Parliamentary Debates
(HANSARD)

FORTY-FIRST PARLIAMENT
FIRST SESSION
2024

LEGISLATIVE COUNCIL

Tuesday, 17 September 2024

THE PRESIDENT (Hon Alanna Clohesy) took the chair at 1.00 pm, read prayers and acknowledged country.

KIMBERLEY AND MIDWEST — MISSING PERSONS

Petition

HON PETER COLLIER (North Metropolitan — Leader of the Opposition) [1.02 pm]: I present an e-petition containing 815 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 …
>
> draw the attention of the House to the urgent need for a comprehensive investigation into the suspicious disappearances of Wesley LOCKYER, Clinton LOCKYER, Wylie OSCAR, Zane STEVENS and Brenton SHAR and all missing indigenous persons from the Kimberley to Mid-West areas in Western Australia. Our petition seeks to address the calls from the families of the missing individuals, local communities and advocacy groups requesting a thorough, ongoing investigation. There is a growing call for the police to intensify their efforts and resources in these investigations. The decision to treat these as individual missing persons cases rather than a potential linked series of events has caused distress and frustration. Families and the communities believe a broader, more interconnected investigation may be more effective in uncovering the truth. We therefore ask the Legislative Council to recommend the Government: 1. Generate a MOU between WAPOL and other investigation agencies to enable the sharing of information currently limited by the Freedom of Information Act, thereby giving access to a greater number of resources. 2. Revision of the Classification of a Missing Person to a Suspicious Disappearance after one month. This will allow access to national resources and databases, improving the chances of locating missing persons sooner. 3. Establishing a Specialised Task Force dedicated to the missing persons cases listed above to ensure a focused and thorough investigation. 4. Implement Rewards: Offer rewards for information when a person has been missing for 3 months onwards in conjunction with regular public awareness campaigns and engagement with the local communities. The community stands united in their demand for answers and justice. We urge the Parliament to take immediate action to improve the procedures and classifications related to missing persons in Western Australia. Thank you for considering this petition. We trust that the Parliament will act swiftly to enhance the safety and well-being of all residents in Western Australia.
>
> And your petitioners as in duty bound, will ever pray.

[See paper 3496.]

Nonconforming Petition

HON PETER COLLIER (North Metropolitan — Leader of the Opposition) [1.04 pm]: I seek leave to table a nonconforming petition that contains 875 signatures. By way of explanation, the petition is substantially the same as the e-petition I just presented; however, this petition is nonconforming, as the principal petitioner did not sign it. The action sought of the Legislative Council is not repeated at the top of every page and a number of pages of signatures have been provided electronically. I seek leave to table the petition in recognition of this important issue and the signatories, and I advise the house that I have discussed the issue with the Leader of the House.

[Leave granted. See paper 3497.]

PUBLIC HOUSING — COMMUNITY SAFETY

Petition

HON STEVE MARTIN (Agricultural) [1.05 pm]: I present an e-petition containing 989 signatures couched in the following terms —

> To President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled. We the undersigned …
>
> request that the Legislative Council urge the State Government to: 1. Formally acknowledge our deep concern regarding the escalating crime and antisocial behaviour plaguing our communities. 2. Recognise that the level of leniency in the State Government's approach to law-and-order results in a lack of justice for victims and a lack of accountability for perpetrators. 3. Note that the Department of Communities' disruptive behaviour management approach for public housing is failing, with criminal acts and disruptive behaviour often facing little or no consequence, to the great frustration of the wider neighbourhood and public. It is essential to hold tenants accountable for disruptive behaviour affecting the broader community,

not just neighbours in the immediate vicinity. 4. Note that tens of thousands on the public housing waitlist could be housed if current tenants fail to reform. 5. Immediately address these concerns by tasking the Housing Minister, the Police Minister, and the Attorney General to take action against illegal behaviour in our communities. 6. Hold the Department of Communities and Community Service Providers accountable for tenants with a known history of criminal and disruptive behaviour if they fail to implement adequate management measures. In short, we demand safer communities now.

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

[See paper 3498.]

HOUSING — PLANNING REFORM

Petition

HON DR BRAD PETTITT (South Metropolitan) [1.06 pm]: I present an e-petition containing 992 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 …

call for urgent reforms to the State's unjust and undemocratic planning system. Planning applications are currently determined by Development Assessment Panels (DAPs) consisting of 3 independent members and just 2 local councillors. Applications can be heard even if one of the local councillors is absent. Local governments have no right to appeal DAP decisions, yet applicants can appeal to the State Administrative Tribunal if their application is refused by the DAP. The clear favouring of developers' interests over those of local communities is an affront to social justice and democratic principles. We urge the Legislative Council to call on the Government to introduce reforms to: 1. better balance the interests of local communities versus those of developers; 2. introduce third party rights of appeal 3. improve processes to better ensure DAPs and SDAU decisions are consistent with local government schemes and policy and better take into account the views of the local community; and 4. improve transparency and reduce the undue influence of developers in public policies and decision-making by banning political donations from developers.

And your petitioners as in duty bound, will ever pray

[See paper 3499.]

PRODUCT RECALL — WATER PIPES

Petition

HON MARTIN PRITCHARD (North Metropolitan) [1.07 pm]: In presenting this petition, I just want to note that the minister has done some significant work on the issues raised in the petition. I present an e-petition containing 1 604 signatures couched in the following terms —

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

request that the Legislative Council urge the WA Government to find a quick resolution to the issue of IPLEX Polybutylene water pipes failing in our homes, with the aim to have a full product recall. This pipe was first installed from the mid 1990s up to 2022 and houses in that period are experiencing catastrophic damage and heartache due to these pipes bursting. Many, many families in WA are experiencing major water and property damage through failing pipes as well as electrical issues, where water has invaded power sockets and light fittings causing serious health hazards. This issue needs urgent attention as people are living with these bursts on a daily basis and it has been estimated that upwards of 20,000 WA homes are affected. DMIRS are looking into this issue, however, will only look at houses within a six year period (Warranty) so anyone who built prior to 2017 have no recourse on these companies to have the problems rectified. We are calling on the WA Government to help these homeowners get a home that is safe to live in without the worry that they will return home to a flooded house or ceilings on the floor, and water pouring out of electrical fittings.

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

[See paper 3500.]

The PRESIDENT: I will just take this opportunity to remind members that the introduction of a petition is not an opportunity to make a debatable statement prior to the introduction of the petition. It is the role of the committee to investigate and report on the content of the petition.

PAPERS TABLED

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

CIVIL LIABILITY AMENDMENT (PROVISIONAL DAMAGES FOR DUST DISEASES) BILL 2024

Second Reading

Resumed from 19 June.

HON TJORN SIBMA (North Metropolitan) [1.13 pm]: I rise as lead speaker for the opposition on the Civil Liability Amendment (Provisional Damages for Dust Diseases) Bill 2024. Some sitting weeks ago, I made specific reference to this bill as one of the better examples of the government's legislation. It is one of the government's obvious priorities that, to a degree, we absolutely agree with. This is a very good piece of legislation. It is probably untimely in the sense that people have been very much advocating for the provisions it contains for a number of years, but, on this rare occasion, particularly in this chamber, I want to commend the government for the work it has undertaken on this bill because the matters are a little intricate and complex, even though the principle is obvious and beyond any reasonable contest.

We in Western Australia are no strangers to the blight caused by asbestos particularly and we appreciate, all too readily and personally, the damage that dust-borne diseases such as those caused by exposure to asbestos have presented the community. Many people have suffered and lost their lives and their families have been traumatised. I think it is very easy and sometimes tempting in the course of public policy, in this jurisdiction at least, to consider that matters have been dealt with, settled and dispensed with, and that the risks no longer present themselves and the consequences of those situations are no longer felt or can metastasise into new, more confronting and bedevilling forms.

