
(c) Tjuntjuntjara: 0
(d) Warburton : not operational
(e) Irrunytju: 5
(f) Kambalda: 0
(g) Coolgardie: 0
(h) Norseman: 0
(i) Leinster: 3
(j) Cue: 6

(2) The number of training courses delivered from 1 July to 31 December 2009 at each Telecentre:

(a) Leonora: 0
(b) Laverton: 8
(c) Tjuntjuntjara: 0
(d) Warburton: not operational
(e) Irrunytju: 4
(f) Kambalda:3
(g) Coolgardie: 4
(h) Norseman: 2
(i) Leinster: 14
(j) Cue: 1

(3) The number of computers based at each Telecentre from 1 July to 31 December 2009:

(a) Leonora: 5
(b) Laverton: 5 Public; 3 Staff
(c) Tjuntjuntjara: 5
(d) Warburton: not operational
(e) Irrunytju: 6

(f) Kambalda: 6
(g) Coolgardie: 5
(h) Norseman: 5 Public; 3 Staff
(i) Leinster: 6
(j) Cue: 5

(4) The number of people on average that the Telecentre served on a weekly basis from 1 July to 31 December 2009:

(a) Leonora: 116
(b) Laverton: 158
(c) Tjuntjuntjara: 20
(d) Warburton: not operational
(e) Irrunytju: 20
(f) Kambalda: 44
(g) Coolgardie: 93
(h) Norseman: 62
(i) Leinster: 92
(j) Cue: 17

HOMESWEST HOUSING — ENERGY EFFICIENCY

2440. Hon Lynn MacLaren to the Leader of the House representing the Minister for Housing

(1) Is all new Homeswest housing required to meet an energy efficiency standard or a star rating?

(2) Does the Department for Housing have a plan in place to ensure that all existing Homeswest houses are energy efficient?

(3) If yes to (2), what are the details of that plan, including a timeline?

(4) Have existing Homeswest housing stocks been audited to establish their energy efficiency status?

(5) If yes to (4), what are the results?

Hon NORMAN MOORE replied:

The Department of Housing advises:

(1) Yes. The Department currently builds new construction to a minimum 5 star energy efficiency rating, soon to be six star minimum.

The Department fits minimum five star rated hot water systems when existing units become unserviceable. The Department will continue to comply with the energy efficiency requirements of the Building Code of Australia for future constructions.

(2) The Department is developing a plan which will meet the criteria of the Federal Government's requirement that all properties will be audited for their efficiency status.

(3) Not applicable

(4) Under the National Strategy on Energy Efficiency as agreed by COAG the Department is required to perform energy efficiency audits of public housing stock — implementation of this plan is under development.

(5) Not applicable

EXTRAORDINARY TAXI RIDE — SUCCESS RATING

2441. Hon Ljiljanna Ravlich to the Minister for Environment representing the Minister for Tourism

I refer to the Minister’s media statement of 18 May regarding the Extraordinary Taxi Ride, and I ask —

(1) Which social networking sites have featured the taxi ride, and how has the success of the taxi ride been rated on these sites?

(2) How many independent hits have been recorded to the Tourism WA website during period of taxi ride?

(3) What is the total estimated value of the media generated?

(4) How many direct tourism bookings can be attributed to taxi ride?

(5) What is the total cost of the campaign?

(6) What is the estimated ratio return of the public dollars invested?

(7) How has the private sponsorship money been spent?

Hon DONNA FARAGHER replied:

(1) The Extraordinary Taxi Ride campaign has been covered on Twitter; Facebook; Youtube; social bookmarking sites including Digg, Stumbleupon, Delicious, Mixx and Wordpress Blogs; and a large number of community forums in the categories of Travel, Competitions and Motor Enthusiast. Throughout each stage of the campaign social networking sites have featured highly as referrers of traffic, with the site particularly well received and seeded on Stumbleupon and Facebook during the driver and passenger selection phases.

(2) As at Wednesday, 2 June 2010 the campaign site has received 152 663 visits.

(3) As at Wednesday, 2 June 2010 the campaign has achieved $2.4 million dollars worth of publicity globally.

(4) Key partners will provide Tourism Western Australia with results once the campaign has ended, however, initial feedback is very positive.

(5) $6.2 million — Tourism Western Australia's cost is $4.7 million and $1.5 million has been invested by partners and sponsors.

(6) This will be calculated when the campaign has concluded, partners have provided their results and market research is complete.

(7) Sponsorship support has been in the form of in kind support, for example, RAC support services, GPS devices, vehicles, communication equipment and event support.

A1 MINERALS LTD — SAFETY NOTICES ISSUED

2445. Hon Jon Ford to the Minister for Mines and Petroleum

I refer to the A1 Minerals Limited mine and mining tenure including the Brightstar gold project in the Laverton area and I ask —

(1) Can the Minister state how many mines record book entries, improvement, provisional improvement and prohibition notices have been issued by Department of Mines and Petroleum (DMP) inspectors for the last three years at the above operation?

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

(3) If yes to (1), can the Minister give the detail of each notice?

(4) Has a DMP inspector checked as of the date of this question to see whether in fact all the issues raised in question (1), have been adhered and complied with by the company at the above referred to mine?

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

(6) If yes to (4), on what specific date was each issue identified then rectified by the company for compliance?

(7) Within the last three years can the Minister state how many works directions, stop work orders, or any issues have been identified by DMP staff concerning matters within the jurisdiction of the *Mining Act 1978 and Regulations 1981* at the above referred to mine?

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

(9) Within the last three years can the Minister state how many times, and on what specific dates has the above referred to operation, been visited by mines safety inspectors?

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

Hon NORMAN MOORE replied:

1) Yes — the relevant record book entries and notices are tabled. [See paper 2227.]

2) Not applicable.

3) See tabled paper referred to in response to question 1.

4) Management of the company has notified the Department that the matters raised in Improvement Notices have been completed. Notifications have not been received for recently issued notices.

5) Not applicable.

6)

Improvement Notice No.	Date issue Identified	Date management notified inspector defects rectified
IC 02382	19/11/09	20/11/09
IC 02383	19/11/09	23/11/09
IC 02142	1/02/10	15/02/10
IC 01905	01/02/10	25/03/10
IC 01870	4/02/10	25/02/10
IC 01912	22/04/10	02/05/10
IC 01913	22/04/10	30/04/10
IC 01914	22/04/10	02/05/10
IC 01915	22/04/10	31/05/10
IC 08437	05/05/10	08/06/10
IC 02150	25/05/10	YET TO BE ADVISED
IC 02151	25/05/10	YET TO BE ADVISED
IC 02152	25/05/10	YET TO BE ADVISED
IC 02153	25/05/10	YET TO BE ADVISED
IC 02154	25/05/10	YET TO BE ADVISED
IC 02155	25/05/10	YET TO BE ADVISED

7) The BrightStar site has been inspected twice in the last three years, on 3 December 2008 and 17 June 2009. Both inspections occurred prior to recommencement of full scale mining. No Work Direction or Stop Work Order has been issued.

8) Not applicable.

9) Refer to response to question 7.

10) Not applicable.

BARRICK GOLD OPERATIONS — SAFETY NOTICES ISSUED

2446. Hon Jon Ford to the Minister for Mines and Petroleum

I refer to the Barrick Gold Granny Smith and Lawlers Mines and Anglogold Sunrise Dam operations, and I ask —

(1) Can the Minister state how many mines record book entries, improvement, provisional improvement and prohibition notices have been issued by Department of Mines and Petroleum (DMP) inspectors for the last three years at the above referred to operations?

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

(3) If yes to (1), can the Minister give the details of each notice?

(4) Within the last three years can the Minister state how many works directions, stop work orders, or any issues have been identified by DMP staff concerning matters within the jurisdiction of the *Mining Act 1978 and Regulations 1981* at the above referred to mines?

(5) Within the last three years can the Minister state how many times, and on what specific dates has the above referred to operations, been visited by mines safety inspectors?

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

(7) Within the last three years can the Minister state how many times and on what specific dates has the above referred to operations been visited by DMP inspectors?

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

Hon NORMAN MOORE replied:

1) Record Book entries, Improvement Notices and Prohibition Notices:

	Record Book entries	Improvement Notices	Prohibition Notices
Granny Smith	2007 – 7 2008 –13 2009 –12 2010 – 6	2007 – 5 2008 – 3 2009 – 4 2010 – 5	2009 – 1

Lawlers Mines	2007 – 7 2008 –13 2009 –18 2010 – 9	2007 – 1 2008 –10	2008 –19
Anglogold Sunrise Dam	2007 – 6 2008 –18 2009 –14 2010 – 8	2007 – 4 2008 –13 2009 – 5 2010 – 3	2008 – 2 2009 – 1

Provisional Improvement Notices are issued by Safety and Health Representatives. Copies are not provided by the company to the Department.

2) Not applicable

3) [See paper 2228.]

4) No works direction or stop work order has been issued in the last three years.

5 -6) See tabled paper referred to in answer 3.

7) For mine safety inspections, see tabled paper referred to in answer 3.

Regarding environmental inspections, one inspection of Lawlers Gold Mine was conducted on 12 March 2009, one inspection of Granny Smith Gold Mine was conducted on 2–3 August 2007 and one inspection of Sunrise Gold Mine was conducted on 15 July 2009. No significant issues were noted in the inspection reports.

8) Not applicable

IRISHTOWN SANDSTONE OPERATIONS — LEASE

2447. Hon Giz Watson to the Parliamentary Secretary representing the Minister for Lands

I refer to the Irishtown Crown Reserves Numbers 21583, 2720 (5804) 2720 (5805), in particular the sandstone quarry situated on Irishtown Road near Donnybrook, and I ask —

(1) Is the Minister aware that the commercial quarrying company Cosmic Resources Pty Ltd (formerly known as Irishtown Sandstone Pty Ltd), leased the five hectares of Crown Land for the total sum of $72.60 in 2009?

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

(3) If yes to (1), who was responsible for the decision and how was the decision made?

(4) Can the Minister confirm that only 12 stones of 1.5m x 1m x 1m in size or a total of 12.5 cubic metres has been set aside to cover the maintenance for all the heritage buildings, including Parliament House in Western Australia?

(5) If yes to (4), can the Minister outline —

(a) how the decision was made and by whom;

(b) who benefited from this decision;

(c) how many of the 12 stones are left;

(d) how many have been used for commercial purposes; and

(e) what royalties have been paid to the State Government for the stone used?

Hon WENDY DUNCAN replied:

(1)-(2) Yes, the Minister for Lands is aware that both Reserves 21583 and 2720 are the subject of Mining Lease 70/1217.

(3) The specific details on the leasing arrangement should be directed to the Minister for Mines and Petroleum.

(4)-(5) Please refer to Legislative Council Question on Notice 2449.

IRISHTOWN SANDSTONE OPERATIONS — ENVIRONMENTAL COMPLIANCE

2448. Hon Giz Watson to the Minister for Environment

I refer to the Irishtown Crown Reserves Numbers 21583, 2720 (5804) 2720 (5805), in particular the sandstone quarry situated on Irishtown Road near Donnybrook, and I ask —

(1) Is the Minister aware of any regulations contravened by the commercial quarrying company Cosmic Resources Pty Ltd (formerly known as Irishtown Sandstone Pty Ltd), in relation to —

(a) noise pollution;

(b) dust pollution; and/or

(c) water degradation?