I was taken by the second reading speech the parliamentary secretary had the opportunity to read in. Obviously, I imagine it was very similar to the one the read in by Attorney General in the other place. I think it represents one of the Attorney General's finest speeches in that it is clear, articulate, factual and precise. It defines a problem and presents a fair and reasonable solution. I will quote the second reading speech on occasion because I think it explains the waves of disease and pathology very well. The third wave, which I will get to, looms very presently in my mind for reasons I will explain very shortly.

The tragic legacy of asbestos is not over and continues to be felt in Western Australia today, with the rate of mesothelioma diagnosis, which is a terminal asbestos-related disease, remaining at nearly twice the national average. That sad measurement was taken in 2020. It is effectively the consequence of the first wave of industrial exposure in this state. The second wave of asbestos-related diseases presented itself among construction workers, carpenters and other tradespeople. It was not necessarily the miners or those who had been working at Wittenoom; it was another class of worker. I say "worker" in the broadest possible sense because it was not just tradespeople who were exposed; it was people in what we would call traditional white-collar or middle management roles in building and construction companies who may have worked as building site supervisors, project managers or operating officers, depending upon the size of the organisation, and as part of their duties and responsibilities would routinely work between the head office and the site, potentially exposing themselves to the presentation of asbestos or other materials with negative health effects.

I divide the third wave into wave 3A and wave 3B. This is my designation, not the traditional diagnosis. It is my personal contribution to the debate. The third wave presents itself in a younger cohort.

The one that I call 3A was principally derived out of the home renovation phase, particularly as it kicked off in great magnitude on the eastern seaboard in the late 1990s to very early 2000s and in Western Australia probably between the years 2000 to 2006. I suppose the cultural and economic touch point was the first surge in property prices and property renovation at a level of mass, evidenced by the panoply of home renovation shows like *Better Homes and Gardens*. Every segment of every show had somebody doing up a bathroom, refitting a kitchen or ripping out carpets and sanding the floorboards. Carpet is a point that I will refer to.

Telegenic people did not ordinarily put the mask or the goggles on all the time, not from my reflection on the early 2000s, anyway. As a consequence, very shortly after—maybe in about the second or third year of this occurring—at least in the eastern states where I was living at the time, some public health warnings began to emerge. Effectively, they were normally done as an adjunct to discussion about James Hardie Industries doing the right thing many years later. The message of these public health warnings, which were not necessarily promoted very effectively but as an adjunct to a discussion, was to not take things for granted; home renovators and home handypeople have to be very cautious about how they do things and at least check the materials of the building or the house that they are attempting to renovate before they do anything that requires action, specialists or expert assistance.

Another related dimension was Australia's desire and demand for exquisite looking manufactured stone benchtops for kitchens and bathrooms. The poor workers putting those together exposed themselves to very concentrated indices of silica dust. I have been told the manufactured, or engineered, stone has concentrations of silica dust two to three times that which occurs naturally. It is concentrated. We see some very young people who should otherwise be enjoying full health in the prime of their lives laid low through their exposure to this insidious material.

What will this bill do to address those issues? Why do they resonate—at least the third wave—with me? It is because I have probably, stupidly, over the course of the last 20 years, exposed myself to asbestos without really knowing what I was doing. The first time was as a 19-year-old as part of a crew from the local kung fu club going to demolish one of our team member's houses so they could do a cheap renovation; it was not until I drove home covered in dust that I thought about what I had actually just done. The second time was moving into a new house and my wife complaining about the smell of the carpet, which provided a task for me that weekend, which was to rip those carpets up and to polish the floorboards. This time I had better presence of mind. As I ripped the carpet up, I saw that hessian bags were partially an underlay—hessian bags that had been used on some earlier occasion to transport asbestos or some other potentially lung-damaging fine dust.

I underscore these points just to say that the consequences of exposure happen across class boundaries, industrial categorisations and walks of life. The industrial movement in Australia has a lot to be proud of in terms of this piece of legislation. I think it is largely through its advocacy that we are dealing with this bill today. I think it is right to pay credit where credit is due. We would be mistaken to think, however, that this bill deals only with a very small subset of people from a particular background or a particular political orientation. That would be a grave and naive misjudgement.

This bill will effectively dispense with the once-and-for-all damages payout in recognition of these waves and of the peculiar and devastating pathological pathway that can arise from a single exposure event. This bill provides the opportunity for subsequent or provisional sums to be given to an individual who is suffering. I think that is a very solid piece of work that commends itself. Therefore, this bill alleviates or removes barriers to fair and reasonable compensation that presently exist. That is absolutely and unequivocally a very good thing.

I have previously indicated to the parliamentary secretary that, despite the fact that I will not be the only person speaking to this meritorious bill today, I do not intend to take the bill into committee, and I still uphold that. However, I would like to use this opportunity to seek clarity on the number of individuals, or claimants, in broad terms, who might be captured under the transitional provisions contemplated in this bill—people who might be at the verge of or who have already potentially obligated or locked themselves into a particular compensatory pathway. I would hope that there is opportunity for people who have not been advised of this bill to not be locked out from accessing the pathway that the government has seen fit to put together and construct by way of this instrument.

Sometimes, the less said, the better. I have absolutely no intention of delaying discussion on this bill. I appreciate that other speakers have been personally and professionally invested in dealing with these sorts of issues, and they would do well to give this chamber the benefit of their experience and to appreciate the complexity in attempting to resolve or deal with the matters foreshadowed under this bill.

With that, I wish to reaffirm our absolute commitment to see this bill pass speedily so that it receives assent. Sometimes, a well done is in order, so, well done.

The PRESIDENT: Before I put the question again, I would like to acknowledge in the President's gallery today the family of the Hon Ayor Makur Chuot, in particular, Ischia, who is 15 years of age and the youngest soccer player in the women's A-League. She has just signed with Perth Glory for the next season. She made her debut at 14 years of age playing for the Western Sydney Wanderers. You are very welcome to the President's gallery and to the Legislative Council.

HON NICK GOIRAN (South Metropolitan) [1.20 pm]: I rise as we consider the Civil Liability Amendment (Provisional Damages for Dust Diseases) Bill 2024. Law reform often tests people's patience and often requires persistence. I acknowledge at the outset Hon Kate Doust, who has been championing this issue for a very long time. I recall specifically the debates we had in this chamber about the Asbestos Diseases Compensation Bill 2013, which was moved by Hon Kate Doust in a private member's capacity. At that time, some of my colleagues and I were on the other side of the chamber; the honourable member was on this side of the chamber trying to navigate the difficulties of getting a private member's bill through the house of review. I recall those debates very clearly in what was the thirty-ninth Parliament of Western Australia. In part, the outcome of that debate was a referral by the then Liberal government—I think the then Attorney General was Hon Michael Mischin—of this issue to the Law Reform Commission of Western Australia. I note that Hon Matthew Swinbourn, the Parliamentary Secretary to the Attorney General, who has carriage of this bill in this place, made reference to that Law Reform Commission report, project 106, when he introduced the bill in his second reading speech. The title of that Law Reform Commission report is *Provisional damages and damages for gratuitous services: Final report project 106.* Here we are in the forty-first Parliament addressing at least the first part of that Law Reform Commission report. As I said, law reform can at times really test people's patience and absolutely requires persistence when we think that we have had discussions and debates about this matter for more than a decade. But we are here now.

The rule of law that I would like to apply when assessing this bill is not just what might be described as the ordinary rule-of-law principle that no-one is above the law—that might be a discussion when we deal with another bill later in the week. In this particular instance, the rule-of-law principle that I would like us to consider as we are scrutinising not just the content of this bill but the policy that underpins it is that the law be applied fairly and equally. I will deal with the issue of fairness first.

There is this rule of law or principle, which, again, the Parliamentary Secretary to the Attorney General touched on—namely, the once-and-for-all rule. The once-and-for-all rule is a matter of fairness, because when people are in dispute and litigating before the courts, the finality of that litigation is important as it is fair. However, what we are doing in this bill is modifying that rule. Ordinarily, when litigation concludes and the various appeal processes have occurred, that is it—it is once and for all, and that is why it is called the once-and-for-all rule. But this bill modifies that rule; we are creating an exception. Members ought to consider why we are doing that. Why are we creating an exception to the once-and-for-all principle in this bill? Are we doing so because Hon Kate Doust has been saying that we should be doing this for more than 10 years? Are we doing this because the Law Reform Commission delivered a report in October 2016 suggesting that this should occur? With the greatest of respect to that individual and that body, that ought not be the reason we modify that rule. The rule is being modified for the reason that was well articulated by the parliamentary secretary in the second reading speech, in which he stated —

> Given the special nature of asbestos and silica, in that one exposure event can lead to multiple, different diseases, the usual way of awarding damages on a once-and-for-all basis is inappropriate. Inhalation of asbestos or silica can cause a number of debilitating diseases, some of which are latent and do not occur until many years after exposure.

I put it to members that that is the reason we are modifying the once-and-for-all rule; it is for a special class of cases about which we say, "If we apply the once-and-for-all rule—which is a good, important and fair rule—across the board, including in these cases, it is actually going to create unfairness." We are modifying the rule for that reason. For those members who have a particular interest in this bill, this will be done via part 2 of the bill, which creates what I would describe as the provisional damages regime. That has my support. But the question is: are damages to be awarded fairly? It is tremendous that we have come to the point, albeit a decade later, that we now, as the house of review, have decided that there is some unfairness in how damages are being awarded, particularly in a certain class of cases that might be described as dust disease cases. It is tremendous if we have come to the point at which we now recognise that there has been unfairness and we are trying to remedy that unfairness and modify the rule, but are we confident that damages are being awarded fairly in Western Australia?

To better understand this issue, it is important to get our head around what is known as heads of damages. When damages are awarded in Western Australia, various heads of damages are applicable. Heads of damages might otherwise be described as categories of damages, and they include general damages; economic loss, such as lost wages when a person is no longer able to work—so lost wages for both the past and the future—and what is known as special damages. Members can imagine that if a person has contracted a disease through no fault of their own but through the negligence of another party, medical treatment will be required and so a person can claim special damages and medical expenses for both the past and future. These are some of the examples of what is described as heads of damages. This is what this bill in part will allow to occur on a provisional basis—in other words, a person will have the first opportunity to access these damages without then precluding them from being able to have a second opportunity should something else arise. It sounds good until such time that you realise that the application of those damages to which I referred is not being applied fairly in Western Australia and has not been applied fairly for decades.

I take members back as far as 1994 when Western Australia implemented what is loosely referred to as a threshold and a deductible. What does all that mean and how does it apply? One of the areas or categories of damage is general damages.

General damages are for someone's pain, suffering and loss of enjoyment of life and it is a figure that is ultimately decided by a judge in Western Australia, should the dispute reach that level and cannot be negotiated. In 1994, the Western Australian government and Parliament of the day decided to implement a damages threshold, specifically in respect of Western Australians injured in a motor vehicle accident through no fault of their own. The government said that the threshold would be $10 000. In other words, if in 1994 the person's pain, suffering and loss of enjoyment of life was considered to warrant, let us say, $9 000, they would receive nothing. This threshold continued up to $40 000. There would continue to be a deductible on a sliding scale, so if people got to an amount of $40 000 in pain, suffering loss of enjoyment of life, they would finally receive all the compensation they would ordinarily be entitled to as a matter of common law.

This happened in 1994. The threshold was $10 000 and it continued to impact anyone up to the level of $40 000. The level today, in 2024, is significantly higher: it is now $25 500, and in the case of motor vehicle matters, it continues up to $99 500. That means that essentially, until such time as the person demonstrates that their pain, suffering and loss of enjoyment of life is worth $100 000, they will not get all their compensation; the insurer will get to keep it. Instead of it applying to the person who has been injured through no fault of their own, the insurer will get to keep it.

There may be people in this place and outside this place who do not particularly care about the level of compensation for people who are injured in motor vehicle accidents. I hasten to suggest that my observation over at least the last couple of decades is that people do not seem to care until such time as it affects them, or someone they know, and then all of a sudden they start to care about these things. They say, "How can that be the case? Why is it the case that a family member of mine who has been catastrophically injured will not get to receive all the compensation they would otherwise get? Why does the insurer get to keep it?"

This was in 1994. In 2002, the government and Parliament of the day thought that the threshold and deductible were such tremendous ideas that they would apply them to other cases, including cases under the Civil Liability Act. Of course, one of the Western Australian statutes that the Civil Liability Amendment (Provisional Damages for Dust Diseases) Bill 2024 will amend is the Civil Liability Act 2002. The idea of a threshold and a deductible was inserted into claims in which a person might have been injured in a public place. Again, perhaps the attitude of some people, either inside or outside Parliament, is that they do not particularly care too much about someone being injured in a public place. But what about cases of medical negligence? What about cases in which a person, through no fault of their own but through the negligence of a doctor, ends up with some form of catastrophic injury? If they were to make an application under the Civil Liability Act, would it be fair if they were unable to receive all their general damages?

It would be uncharitable for me to leave my comments there and not acknowledge that the policy initiative behind the institution of a threshold was to try to, describing it loosely, weed out minor claims—to try to not allow our system in Western Australia to be clogged up with minor claims. I think there certainly is merit in having an intellectual discussion and debate about that, but I will say that if in 2024 we are now talking about the threshold being a massive $25 000, we have completely forgotten what the original intention was. If a person's pain, suffering and loss of enjoyment of life is quantified at $25 000, it is not a minor claim.

I recall that the compensation of many victims of sexual abuse would be quantified at $25 000. Because that injury compensation is typically for psychological distress rather than physical injuries they might have suffered, the courts in Western Australia understate that loss; I have previously said that on the record. Nevertheless, it would not be unusual for that compensation to be in the realm of $20 000 or $25 000. Who here will say that that is a minor claim? Yet, that is exactly what is happening in respect of these other types of cases. There is nothing fair about that. This is the policy initiative that drove Hon Kate Doust more than a decade ago. It also drove Hon Michael Mischin to send the legislation off to the Law Reform Commission of Western Australia and drove the Cook Labor government and the Parliament of Western Australia to address unfairness in respect of dust diseases. The same mentality and lens ought to apply to all such cases.

There will no doubt be hardworking advisers from the Department of Justice who will hopefully take some interest in some of the remarks being made this afternoon. I note in passing a curiosity in respect of the threshold and deductible I referred to earlier. At the moment it is $25 500. I put it to members that that is a massive amount, but for general damages awards in motor vehicle cases, it continues up to $99 500. However, under the Civil Liability Act, it stops at $99 000. One must ask, just as a matter of consistency, why there is a $500 difference between the two. Why does the deductable in motor vehicle cases cease at $99 500, whereas for civil liability matters, it ceases at $99 000? It is not obvious to me why there would be that differentiation. As I say, I am certainly not asking for it to be increased by another $500; I think it is already way over the top as it is, but there is something to be said for the rule of law in Western Australia to be applied equally rather than with this level of inconsistency.