(2) If yes to (1), can the Minister outline what form of redress has occurred?

(3) Has the Environmental Protection Authority performed an environmental assessment on the area and if so, when and what were the findings?

(4) Can the Minister outline which department is responsible for overseeing the quarrying activities on this Crown Land and ensuring regulations are followed?

Hon DONNA FARAGHER replied:

(1)-(2) I have been advised by the Department of Environment and Conservation that it has not recorded any breaches under the Environmental Protection Act 1986 or the Environmental Protection (Noise) Regulations 1997 for noise/dust pollution or water degradation by Cosmic Resources Pty Ltd at this premises.

(3) The proposed expansion of the quarry was referred to the Environmental Protection Authority (EPA) in November 2008 and on 29 July 2009, the EPA determined that the proposal did not warrant formal assessment.

(4) I have been advised that the Department of Mines and Petroleum oversees the mining tenement for this quarry. DEC administers the Environmental Protection Act and the Environmental Protection (Noise) Regulations,which would apply in the event of a breach relating to emissions from the quarry. The Shire of Donnybrook-Balingup also has delegated authority from DEC under the Environmental Protection (Noise) Regulations should there be breaches relating to noise from the quarry.

IRISHTOWN SANDSTONE OPERATIONS — STONE FOR GOVERNMENT USE

2449. Hon Giz Watson to the Leader of the House representing the Minister Assisting the Treasurer

I refer to the Irishtown Crown Reserves Numbers 21583, 2720 (5804) 2720 (5805), in particular the sandstone quarry situated on Irishtown Road near Donnybrook, and I ask —

(1) Can the Minister confirm that only 12 stones of 1.5m x 1m x 1m in size or a total of 12.5 cubic metres has been set aside to cover the maintenance for all the heritage buildings, including Parliament House in Western Australia?

(2) If yes to (1), can the Minister outline —

(a) how the decision was made and by whom;

(b) who benefited from this decision;

(c) how many of the 12 stones are left;

(d) how many have been used for commercial purposes; and

(e) what royalties have been paid to the State Government for the stone used?

Hon NORMAN MOORE replied:

(1) 12 stones of 1.5m x 1.0m x 1.0m, or 18 cubic metres, have been set aside from the Irishtown Quarry as one source of stone for Government use.

(2) (a) The State's rights to the stones are established and protected by a formal deed of arrangement. The deed was agreed to by the Director Procurement Strategy and Policy of the former Department of Housing and Works (DHW), and enacted in March 2008 by the Manager Procurement and Construction Policy of the DHW, acting under gazetted delegation from the Minister for Works. Professional opinion was that this amount would cater for potential repair works on Western Australian State Government owned heritage buildings where Donnybrook stone was part of the original construction, although suitable alternative sources have been identified should more stone be required.

(b) The State benefited by having the stone set aside and stored at no cost.

(c) All of the stone remains.

(d) None.

(e) Not applicable.

KALGOORLIE NICKEL SMELTER — BULLYING COMPLAINTS TO DMP

2451. Hon Robin Chapple to the Minister for Mines and Petroleum

I refer to the Kalgoorlie Nickel Smelter (KNS) owned and operated by BHP Billiton, and ask —

(1) Within the previous 18 months, have any complaints been received by the Department of Mines and Petroleum (DMP) concerning bullying, intimidation, victimisation and harassment at the abovementioned operations?

(2) If yes to (1), have these complaints been investigated by the DMP, and if so, will the Minister state the specifics of these complaints and the outcome of the investigations?

(3) If no to (2), will the Minister request an investigation in relation to (1)?

(4) Have any sections of the *Mines Safety and Inspection Act 1994 and Regulations 1995* been breached in relation to the complaints referred to in (1), and will the Minister quote the sections of the act which apply?

(5) Will the Minister state what is the relevant section /regulation and maximum penalty under the *Mines Safety and Inspection Act 1994 and Regulations 1995* for any breaches concerning bullying, intimidation, victimisation and harassment?

(6) Will the resident manager, or any other person at the Kalgoorlie Nickel Smelter be prosecuted for any breaches for this incident referred to in (1)?

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

(8) Has any person within management of the above referred to operation acknowledged or conceded to Mr Marius Hanekom or any other DMP inspector that bullying and victimisation had taken place within the workplace in relation to the matter referred to in (1)?

(9) If yes to (8), what specific enforcement action was taken?

(10) Is it correct that Mr Marius Hanekom a District Inspector with the DMP conceded to a complainant in relation to the matter referred to in (1), that bullying and victimisation had taken place, but he could take no further action as the perpetrator/offender had supposedly been disciplined by the company?

(11) If no (10), what did Mr Marius Hanekom concede or state to the complainant?

(12) Can the Minister state what section of the *Mines Safety and Inspection Act 1994 and Regulations 1995,* prohibits the DMP inspectorate taking any further enforcement action in relation to bullying and victimisation, when the offender has been disciplined by the company?

(13) If no (12), why not?

Hon NORMAN MOORE replied:

1) Yes

2) Yes. A Departmental mining inspector received a complaint from an employee at Kalgoorlie Nickel Smelter. It was alleged that the employee was the target of bullying behaviour. The employee advised that the allegation was investigated by the company. The employee said that the outcome, in their opinion, was not fair.

The Departmental inspectors responded by contacting the management at Kalgoorlie Nickel Smelter. The Acting Registered Manager advised that the company was aware of this complaint and that they have investigated it. Not all of the allegations made by the complainant could be verified, but there was enough evidence to establish that some bullying and abuse did take place.

The person alleged to have exhibited bullying behaviour received a written warning, was removed as a supervisor and was put on a work improvement program.