I would also like to say, in respect of the issue of fairness, that if the government of the day is going to change the law—to change the threshold and the deductable—there ought to be fairness in the way that that information is communicated. On 26 July this year, the Attorney General, Hon John Quigley, had printed in the *Government Gazette* the changes to the specified amounts for the Civil Liability Act 2002. The Attorney General communicated to the people of Western Australia a change in the law. This is what was printed in the *Government Gazette* of 26 July 2024 —

> In accordance with the requirements of sections 10(3) and 13(3) of the *Civil Liability Act 2002*, I give notice that the following amounts apply for the purposes of those sections with effect on and from 1 July 2024 …

It then sets out the new threshold and deductable amounts. On 26 July this year, the Attorney General of Western Australia told the people of Western Australia about a change in the law that would apply from 1 July. For 25 days, a new law would apply retrospectively. That is not fair. When we talk about instituting fairness in the law, let us also make sure that, while we are trying to remedy the unfairness that gave rise to the bill before us, we also address other aspects of unfairness in the system. If the government of the day is going to communicate changes, let us make sure that they are communicated fairly. There is, with respect, nothing fair about applying a deductible and a threshold retrospectively because somebody was not doing their job for 25 days. Whether it was the Attorney General or somebody else who was responsible for this—I do not know—I would argue it simply is not good enough to then gazette the specified amounts some 26 days late. That is the first of two points that I wanted to address in regard to the law being fair.

The second point is that the law be applied equally. I draw to members' attention part 3 of the bill, which was well summarised by the parliamentary secretary in the second reading speech. He states —

> … part 3 of the bill, which will amend section 4 of the Law Reform (Miscellaneous Provisions) Act 1941. Section 4 provides that all causes of action vested in a deceased individual shall survive for the benefit of their estate. The damages recoverable for the benefit of the estate, however, are extremely limited. Included in the limitations are damages in regard to pain and suffering, bodily or mental harm, or the curtailment

> of life expectancy. Currently, this section does not apply to asbestos disease sufferers who ultimately died because of the disease when proceedings in respect of damages had been instituted by that person and were pending at the time of their death.

I will just pause there. By way of translation, the government is saying that normally if somebody dies before their claim has been finished, the estate can continue to take on a claim but in a limited capacity. It does not have a full right as the person had when they were still alive; it has a restricted capacity or limited capacity to claim. What the government is saying is that that limitation does not apply to asbestos cases. It goes on to state —

> Proposed section 4(3), inserted by clause 7 of the bill, will amend the act to treat silica disease sufferers in the same way as asbestos disease sufferers in the context of damages recoverable by the estate. The effect of these amendments is that in the unfortunate event of a silica disease sufferer's death before the resolution of proceedings they had commenced, the additional scope of damages available to the estate of an asbestos disease sufferer will be available to the estate of a silica disease sufferer.

In other words, the government is, quite understandably, making sure that the family members who survive the sufferer of silica disease will be treated in the same way as a family of a deceased sufferer of an asbestos disease. It sounds to me to be incredibly fair and equal, and that is why those provisions have my support. They have no objection from me. But again, the question that arises is: are we applying this equally across the board? What about other cases when a person dies because of the negligence of another when proceedings are on foot but were pending at the time of death?

I distinctly recall a client whom I had the privilege of trying to serve prior to my time in Parliament. This gentleman died during the course of his case. We were dealing with what I would describe as an obstructive insurer. His family were very distressed, as was he; he knew this was pending. His case was a medical negligence case of misdiagnosis and wrongful diagnosis, and because it was missed, the evidence of some of the experts we had access to indicated that his chances of survival would have been significantly different but for the negligence of the doctors. Therefore, one has to ask the question: if we are again modifying the application of the rule of law for asbestos disease sufferers, or the families who are left behind, or other dust diseases, should the principle under consideration and the policy initiative be that when a person has died during the course of proceedings and the death is related to the cause of action, the family be able to continue the claim? That seems to be what we are doing in regard to those cases; it is not apparent to me why we would not do that in other cases. By way of an example, let us say that a person has been badly injured in a motor vehicle accident. They are in the middle of a compensation case but at a later stage, before their case has finished, they die of a heart attack that has absolutely nothing whatsoever to do with the motor vehicle accident. I can understand why the ordinary rule of law would apply in that instance. But what if the negligence leads to a condition that ultimately leads to the death of the person? Should the family members be treated the same, not treated differently, just because their deceased loved one had some form of dust disease?

Having made those comments, I conclude by observing where I began, in that lawmaking often requires both patience and persistence, and it is my view that this bill is an example of exactly that. That said, it does not entitle lawmakers to abdicate their duty to scrutinise the policy behind the bill and the provisions of the bill. I have already said that I support the bill and its provisions. I do, however, question the fairness and equality of the application of the policy behind this bill. We seem to have the continuing disproportionate application of a threshold and deductible for general damages in Western Australia, and I think that it is long, long overdue for that to be reviewed. What we are doing in this bill is extending, in a piecemeal fashion, exceptions to limitations on claims by deceased estates, and I think that that also warrants a review.

I conclude by saying that we can be pleased that this bill is being passed; however, I put it to members that we should not be pleased with the ongoing unfairness and inequality that remain in our state's laws, which are supposed to be for the benefit of those people who are injured or have attracted a disease through no fault of their own.

HON DR BRAD PETTITT (South Metropolitan) [1.58 pm]: I also rise today in support of the Civil Liability Amendment (Provisional Damages for Dust Diseases) Bill 2024. I want to pay special mention to a former Greens member of the Legislative Council, Robin Chapple, who has long advocated for this asbestos and dust-related diseases legislation and for better compensation for those people who live with the consequences of asbestosis, mesothelioma and lung cancer. Reflecting through the lens of Robin, I will explain why that is, and it goes back to his inaugural speech, which I will quote. On 29 May 2001, he stated —

> The economy of Western Australia has depended on the mining industry for more than a hundred years. Why then do we pay such little respect to the men and women who risk their lives on mine sites every day? I call members' attention to the Wittenoom asbestos mine in the Hamersley Ranges, surely one of the most tragic examples of corporate negligence in Western Australian history. The mine has been closed for decades, but the miners and their families are still dying from exposure to asbestos-laden dust. They may have expected swift compensation to help ease some of the enormous difficulties they are facing; instead, even today they are subject to delaying actions by lawyers who know that if the claimant dies before the claim is finalised in court, the family will receive a much reduced compensation payout.

As many members know, Robin retired from this place at the 2021 state election. He served 17 of those 20 years and was a very strong advocate for victims of asbestos-related diseases and their families. What members might not know is that in 2020, Robin himself was diagnosed with asbestosis. That was one of the key reasons for his retirement. Robin worked installing power stations in the Pilbara in the 1970s, before a months-long stint for Hancock Prospecting as a mechanical engineer in 1976, when he was exposed to asbestos dust on a daily basis. To quote him again —

> The workshops we were using at that time were the workshops in the former Wittenoom asbestos mine.
>
> We'd sweep the floors every morning because of the windblown asbestos that was coming into the workshop."
>
> There were no overalls. We were wearing shorts, boots and shirts with the sleeves cut off, and we had no idea asbestos was a risk. Workplace safety was barely considered.

As I said at the start, I certainly rise to support this bill, but I make the point that this bill only goes halfway toward rectifying some of the key issues and the responsibility that governments have to the victims and their families.

Importantly, the bill will fix what has become known as the once-and-for-all rule. Workers who have been exposed to asbestos dust will no longer have to accept a once-off payment that stops them from making further claims when they develop more serious, and potentially terminal, diseases. Pleasingly, the bill before us tackles the first half of the recommendations that the Law Reform Commission of Western Australia made in 2016. However, it does not include the second half relating to gratuitous services. From the perspective of victims, their families, the Asbestos Diseases Society of Australia and UnionsWA, this is incredibly disappointing, not least because Labor tried to legislate for this provision from opposition more than a decade ago. In October 2013, then Deputy Leader of the Opposition, Hon Kate Doust, moved the Asbestos Diseases Compensation Bill 2013. The bill specifically accounted for gratuitous services. It states —

> Clause 4(4) of the bill also allows asbestos victims to recover damages for loss of capacity to perform domestic services for another person such as for a young child, elderly parent or partner with a disability. These types of damages are more commonly known as Sullivan v Gordon damages.

In many cases, a person who contracts an asbestos-related disease may also be the primary carer for somebody else in their family, and as a result of their illness can no longer care for their family or carry out that duty and need to get some help in or engage others to do so. Sullivan v Gordon, a 1999 decision in the New South Wales Court of Appeal, allowed an injured claimant to recover damages for loss of capacity to perform gratuitous services for other persons—in this case, the claimant's children. Sullivan v Gordon damages have therefore come to stand for the proposition that if a claimant is deprived by injury of the capacity to provide care to other persons and the desire of the claimant to provide that care constitutes a need, the commercial cost of replacing that care and services is recoverable as a separate head of damage. Again, I will quote Hon Kate Doust to illustrate this point —

> The required need may include circumstances involving young children, a spouse suffering from osteoarthritis or disabled members of a household, to cite a few examples.
>
> Consequently, in essence, a Sullivan v Gordon head of damage can be defined as being to compensate the claimant in situations in which the claimant can no longer provide gratuitous services to another person or persons due to the claimant's incapacity arising from the illness.

Unfortunately, there is no such provision in the bill before us today. It is especially disappointing to see that this Labor government—some members of which pushed the Liberal government very hard on this particular injustice when they were in opposition—has left it out of this bill. I would be interested to know why that is the case. The result is that Western Australia, along with the Northern Territory, remain the only jurisdictions in Australia in which asbestos and other dust-related disease sufferers cannot be awarded damages for gratuitous services provided to others. I think that is the fundamental question mark that hangs over this bill. That said, like many things in this place, this bill is a step in the right direction but missing some other key elements and opportunities along the way. I suspect this is something we will still be debating in the next term of government. Hopefully, when we have a more balanced Parliament and my colleagues and I are better able to push, it is something that we can correct.

HON KATE DOUST (South Metropolitan) [2.05 pm]: I am extremely pleased to be able to support the Civil Liability Amendment (Provisional Damages for Dust Diseases) Bill 2024. This bill has probably been 11 years in gestation, and all good things come to a point. I had a very extended speech to give today, but I understand that there are some time constraints and most of the things that I would have canvassed have been picked up on already.

I want to talk about some of the issues related to this bill. The entire issue around asbestos disease is a stain upon our community because it was probably the greatest industrial experiment conducted on workers during the 1940s, 1950s and 1960s. Even though there had been information about the dangers associated with working with asbestos, they were ignored, and now our community, workers and families have suffered the consequences. We are not alone; this is a worldwide issue. This is an issue because, in some countries, this product is still being mined and exported and people are still dying, As Hon Tjorn Sibma stated, it is not limited to just those people who mined the asbestos, but it has extended in waves to many other people. We have now gone out to the families who lived in Wittenoom.

We have seen significant numbers of Indigenous people who lived and worked in the area. In fact, I would go so far as to say that we perhaps do not know the extent of the impact and the number of deaths in the Indigenous community because they were possibly not recorded or managed in the same way. We now see, as referred to, people working right across the spectrum of workplaces who have been impacted. I certainly saw it when I was an organiser with the Shop, Distributive and Allied Employees' Association of WA in the retail and warehousing sectors. Sometimes the stuff would be dripping off the walls and people would be expected to work on it. In fact, I recall a very interesting example in David Jones in the city in which the staff would be having their lunch in the lunchroom and there would be people walking around in moon suits, and management would not provide information as to what was happening. In fact, my colleague, Hon Martin Pritchard might still have been working with David Jones at that point.

Hon Martin Pritchard: Aherns.

Hon KATE DOUST: Sorry, Aherns. Yes, the member is right. It was Aherns, not David Jones; I forgot the transition. Asbestos disease is widespread and still being picked up in a range of occupations. It is now even moving into teaching. We had incidents in which asbestos was coming off roofs and through windows into classrooms. Sadly, some teachers have passed away from a variety of diseases associated with asbestos exposure. We understand that it has reached a new area. I know that there are at least five young people, either under 20 or in their early 20s, who are currently suffering from mesothelioma. There is no one isolated group; it is all encompassing. There is no safe exposure atmospheric contaminant safety limit for asbestos. I imagine the same would apply to silica; I do not know enough details about silica. The only silver lining to the delay in getting this type of legislation through is the fact that silica dust has been identified as a carcinogen, and we have sadly seen the number of deaths and disease rates associated with silica, particularly in the manufacturing and assembly of those benchtops. I acknowledge the work that the trade union movement has done, particularly in more recent years, in identifying that part of the work area as a significant issue that required urgent attention. This bill certainly picks up the issue of silica and will afford not just the benefit of compensation to the victims exposed to that type of dust, but also protections to their families in the event of their death.

In 2013, this was a significant issue that was initially raised with me through the Asbestos Diseases Society of Australia, particularly via Robert Vojakovic, who we all know has had a lifelong attachment to this issue.

I will talk a little bit more about Robert in due course. I worked through a range of different bills with Robert pretty much while I have been here in Parliament. We decided it would be appropriate to try to get these two significant changes up—to get rid of the once-and-for-all provisions and to have the Sullivan v Gordon damages introduced. I know other members have provided more detail on both of those matters.

At this point, I want to acknowledge the great support at that point in time from people like Peter Gordon, who drafted the 2013 bill; our former colleague Hon Laine McDonald, who was fantastic in this chamber and gave me great support as we worked through it; the many lawyers at Slater and Gordon who worked on that piece of legislation; and my good friends and colleagues Simon Millman, the member for Mount Lawley, and David Michael, the member for Balcatta. I must say that Simon provided enormous support on this issue before he came to Parliament. All those people put in a massive effort.

I am so pleased that today the opposition is very supportive of this change. I note how difficult it was in 2013—the Leader of the House was with me and will remember—to have the discussion in this place about changing this method of compensation. I will be quite honest: it was quite toxic at times. Hon Nick Goiran will have memories of the difficulties I experienced with the Attorney General of the day about this issue. We got that bill second read and into Committee of the Whole House pretty much in the final week of Parliament leading up to that election period. The Attorney General of the day referred that bill to the Law Reform Commission in 2013. It was a slow process, and we finally got the report back in 2016. The results of that report basically reaffirmed the two key issues that we had been pushing for—in fact, there were only two key issues in the legislation that we wanted changed. There are two recommendations in that report that I want to put on the record. Recommendation 1 says —

> The Commission recommend that the 'once and for all' rule be modified in Western Australia through the introduction of a provisional damages regime in the manner outlined above.

That deals with what we have in front of us today. I applaud the government for finally being able to introduce such a significant change that will provide fairness to those victims and their families in being able to seek additional damages and compensation when their disease progresses and changes so they are not restricted to that once-and-for-all payment we have had to date. Sadly, given the passage of time, many people I have dealt who are no longer here with us will not benefit from these changes. They would not have, actually, because the bill will not be retrospective.

The second recommendation of that Law Reform Commission report I want to touch upon is recommendation 3, which states —

> The Commission recommend that damages for gratuitous services which a plaintiff can no longer provide to others be introduced in Western Australia in the manner outlined above.

I know Hon Dr Brad Pettitt made reference to that aspect. I suppose the only regret I have with this bill is that that has not been picked up in it. There have been extensive discussions about why. Like Hon Dr Brad Pettitt, I hope that more work is done in this space over the next four years to try to find a solution to that issue. I certainly hope that after the election in 2025, we will be standing here and dealing with a bill that will introduce those changes and bring us into line with most of the other states and provide that additional layer of support to people who are dying from mesothelioma or another asbestos-related disease and still want to put in place the best care for their families. That type of arrangement would certainly provide that. That we do not have that change as well is my one disappointment with this bill. But I am certainly committed to applying appropriate pressure and persistence to make sure that at some point that legislation is introduced as well.