The complainant was transferred from that particular work and was given an opportunity to try other work areas.

It was determined that all parties met their obligations under Mines Safety and Inspection Act 1994 and thus no further action was taken by the Department.

3) Not applicable

4) No

Bullying, intimidation, victimisation and harassment are the subject of the Department of Mines and Petroleum's Code of Practice titled "Prevention and management of violence, aggression and bullying at work". Section 93 of the Mines Safety and Inspection Act 1994 allows the Minister to approve a code

of practice which has been considered by the Mining industry Advisory Committee. Section 9 of the Act prescribes the duties of employers. Section 10 of the Act prescribes the duties of employees.

5) See response to question 4. No specific penalties have been prescribed for breaches concerning bullying, intimidation, victimisation and harassment.

6) No

7) There were no breaches of the Mines Safety and Inspection Act 1994 identified that would warrant prosecution action.

8) Yes

9) The complaint was investigated.

10) No

11) Mr Hanekom acknowledged that he was informed by the Acting Registered Manager that bullying did take place.

Mr Hanekom also advised that as the company had investigated the complaint and took appropriate action he would not take further action.

12) The Mines Safety and Inspection Act 1994 and the Regulations 1995 do not prohibit the Department of Mines and Petroleum from taking any further enforcement action when in the opinion of the inspector, such further action is warranted.

13) Not applicable.

KALGOORLIE NICKEL SMELTER — BULLYING COMPLAINTS TO DMP

2452. Hon Robin Chapple to the Minister for Mines and Petroleum

I refer to the Kalgoorlie Nickel Smelter owned and operated by BHP Billiton, and ask —

(1) Does the Minister, or any staff from the Department of Mines and Petroleum (DMP), endorse bullying, intimidation, victimisation and harassment within the abovementioned operation?

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

(3) Can the Minister state what specifically has the DMP inspectorate done within the last 24 months to eliminate bullying, intimidation, victimisation and harassment at the above referred to operation?

(4) Can the Minister state how many complaints have been recorded, both on the internal reporting system and to the DMP, in the previous 36 months concerning occupational health and safety matters including bullying, intimidation, victimisation and harassment?

(5) If yes to (4), have all these complaints been investigated by the DMP?

(6) If yes to (5), will the Minister state the specifics of these complaints and the outcome of the investigations?

(7) Can the Minister state, what was the outcome of all the complaints referred to (4)?

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

(9) Have any sections of the *Mines Safety and Inspection Act 1994 and Regulations 1995* been breached, in relation to any concerns referred to in (4), and will the Minister quote the sections of the Act which apply?

(10) Will the Minister state, what is the maximum penalty for any breaches in relation to all the complaints referred to in (4)?

(11) If no to (10), why not

(12) Will the resident Manager, or any other person at the Kalgoorlie Nickel Smelter be prosecuted for any breaches or for any complaints referred to in (4)?

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

Hon NORMAN MOORE replied:

1) No such behaviour is endorsed at any workplace.

2) Bullying behaviour can have a negative effect on the safety and health of employees.

3) The Department of Mines and Petroleum (DMP) has published a Code of Practice on this subject. It is titled "Prevention and Management of violence, aggression and bullying at work". DMP applies the

code as the minimum standard that must be followed to deal with these issues and expects grievances to be addressed through consultation between the parties. See also Answer (6) below.

4) Five complaints regarding occupational health and safety matters including bullying, intimidation, victimisation and harassment at the Kalgoorlie Nickel Smelter since 1 January 2007 were received by DMP.

Two complaints were received by the company on their internal reporting system.

5) Yes

6) 28/8/2007 Complaint regarding compliance of scaffolding at the Kalgoorlie Nickel Smelter with the relevant Australian Standard. Complaint was investigated and an audit of the scaffolding on site was requested.

17/01/2008 Complaint regarding maintenance on a loader. Issues were investigated and resolved.

29/08/2008 Complaint regarding installation of electrical cables. Issue resolved.

12/09/2008 Complaint regarding safety issues involving slag haulers. Investigated and resolved.

25/03/2010 Complaint from an employee alleging bullying behaviour. This was reported it to the company and the complaint was investigated. The employee stated that the outcome, in her opinion was "not fair".

The matter was investigated by Inspectors of Mines who discussed the matter with the company and were satisfied with the action taken.

As is common in such cases not all of the allegations made by the complainant could be verified, but there was enough evidence to establish that some bullying behaviour did take place.

The person accused received a final written warning and was put on a work improvement program.

It is the Department's view that all parties have met their obligations under the Mines Safety and Inspection Act 1994 and no further action was taken.

7) See response to question 6.

8) Not applicable

9) No

10) No specific penalties have been prescribed for breaches concerning bullying, intimidation, victimisation and harassment.

11) Not applicable

12) No

13) It is the Department's view that prosecution action is not warranted in the circumstances.

KANOWNA BELLE OPERATIONS — INCIDENT REPORTING

2453. Hon Robin Chapple to the Minister for Mines and Petroleum

I refer to the Kanowna Belle Operations owned and operated by Barrick Kanowna, and ask —

(1) Is it correct that on or around 24 April 2010 a Caterpillar AD 55 dump truck that had been parked underground at the above mentioned operations at the end of shift was found, by the operator on the next shift during the prestart, to have a rag in the engine near the exhaust that was smouldering and ready to burst into flames?

(2) If no to (1), what is correct?

(3) Is it correct that fitters often leave rags in the engine bays of machines when working on them and creates a hazard on the machinery at this mining operation referred to above?

(4) If no to (3), what is correct?

(5) Is it correct that the management of these operations referred to above were upset when the operator of this truck referred to in (1), wanted to fill in an incident report?

(6) If no to (5), what is correct?

(7) Is it correct that the management of this mining operation referred to above often omit reporting, on their internal reporting system and to the Department of Mines and Petroleum (DMP), incidents, in which trucks catch on fire?

(8) If no to (7), what is correct?

(9) Was this incident referred to in (1), reported to the DMP?

(10) If no to (9) —

(a) why not; and

(b) will the Minister urgently require an investigation into this matter?

(11) If no to (10)(b), why not?

(12) Have any sections of the *Mines Safety and Inspection Act 1995 and Regulations 1994* been breached in this incident referred to in (1)?

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

(14) Will the Minister state, what is the maximum penalty for these breaches?

(15) Will the resident manager or any other person at Kanowna Belle be prosecuted for any breaches for this incident referred to in (1)?

(16) If no to (15), why not?

(17) Will the Minister state how many incident reports have been received by the DMP in regards to trucks catching fire at the above mentioned operations in the past 36 months?

(18) If no to (17), why not?

Hon NORMAN MOORE replied:

1) Yes, it is correct that a rag was found in the engine near the exhaust on the 24 April 2010.

2) Not applicable

3) No

4) Rags have been reported to the Department of Mines and Petroleum (DMP) as being the cause of a fire on 2 occasions since 1 January 2007.

13/12/07 — Caterpillar AD 55 truck, rag left on the turbo.

17/12/09 — 775E rag left on exhaust during maintenance.

5) No

6) An incident report was completed and lodged on the mine's internal system.

7) No. DMP does not consider this to be the case.

8) Since 1 January 2007 seventeen fires on Caterpillar 775 and Caterpillar AD 55 trucks at Kanowna Belle operations have been reported to the Department of Mines and Petroleum.

9) No

10) a) The underground manager has advised that there was no fire and no smoke.

Section 78 of the Mines Safety and Inspection Act 1994 lists a number of occurrences that are immediately reportable to the district inspector.

Leaving a rag in an engine compartment is not listed.

b) No

11) In the circumstances, an investigation is not warranted.

12) No

13) It is not a requirement of Section 78 of the Mine Safety and Inspection Act 1994 that an incident where a rag has been left in the engine compartment of a truck is reportable to the district inspector.

14) No breach has occurred.

15) No

16) No breach has occurred.

17) Refer to answer 8 above.

18) Not applicable.

KALGOORLIE CONSOLIDATED GOLD MINES (KCGM) — BULLYING COMPLAINTS TO DMP

2455. Hon Robin Chapple to the Minister for Mines and Petroleum

I refer to the KCGM operations owned by Barrick Gold and Newmont Mining also known as the Superpit in Kalgoorlie and the senior management, and ask —

(1) Within the last 36 months has a complaint been recorded, either on the company's internal reporting system or with the Department of Mines and Petroleum (DMP), concerning bullying and victimisation and intimidation by line management in the dispatch operations hut?

(2) If yes to (1), what was the nature of the complaint and what was the outcome of the investigation?

(3) If no to (1), will the Minister urgently require an investigation into this matter?

(4) Within the last 36 months has a complaint been recorded, either on the company's internal reporting system or with the Department of Mines and Petroleum (DMP), concerning bullying, victimisation and intimidation by line management in the crusher operations?

(5) If yes to (4), what was the nature of the complaint and what was the outcome of the investigation?

(6) If no to (4), will the Minister urgently require an investigation into this matter?

(7) Has anybody in the DMP Inspectorate been made aware that management of human resources at KCGM were made aware of allegations of bullying, victimisation and intimidation and overlooked these allegations?

(8) If yes to (7), what was the nature of the complaint and what was the outcome of the investigation?

(9) If no to (7), will the Minister urgently require an investigation into this matter?

Hon NORMAN MOORE replied:

1) Yes

2) A complaint was made by an employee who indicated they were being prevented by supervisors from raising problems with senior management at the mine. The reference to the dispatch operations hut was one of a number of instances referred to in the complaint. The outcome of the investigation was that the Department's employee inspector organised a meeting with the quarry manager so that the complaint could be referred to senior management for action within the company policies which relate to fair and equitable treatment of employees.

3) Not applicable

4) Yes

5) The complaint was taken by the employee inspector who organised a meeting with employees of a Crusher Crew at KCGM to hear their allegations. After hearing the allegations the inspector organised for the employees to see representatives of the KCGM management team so that their allegations could be dealt with. The complaint related to a particular Leading Hand who was allegedly bullying the group. It is understood the Leading Hand was demoted and put onto another crew.

6) Not applicable

7) No

8) Not applicable

9) No. This matter has already been investigated by the Department's employee inspector.

KALGOORLIE CONSOLIDATED GOLD MINES (KCGM) — BULLYING COMPLAINTS TO DMP

2456. Hon Robin Chapple to the Minister for Mines and Petroleum

I refer to the KCGM operations owned by Barrick Gold and Newmont Australia known as the Superpit in the Kalgoorlie region and question on notice No. 2193, 1 April 2010, and ask —

(1) Within the last 36 months is it correct that Mr Dale Oram and/or others within the senior management of KCGM conceded and acknowledged to a workman's inspector Mr Green or inspectors within the Department of Mines and Petroleum (DMP) that KCGM had serious problems with victimisation, intimidation, bullying of workers from members of line management and that Mr Oram would take action to positively eliminate these matters from reoccurring?

(2) If yes to (1), why has the Minister been provided with incorrect and misleading advice for parts 12-14 for question on notice No. 2193 referred to above?

(3) If no to (1), what is specifically correct in relation to these matters?

(4) Can the Minister explain why critical important departmental DMP records which help establish that KCGM staff have acknowledged and conceded that they have a problem with victimisation, intimidation and bullying of workers from particular employees operating with unacceptable behaviour are not locatable?