As we have already heard, the bill will introduce the significant change set out in part 2, which will bring into place the fact that people will be able to have a new regime of provisional damages, by which they will be able to seek additional compensation if, after a period of time, the initial diagnosis changes and is much more significant and finite. It will provide a high degree of comfort for a significant number of people who have had that exposure and have developed the disease and their families. Sadly, it is a disease that has varying time periods for each individual. It can be a short time. There was a gentleman at an event here back in 2013 who had been diagnosed only the week before and died within the space of a couple of months. Our good friend Hon Bob Thomas, who was a former member of this chamber, lasted four or five years once he had been diagnosed. Bob is a good example because he was a child who grew up in Wittenoom while his dad worked there. He was diagnosed with mesothelioma and it was traced back to the fact that he used to play in the asbestos outside the house—and he probably was not alone. Tragically, he lost his life much, much earlier than he ever would have contemplated that he would have, and that was a real loss. I would say that many, many people, not just in this chamber but throughout the community, have lost either a loved one, a friend or an acquaintance. Even in my own office, a relief electorate officer yesterday said that a good friend of hers had just passed away this year from mesothelioma. Sadly, in Western Australia, we have a high awareness of asbestos and of the outcomes of having worked or lived in and around that substance.

The changes brought through this bill will provide the capacity to apply for additional compensation, and it includes a range of changes to other legislation to bring it into line so there is consistency. They are very clear and straightforward changes that will enable fair compensation and provide for proper legal and financial certainty for the victims of that disease. It will mean that people who provide support and advocacy have achieved success—although perhaps not the final draft of success because no single piece of legislation can provide a silver-bullet solution to these problems. Lots of other things are happening in this space that hopefully will move to the eradication of asbestos across workplaces and also look to provide appropriate compensation. As a result of the work that was done in this state by the Asbestos Diseases Society of Australia and the involvement of the trade union movement and other people across business and the community, we have been forced into the position of becoming acknowledged worldwide as being the best in researching and identifying all the associated symptoms and diseases.

I think it is sad we are in that situation, but we have turned it around and are trying to find the best ways of managing the problem.

Sadly, asbestos and asbestos-related diseases are not going to disappear during our lifetime. They will not disappear off our radar. Sadly, as already alluded to by Hon Tjorn Sibma, this is a problem that continues to grow. Like many members, I go to the annual memorial held by the Asbestos Diseases Society of Australia. Hundreds of people are still dying every year and I do not know when that will stop. It seems to be picking up pace and, as I have talked about, it is not just men who are affected, but also women and young people.

I am now going to talk about Robert Vojakovic. As I said earlier, Robert was the main driver of change in this space. He was passionate and would just push through walls if he had to to get to people to talk about this issue and try to get change. Robert was absolutely determined to get these two areas of change for people who suffer from these diseases. Sadly, Robert passed away on 27 June this year. We lost that hero and champion. It is disappointing he is not able to be with us today. I think he knew that the bill had been introduced into the other place. Forgive me if I read this, but I am going to share some words I read out at a Labor Party state executive meeting to honour Robert's memory. I told his daughter Melita Markey, who is now the CEO of ADSA, I wanted to put this on the record in his memory —

> June 27, 2024, workers, their families, and West Australians lost a great campaigner in Robert Vojakovic AM JP founder and President of the Asbestos Diseases Society of Australia Inc (ADSA).
>
> In 1961, Robert as a young migrant worker spent some time working at the infamous CSR blue asbestos mine at Wittenoom.
>
> While he himself did not suffer from asbestosis, in the seventies he became aware of the lack of any support infrastructure (medical, legal and welfare) for former Wittenoom blue asbestos miners and other asbestos diseases victims.
>
> He noticed a growing number of his former workmates and colleagues passing away from a mystery lung disease, asbestosis, and mesothelioma.

> Realising the potential enormity of the problem, of what we now know to be the greatest industrial disease imposed on workers in this state, in 1979 Robert established the Asbestos Disease Society of Australia (ADSA) in WA. Robert has presided over the ADSA and managed the Asbestos Diseases Advisory Services of Australia since that time.
>
> Through these organisations he has provided essential services and support to victims of asbestos diseases and their families throughout Australia, including counselling, medical and legal assistance, community awareness, and economic assistance for socially disadvantaged sufferers of asbestos diseases.
>
> Robert fiercely and successfully took on the Giant CSR, James Hardie, and many other negligent employers to seek compensation for these workers. Real David & Goliath stuff.
>
> For many decades Robert working alongside his wife Rose Marie, Committee & dedicated staff and family campaigned for justice, compensation, medical treatment and provided selfless care for those suffering from asbestos and other dust diseases. He also successfully lobbied the government to change the Statutory Compensation Laws, Limitation Act, and entitlements to families in the matters of estate and dependency.

As of today, the bill before us is probably the last one that Robert was actively engaged with pursuing to have passed through Parliament. I also note that the only time Robert was successfully able to change laws to support asbestos disease sufferers was usually when there was a Labor government in place. He was also keen to bring Western Australia into line with other states and to have the Sullivan v Gordon damages legislation to provide additional support to asbestos disease sufferers and their families. My speech continues —

> I know that ADSA will continue working to complete Robert's vision and legacy with offering the best care, treatments and protections for workers who contract asbestos related diseases.
>
> Robert was an intelligent articulate man who had a great sense of humour, a strong faith, a big heart, compassionate, generous and a dogged determination to achieve legislative and medical change for those impacted by a death sentence of asbestos disease.
>
> In partnership with colleagues from the trade unions, medical community and political parties this man enabled significant change not just at a local, national & global level, pioneering new legal strategies, more equitable legislation and innovative research and treatment strategies, becoming the public face of all things asbestos in Western Australia.

Robert never asked for anything for himself but only for those in need. He was a significant quiet achiever. I want to pass on my condolences and, I am sure, those of everyone in this chamber to his wife, Rose Marie; his daughters, Melita and Simone, and their families; his staff; his community; and the people he supported all the way through. I offer our condolences to all of them. To those who knew Robert, worked with him, respected him and loved him, may his memory forever be a blessing.

I know that Robert would be absolutely chuffed, pleased and over the moon when we pass this bill shortly. This is a significant change. As Hon Dr Brad Pettitt said, it is not the end; it is possibly the start of other things that need to be done. It is an ongoing issue that is not just about legislation, but also about making sure that we are at the cutting edge of research, which requires money and support. We have some amazing people in Perth working on those issues. I am really pleased that the government has been able to introduce this piece of legislation. I think it is a great start that will provide equity and access to additional compensation and comfort to people who are suffering or will pass away from diseases that are not of their own making and that have come about simply because they were doing their jobs or maybe renovating or, as others have done, simply from being somewhere. I thank the government and look forward to this bill passing and opportunities in the future when we can add to it and improve the lot of those people who have been exposed and will ultimately die of these diseases.

HON DARREN WEST (Agricultural — Parliamentary Secretary) [2.26 pm]: I know we have time constraints today, but I want to put on the record my support for the Civil Liability Amendment (Provisional Damages for Dust Diseases) Bill 2024, and I do that for several reasons. We are able to debate this legislation thanks to the advocacy of people like Hon Kate Doust, the trade union movement and, of course, Robert Vojakovic and the Asbestos Diseases Society of Australia. My thoughts today are with all those who have lost their battle with mesothelioma and associated diseases and, in particular, two women who have had a remarkable impact on my life: Robyn Johnson, who is my mum's twin sister; and Verna Brown, who is my mum's sister. Verna ran Mills Records in Fremantle for many years and she is the reason I am a walking encyclopedia on music. I will think of them and all those who have suffered and lost their battle with mesothelioma today as we pass this bill. It is just the beginning, but it is very pertinent to acknowledge those who have been affected.

HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary) [2.27 pm] — in reply: I thank the members who made a contribution to the second reading debate on the Civil Liability Amendment (Provisional Damages for Dust Diseases) Bill 2024. I thank them for their comity on its passage today. It is my understanding from discussions behind the chair that no member will require this bill to go into Committee of the Whole, so I will seek leave to dispense with the committee stage at the appropriate time.

I am very pleased to note that this very important piece of legislation has the support of all members who spoke on the bill. I am not aware that anybody took issue with it. I note this legislation had its genesis in the private member's bill introduced by Hon Kate Doust in 2013 and was referred to the Law Reform Commission of Western Australia in 2014. The final report in 2016 recommended that legislation be introduced to provide for provisional damages to finally achieve a fairer and more just system for asbestos and silica dust disease sufferers.

Once again, I would like to acknowledge Hon Kate Doust for her advocacy. I do not think that any of the recognition given to her in this house is misplaced. She was certainly fierce in the best way when it came to pushing this issue forward to bring it to finality in today's debate. Thank you.

The legislation will remove barriers to just compensation for Western Australian victims of asbestos and silica-related diseases and enable compensation to catch up with equivalents in other states and territories in the commonwealth.

Once again in summary, there are three key achievements of the bill. First, the bill will reform the once-and-for-all rule to allow claimants the choice to pursue a claim on a provisional basis. Secondly, it will align the treatment of silica disease sufferers with their asbestos counterparts. Thirdly, it will remove the limitation period for claims in respect of subsequent diseases.

Legislation across Australia and within Western Australia already recognises the particular risk and special nature of asbestos-related disease by affording it special status in workers compensation schemes and civil proceedings. This legislation picks up silica and treats silica-related diseases in a way that is equivalent to how asbestos and asbestos-related diseases are treated. At the time when a subsequent asbestos or silica-related disease materialises, it is almost always and, sadly, terminal and many years after the first disease. To ensure a more efficient and fair process for victims of dust-related diseases, the legislation will ensure that no time limit is imposed on subsequent actions.

I now take the opportunity to comment on the contributions made by members and answer some of the questions asked. Firstly, I thank Hon Tjorn Sibma for his support for the bill and contribution to the debate. He noted that WA is no stranger to the impact of dust-related diseases, particularly asbestos-related disease. I must admit, member, I did have some wild images of what a kung fu–type group demolishing a house would look like in reality. I am sure Hon Tjorn Sibma did it with all the appropriate—actually, I think he admitted not doing it safely, so I cannot make any such assumptions in any event!

The number of claimants who might be captured under transitional provisions are people who might be at the verge of compensatory pathways. The new provisional damages clauses may be utilised as follows: obviously, they will be available in an action commenced after the proclamation date in respect of an asbestos or silica-related dust disease suffered by a plaintiff for which personal injury damages are claimed; and, also, if such an action commenced before the proclamation date, the transitional provisions set out in proposed section 15AO will allow an amendment of claim unless the hearing of the action has already commenced, damages have been awarded or a settlement has been reached.

It is reasonable that prior to the hearing of the matter being underway, a plaintiff can amend their statement of claim to include a claim for provisional damages. In that same spirit, one cannot change the rules of the game once the game has commenced. Once the trial has commenced, because the parties have gone into trial on law, we cannot change the law once the umpire has the game underway.

Due to the nature of these diseases, it is anticipated that the cohort who can take advantage of these transitional provisions will be those who have a non-malignant disease. Those with a malignant disease would have likely commenced their action, and this new regime would be of no benefit to them. Unfortunately, we cannot provide a precise number. What we can provide are some statistics around non-malignant diseases in Western Australia. WorkCover WA has reported that in the 2022–23 financial year, 27 claims were received for asbestosis and 37 for silicosis. It is difficult to say how many of these claimants pursued or are contemplating pursuing a common-law claim. WorkCover has advised that there are significant reporting issues from a historical point of view with dust disease common-law claims, particularly as the only measure to identify common-law claims is registration of an election. Unfortunately, a practice developed in which parties did not make an election as they are required to do but bypassed the election requirement. The new workers compensation act has addressed this issue by requiring a common-law election. We might have data in the future, but we do not have much data for the past. Irrespective of whether these cases progress to malignant diseases, that would give rise to a subsequent claim under the new provisional damages regime. The current dilemma in which sufferers risk significant under-compensation if they claim for a non-malignant disease or a complete absence of compensation if they wait to claim for a potential future malignancy that never materialises is addressed. With the assistance of the new provisional damages regime, claimants such as these 64 Western Australians could pursue a claim without fear of inadequate compensation.

I thank Hon Nick Goiran for his contribution to the debate on this bill, particularly his comments on gratuitous services. I note that damages for gratuitous services are a separate type of damages and although they are not within the scope of the bill in front of us today, they remain under government consideration. I make the point also to Hon Dr Brad Pettitt that the government has not abandoned future reform with respect to gratuitous services.

Hon Nick Goiran also raised the issue of fairness in the finality of matters and the once-and-for-all rule, and the rationale that further damages be available in Western Australia only for separate diseases expressly identified in the initial action is echoed throughout the bill. At its core, this bill seeks a balance between just compensation for asbestos and silica dust disease sufferers and the need for finality and certainty for both the injured claimant and the negligent defendant and its insurer. On one hand, the regime will favour the plaintiff by introducing the availability of damages for subsequent diseases and disposing of limitation periods for subsequent actions, thereby increasing the uncertainty for defendants and insurers. On the other hand, it seems reasonable to restore some balance by providing a degree of certainty to defendants and insurers that are aware of the liabilities that may arise in the future.

The honourable member also spoke about thresholds in the motor vehicle accident act, if that is its proper description, and division 2 of part 2 of the Civil Liability Act, which deals with this matter in respect of general damages. The member also mentioned personal liability claims. Although I acknowledge that the honourable member was talking about all claims, I take the opportunity to confirm that these thresholds will not apply to personal injury claims arising from the inhalation of asbestos or silica dust. In response to the honourable member's comments about the new laws and the thresholds applying retrospectively, with respect, that is not correct. I note that the publication is for public information only and the amendment in the amounts apply by operation of the act and not the notice itself.

The honourable member also made comment regarding the exception for asbestos and silica-related disease with respect to estate claims. It is clear that this bill deals with only specific types of damages, so I will not comment on an expansion of the exception. But I would like to confirm that the reason that this exception is appropriate for asbestos and silica is that it will remove any incentive for defendants to seek to delay the resolution of a living claimant's actions on the basis that upon the claimant's death, the defendant's liability for the payment of general damages and loss of expectation of life will be extinguished.

I also acknowledge the comments of Hon Dr Brad Pettitt, who recognised the importance of advocacy. He also invoked the name of Hon Robin Chapple, who was a tireless advocate for people with asbestos-related diseases and has sadly been affected by the disease himself. I acknowledge Hon Robin Chapple. I imagine he would be pleased to see the progress we are making on this part. Hon Dr Brad Pettitt also expressed his support for the bill and raised the issue of gratuitous services. As I said before, this issue remains under government consideration.

Again, Hon Kate Doust could reflect on the history and development of this policy and bill in a way that most other members in this place could not. She acknowledged the late Robert Vojakovic, who, sadly, passed away before this bill was progressed. I am sure he would have been undoubtedly pleased, as would his daughter Melita Markey, who is the CEO of the Asbestos Diseases Society of Australia.

I also acknowledge Hon Darren West's short comments that, again, illustrated that people here are sadly touched by the effects of asbestos-related diseases; it is not remote or unusual. Given the enduring impact of asbestos and the unfolding implications of silica exposure in Western Australia, this bill will provide Western Australians suffering from these insidious diseases with greater access to just and fairer compensation and remove that heartbreaking choice faced by disease sufferers under the once-and-for-all rule to either pursue a claim immediately risking the loss of compensation for a potential fatal disease down the line or refrain from action, risking the possibility of receiving no compensation at all.

On that basis, I commend the bill to the house.

Question put and passed.

Bill read a second time.

[Leave granted to proceed forthwith to third reading.]

Third Reading

Bill read a third time, on motion by **Hon Matthew Swinbourn (Parliamentary Secretary)**, and passed.

PRIVACY AND RESPONSIBLE INFORMATION SHARING BILL 2024
INFORMATION COMMISSIONER BILL 2024

Second Reading — Cognate Debate

Resumed from 21 August.