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

(6) Were all departmental records thoroughly checked for the answers provided for parts 12-14 for question on notice No. 2193 referred to above?

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

(8) Within the last 36 months has it been reported on departmental files by any inspector or verbally spoken of, that the General Manager of KCGM when confronted with allegations of victimisation, intimidation, bullying from a DMP inspector that he indicated with words to the effect of 'you realise what happened to that inspector over east who raised concerns like this don't you'?

(9) If no to (8), what specifically has been recorded in relation to this matter including any verbal statements made by the General Manager of KCGM?

(10) If yes to (8), what does the Minister intend to do about this type of behaviour and attitude?

Hon NORMAN MOORE replied:

1) No

2) Not applicable

3) Mr Oram indicated to Mr Green that he would investigate the allegations of bullying made and take appropriate action in accordance with the company's policies.

4) No

5) The Department of Mines and Petroleum's advice is that there are no "critical important" records.

6) Yes

7) Not applicable

8) Following his conversation with the General Manager, the Inspector discussed this conversation with the Senior Inspector

9) Not applicable

10) The General Manger later advised the Department that he thought the Inspector was following up on a Workers Compensation case lodged by an employee at the mine, and he (the General Manager) had enquired if the Inspector was operating within his jurisdiction. The General Manger could not recall saying anything about an Inspector over east. As such no further action is considered necessary.

NORSEMAN GOLD OPERATIONS — BULLYING COMPLAINTS TO DMP

2458. Hon Robin Chapple to the Minister for Mines and Petroleum

I refer to the Norseman Gold Operations in Norseman and its management, and ask —

(1) Within the last 36 months has a complaint been recorded, either on the company's internal reporting system or with the Department of Mines and Petroleum (DMP), concerning bullying, victimisation and intimidation by management of the Harlequin, Bullen or Okay mine?

(2) If yes to (1), what was the nature of each complaint and what was the outcome of each investigation?

(3) With respect to the complaints referred to in (1), what type of evidence, and how much evidence, was collected and presented by DMP inspectors?

(4) With respect to the complaints referred to in (1), how many inspectors from the DMP were involved in each investigation, and how long in hours and days, did they spend on each investigation?

(5) Within the last 36 months has a complaint been recorded, either on the company's internal reporting system or with the Department of Mines and Petroleum (DMP), concerning any breaches of the *Mines Safety and Inspection Act 1995 and Regulations 1994* including but not limited to unsafe work practices, machinery, explosives, escapeways, fatigue management and ventilation?

(6) If yes to (5), what was the nature of each complaint and what was the outcome of each investigation?

(7) With respect to the complaints referred to in (5), what type of evidence, and how much evidence, was collected, presented by DMP inspectors?

(8) With respect to the complaints referred to in (5), how many inspectors were involved in each investigation and how long in hours and days did they spend on each investigation?

(9) Can the Minister state when was the last inspection of the above referred to operation by an inspector, to physically check and traverse all the escape ways including ladders, to see if an emergency response team fully equipped with open circuit breathing apparatus, or closed circuit breathing apparatus or any apparatus necessary for emergency rescue would be capable of fitting through all escape routes from the surface down to the present working area?

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

(11) Can an emergency response team fully equipped with open circuit breathing apparatus or closed circuit breathing apparatus or any apparatus necessary for emergency rescue, be physically capable of fitting through all escape routes with equipment functioning from the surface down to the present working area, in the above referred to mine?

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

Hon NORMAN MOORE replied:

(1) Yes

(2) A written complaint which included allegations of bullying, intimidation and harassment in the workplace by mine management was received by the Department of Mines and Petroleum in late June 2009. The matter was investigated by the Senior Inspector of Mines and an Employees Inspector of Mines on the 7 July 2009. Management did not believe bullying was occurring at the mine and thought that the allegations of bullying may have been associated with discipline being carried out.

A copy of the Code of Practice on the Prevention and Management of Violence, Aggression and Bullying in the workplace was given to management by the inspectors. Management was advised that this was the standard to which they must operate.

Prior to receiving the written complaint some allegations including bullying had been made to the Employees Inspectors by the complainant. These concerns were later formalised in the written complaint. The written complaint received was from an employee who subsequently left that employment.

(3) The Senior Inspector of Mines and the Employees Inspector of Mines gathered information from the allegations raised in the written complaint received.

They questioned management on the bullying, intimidation and harassment allegations during their visit to the mine on the 7July 2009.

(4) The Senior Inspector and Employees inspector were involved in the investigations on the 7 July 2009. A total of 25 hours was spent by Inspectors of Mines investigating this matter, consisting of:

07/07/09	J. Boucaut & P. Green	14 hours
14/07/09	J. Boucaut & P. Green	4 hours
Associated general office work		7 hours
		25 hours

(5) Yes

(6) The nature of the complaints received were:

- An unplanned breakthrough of headings at Harlequin Mine in August 2008.

  This was followed up by an Inspector on site.

- Limited knowledge and experience of a person sitting the Underground Shift Supervisor's examination (received November 2008).

  This matter was referred to the Board of Examiners.

- Written complaints alleging;

  * Poor state of underground equipment.
  * Unsafe work practices being carried out.
  * General safety issues including ventilation, housekeeping, fire extinguishers, escapeways, refuelling bays, re-entries after blasting, etc.

(7) Details in the written complaints and photographs provided were used for information purposes. Underground equipment on site was inspected. Underground areas were inspected including travel ways

and working places. Other concerns raised in the complaints were forwarded by the Senior Inspector to management in a written letter dated 2 September 2009.

(8) The Senior Inspector, Employees Inspector and Machinery Inspector investigated the complaints on site on 7 July 2009.

The Senior Inspector and Employees Inspector returned to site on 14 July 2009 to further investigate. The Occupational Health Inspector followed up on ventilation issues at the Harlequin Mine on 7 August 2009. The District Inspector followed up on aspects of the complaint at the Bullen Mine on 13 August 2009 during a general inspection. A total of 55 hours was spent by Inspectors investigating these matters as I now detail:

07/07/09	J. Boucaut & P. Green	6 hours
07/07/09	B. Evans	10 hours
14/07/09 J	Boucaut & P. Green	16 hours
Associated general office work		7 hours
07/08/09	T. Siefken	8 hours
13/08/09	A. Holmes	8 hours
		55 hours

(9) No

(10) Random sections of escapeways are usually inspected on general inspections of the mine by Inspectors of Mines. As such all escapeways at the mine are not inspected at the one time.

Further to the complaint regarding the OK Escapeway, an Employees Inspector inspected the OK Escapeway ladder from Surface to 5 level on 14 July 2009.

(11) No

(12) During the inspection on the 14 July 2009 tight spots were observed in the OK Escapeway.

There are no specific requirements under the Mines Safety and Inspection Act 1994 and in Regulations 1995 on this matter.

Ideally all escape routes and ladder ways giving workplace access in a mine should be of sufficient dimensions to permit stretchers and mine rescue team members using breathing apparatus to pass without undue hindrance.

KALGOORLIE CONSOLIDATED GOLD MINES (KCGM) — TENEMENT CONDITIONS

2459. Hon Robin Chapple to the Minister for Mines and Petroleum

I refer to Mining tenement conditions on Mining lease 26/83, 26/383, M26/353, General Purpose Leases 26/53, G26,46, G26,44, G26,45, and others for tenements owned by Barrick Gold of Australia Limited and Newmont Mining covering the Fimiston Super Pit Operations, the Consultative Environmental Review Mine and Waste Dumps, dated August 1990, questions on notice No. 2004, 23 March 2010 and No. 6227, 10 April 2008 and a newspaper article which appeared in *The West Australian* newspaper, dated Saturday 15 May 1999, on page 15 titled, 'Mine Chief Blames Moore for Mid-West shutdowns', and ask —

(1) Can the Minister explain why KCGM is being given preferential treatment by the DMP, and Minister by not having to comply with tenement conditions given that many other smaller sized companies within Western Australia, including but not limited to those referred to above in the newspaper article dated 15 May 1999 in the past, have had the Department rigidly and robustly insist on compliance with tenement conditions and rehabilitation requirements and in fact had their bonds significantly increased to meet those requirements?

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

(3) In relation to the newspaper article dated Saturday 15 May 1999 referred to above, can the Minister state what he did as a Minister at the time in question, and whether in fact the bonds were reduced for rehabilitation requirements for St Barbara mines as a result of concerns expressed by Mr Robert Atkins?

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

(5) In relation to the answer for part (7) question on notice No. 6227 referred to above, will the Minister ensure that KCGM's rehabilitation and closure management plan to be completed by KCGM is fully costed with costs for completion of activities?

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

(7) Will the Minister ensure that KCGM's rehabilitation and closure management plan factors in inflation and progressive rises of fuel in order to meet rehabilitation requirements for each of the total rehabilitation and mine costs for each tenement?

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

(9) In relation to the newspaper article dated Saturday 15 May 1999 referred to above, is it correct that the Minister or the DMP commissioned a independent consultant to look at the bonds issue for St Barbara mines and that in fact the bonds required were significantly higher than those currently held by the DMP?

(10) If no to (9), what specifically is correct in relation to this matter?

Hon NORMAN MOORE replied:

(1) I have no evidence that KCGM has been or is being given preferential treatment by the Department of Mines and Petroleum. My answer to the question on notice No. 2004 detailed the mine closure planning requirements imposed upon KCGM for their entire Fimiston Gold Mine Operation.

(2) Not applicable

(3) Subsequent to the concerns expressed by Mr Ross Atkins the Department undertook a review of the environmental bonds for the St Barbara site. At that time the bond amount imposed for the St Barbara mine was based upon the Company's 1997 annual environmental report. The Department calculated the appropriate bond rates to the total area disturbed by the mining operations as provided in the Company's 1998 annual environmental report. This resulted in a reduction in the bond amount (totalling $2,811,400).

(4) Not applicable

(5) The KCGM Closure and Reclamation Management Plan has been submitted to the Department of Mines and Petroleum and other stakeholders identified in condition 11 of Ministerial Statement 782 for review. It is currently under assessment by these agencies against the requirements of Ministerial Statement 782. Condition 11-4 of Ministerial Statement 782 requires KCGM to implement the Closure and Reclamation Management Plan and in order to do this KCGM will need to adequately plan for those costs.

(6) Not applicable

(7) Refer to Answer 5 above.

(8) Not applicable

(9) In relation to the referred newspaper article dated Saturday 15 May 1999, the then Department of Minerals and Energy commissioned Thiess Contractor Pty Ltd to provide independent estimates of the cost of rehabilitating the disturbed ground, which turned out to be about 11 per cent higher in total than those imposed then and currently held by the Department of Mines and Petroleum.

(10) Refer to Answer 9 above.

KALGOORLIE CONSOLIDATED GOLD MINES (KCGM) — TENEMENT CONDITIONS

2460. Hon Robin Chapple to the Minister for Mines and Petroleum

I refer to Mining tenement conditions on Mining lease 26/83, 26/383, M26/353, General Purpose Leases 26/53, G26,46, G26,44, G26,45, and others for tenements owned by Barrick Gold of Australia Limited and Newmont Mining covering the Fimiston Super Pit Operations, the Consultative Environmental Review Mine and Waste Dumps, dated August 1990, question on notice numbers 2004, 23 March 2010 and 6227, 10 April 2008 and a newspaper article which appeared in *The West Australian* newspaper dated Saturday 15 May 1999, on page 15 titled 'Mine Chief Blames Moore for Mid-West shutdowns', and ask —

(1) In relation to the answer for part (1), of question on notice No. 2004 referred to above can the Minister explain quoting the text of the rehabilitation cost estimate and rehabilitation management plan including the methodology and rationale as to why each part of the plan was 'considered deficient' by the Department of Minerals and Petroleum(DMP)?

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

(3) Have the owners of these tenements submitted a closure and rehabilitation cost estimate and a rehabilitation management plan by 30 April 2010, in accordance with tenement conditions with auditable timelines of progressive rehabilitation, detailing landform design, waste characterisation and vegetation/rehabilitation outcomes?

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

(5) Can the Minister explain why the DMP is not insisting that KCGM provide technical data (not simply just statements made by the company) that sufficient topsoil is not available on all of their tenements to enable rehabilitation methods in accordance with legally enforceable tenement conditions?

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

(7) Will the DMP increase the total amount of bonds held for the Superpit operations given that KCGM has made it clear, that they don't have enough topsoil available to cover all the disturbed areas in order that KCGM is able to comply with existing tenement conditions, which require that topsoil be placed on the waste dumps and the Fimiston one and Fimiston two tailings dams?

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

(9) In relation to the answer for part (7) for question on notice No. 6227 referred to above can the Minister state the rationale and methodology for each tenement as to how the DMP was able to calculate the total rehabilitation and mine closure cost of between $200 and $240 million?

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

Hon NORMAN MOORE replied:

(1) In relation to the answer for part (1) of question on notice No. 2004, the Rehabilitation Management Plan submitted by the owners of the tenements on 5 June 2008 was considered deficient by the Department of Mines and Petroleum since there was insufficient detail in the document, particularly in relation to rehabilitation techniques and appropriate waste dump design.

(2) Not applicable

(3) The owners of the tenements submitted a Kalgoorlie Consolidated Gold Mines (KCGM) Closure and Reclamation Management Plan to the Environmental Protection Authority and the Department of Mines and Petroleum on 30 April 2010 which is currently under assessment by these agencies.

(4) Not applicable

(5) The topsoil availability matter will be examined by the Department of Mines and Petroleum, as part of its assessment of the KCGM Closure and Reclamation Management Plan submitted on 30 April 2010.

(6) See answer to part (5) above.

(7) Any decision by the Department of Mines and Petroleum to increase bonds held for the Superpit operations will depend on the outcomes of the assessment of the KCGM Closure and Reclamation Management Plan submitted on 30 April 2010, and the current bond policy.

(8) Not applicable

(9) No. It is not the role of the Department of Mines and Petroleum to calculate the rehabilitation and mine closure costs for operating mine sites. The answer provided to Part 7 of question on notice No. 6227 was stated as an estimate for the purpose of providing context to that question on notice.

(10) Not applicable.

GUILDFORD HOTEL — HERITAGE REPORTS

2465. Hon Linda Savage to the Minister for Energy representing the Minister for Heritage

(1) What internal Heritage Council Reports have been done on the Guildford Hotel?

(2) When was each report completed?

(3) When was each report presented to the Heritage Council?

(4) What action has the Heritage Council taken as a result of each of the reports?

Hon PETER COLLIER replied:

(1) Nil

(2)-(4) Not Applicable

GUILDFORD HOTEL — HERITAGE REPORTS

2466. Hon Linda Savage to the Minister for Energy representing the Minister for Heritage

(1) Have any reports been done by external consultants for the heritage council with regard to the Guildford Hotel?

(2) What is the title of each report and who was each report done by?

(3) On what date was each report commissioned?

(4) What was the cost of each report?

(5) On what date was each report completed and presented to the Heritage Council?

(6) Will the Minister table each of the reports?

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

(8) What action has the Heritage Council taken as a result of each report?

Hon PETER COLLIER replied:

(1) Yes.

(2) Guildford Hotel, Guildford; Structural Services Assessment Report by Wood and Grieve Engineers.

(3) 20 July 2009.

(4) $3,750 + GST.

(5) 28 August 2009.

(6) Yes. [See paper 2229.]

(7) Not applicable

(8) The Heritage Council has met with and written to the owners requesting their attention and response to the recommendations recorded in the report.

GUILDFORD HOTEL — MINISTER'S VISIT

2467. Hon Linda Savage to the Minister for Energy representing the Minister for Heritage:

(1) On what date did the Minister last visit the Guildford Hotel?

(2) Who was in attendance at the meeting and in what capacity were they attending?

(3) Were City of Swan representatives invited to the meeting?

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

(5) What outcomes, were there as a result of your meeting?

Hon PETER COLLIER replied:

(1) 7 April 2010

(2) Attendees at the meeting were:

Owners of the Guildford Hotel
Manager of the Guildford Hotel
Guildford Hotel Project Manager/Builder
Member for East Metropolitan Region and her assistant
Member for Swan Hills
Chair of Heritage Council
Members of the Heritage Council
Executive Director, Office of Heritage
Manager, Development Referrals, Office of Heritage
Principal Policy Adviser

(3) No.

(4) The meeting was arranged for me to view the site and meet with the owners to discuss future options and weather coverage for the extant building. The meeting also provided the opportunity for representatives of the Heritage Council to discuss conservation issues and development processes and options being considered by the owners.

(5) The owners reaffirmed their commitment to the re-establishment of a hotel facility in the heritage building, and are considering other options for complementary facilities on the site to contribute to its overall sustainability. They have engaged a heritage architect to advise them on the works required for the building, and they are seeking an operator for the hotel.

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