HON WILSON TUCKER (Mining and Pastoral) [2.39 pm] It has been a few weeks since I last spoke on these bills, so I will remind members of a few points that I previously raised. I believe I talked about the Western Australian data linkage system the last time that I spoke. The Privacy and Responsible Information Sharing Bill, which is being dealt with cognately with the Information Commissioner Bill, was certainly called for, wanted and needed as far back as 1995, when the WALD system was created. There have been a few notable advocates in this space, including Professor Peter Klinken, AC, our Chief Scientist, and Professor Fiona Wood, AC. Since then, we did not really see much. I said last time that there has certainly been an opportunity cost as a result of the level of inaction in this space for over a couple of decades. The Minister for Innovation and the Digital Economy and the

Attorney General would certainly be aware of that, even more so than me, a lowly crossbencher. Western Australia has missed out on initiatives from not having some uniformity in information sharing within our public sector as well as from WA agencies to federal agencies or our state and territory counterparts. Be that as it may, the long-awaited legislation is here.

As the minister said a few weeks ago when we first kicked off this debate, this is a complex piece of legislation. That is absolutely the case; I do not think it is light, Sunday night bedtime reading. I agree with quite a few aspects of this bill. I agree with what the bill is trying to achieve in terms of unlocking the power of data to serve the public interest or public good. The bill defines what is in the public interest, and that will certainly come up during the course of this debate. I am a big proponent of public interest technology, which is really what this bill will enable. The minister will certainly talk about the data unit, which is trying to extend the good work that WALDS was doing—combining datasets within the medical sector—to other sectors within the public sector and to the private sector as well. The government is trying to tackle and unlock some of the research and analytics to serve the public interest.

This bill has a strong emphasis on information sharing within the public sector. From my point of view, it will unlock a lot of the needs and wants of the public sector by enabling it to share information. I mentioned a few weeks ago my belief that the bill is very light on privacy provisions. I described it as privacy light. It is light on providing rights and a sense of ownership back to the Western Australian public, but very heavy on enabling the public sector to basically do what it wants with our information. I am sure that members do not need to be reminded of a few classic examples of when public trust was eroded by information being shared against the wishes of the public. A classic example in 2021 involved the SafeWA app. After that, another example was the police retaining information for up to 25 years, with that information to then be handed off under the State Records Act. They are two quite recent classic examples of what happens when the government does not bring the public along with it. Basically, it runs the risk of putting people offside when it does that, which really goes against the wishes and intention of this bill, which is to unlock the value of information that people share willingly to serve the public good and public interest and to help others. The risk the government runs if it does not bring people along with it or give them rights or transparency about how that information will be used, shared and retained is that it will leave people behind and, essentially, turn people off the system, which would work against what the government is trying to achieve with this legislation.

We can compare the private and public sectors. I acknowledge that there is a higher bar for the government, which uses and retains information to enable it to run certain services, than the private sector, which basically profiteers off our information. The government certainly should show a greater level of discretion in some cases; however, I believe that the bill falls short in a few aspects, and certainly around its customer-centric nature, with the customer being the Western Australian public. Again, the bill prioritises the needs of the public sector over the rights of the Western Australian public.

I previously mentioned the General Data Protection Regulation that originated in Europe, which is really the gold standard of transparency for data privacy around the world. The government's own consultation paper mentioned the GDPR, so it is a bit unfortunate that a lot of those provisions and features have not been incorporated in this bill. I have previously mentioned my corporate life. About three and a half years ago—it feels like a bit of a lifetime ago—I worked in a company based in the United States that operated globally, and I was responsible within my department for complying with the GDPR. The company decided to take the view that it would comply with the GDPR even though it was operating in the US and did not need to. The idea was that the GDPR was, at the time, the most restrictive data privacy law operating on the planet, so if the company complied with the GDPR, it would basically comply with anything else. When I say "restrictive", I mean it was restrictive in the sense of not only the complexity involved for a company to put it in place, but also it afforded individuals the most rights and responsibilities of any data-privacy legislation at that time in terms of the visibility and ownership of that information. The point I am raising is that this is a solved problem. Companies have had to go through the hurdles of putting this in place, but they did so with the recognition that people were demanding more visibility and insight into how their information was being shared, used and retained.

As I speak to a few of the use cases, examples and scenarios within the PRIS bill, I will draw a comparison between the GDPR and what the government is intending to do under this legislation. I will start with access to information and the retrieval aspect, and give an example from the GDPR side of things. An individual will give their information to company A, company A will then share that information with company B, and company B will then share that information with company C. The individual has the right to then request that information. The GDPR enabled a single front door to request all usages of a person's information. If an individual asked company A for information on all usages of their information, there would be an onus on company A to then make that request of company B—it gave company B that information and company B now needs to provide the usage information back to company A—and company B would likewise need to make that request of company C. The information would come back from company C to company B to be amalgamated and provided to company A. Company A would then amalgamate all the information and feed it back to the user. It would be one single request within the

context of how that data was used and the information would be provided in a very readable and digestible format. The Privacy and Responsible Information Sharing Bill 2024 intends that the individual will then give their information to entity A. Entity A has this information-sharing agreement with entity B, and will send that information to entity B. The bill contains good provisions around disclosure. I will certainly dig into this in committee.

It is a complex bill, and I am happy for my understanding and my assumptions about how some of these use cases operate to be clarified. My understanding is that entity A has information from an individual and some disclosure obligations around how that information has been used. Once that information is shared with entity B, likewise, disclosure requirements will apply to entity B. There are to be some exceptions on exclusions, particularly around law enforcement, which I will certainly get into in the fullness of this debate. The main takeaway is that it is a lot simpler within GDPR—the General Data Protection Regulation—for that information to be provided back. I refer to that singular front door, that singular request, by that user within GDPR, rather than the bespoke model under the PRIS bill in which the individual will have to make multiple requests to get all usages of their information.

I turn to the deletion and retention of information provisions in the GDPR scenario. We are quite familiar with the term "right to forget", and obviously there is a higher bar with companies profiteering from information. In my view, they do not really have a right to retain people's information if they do not want them to. I acknowledge that in some circumstances, the government needs to retain that information to function as a government. However, the same rules apply around propagation with the retrieval scenario. Information held by company A is shared with company B and company B shares it with company C. When somebody makes a request to company A to delete the information, it propagates to company B and likewise to company C, and then an acknowledgement is sent back to the individual user that all instances of their information have been deleted. There is nothing about data retention in the PRIS bill at all. The briefing that I received acknowledged that government agencies are thinking about retention. There is an acknowledgement that the more data one has, the bigger the risk and the bigger the blast radius if there is a leak. There is an adage within the industry that it is not if but when you get hacked. The government is well aware of this and is apparently putting in data-retention policies. I am not sure how far every agency and entity has reached, but nothing in this bill will compel agencies to put in place data-retention policies. The only thing that I can see within the PRIS bill that relates to data retention is in schedule 1, clause 4, "Principal 4: Information security", which states —

> 4.2 An … entity must take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose …

"Any purpose" is really the crux. It seems quite open to interpretation and sufficiently vague to provide quite a lot of scope for an agency or a bureaucrat to argue that they need this information, potentially in perpetuity and beyond the primary purpose that that information was originally shared or intended to be used for. We can certainly get into that in the Committee of the Whole stage.

The other concern I have—hopefully the minister can help me with this in committee—is that the information sharing agreements have a half-life of about five years. There is nothing in the bill about data retention at the end of that half-life. Once that information sharing agreement has expired, what will happen to that information? Is it to be deleted? Is it to be retained? Will it in a sense become orphaned? Is someone to be monitoring that to make sure that it is being cleaned up if it is no longer required? Of course, we have that old chestnut of the State Records Act. There are certainly rules that intercept with this bill and some of the deletion provisions within this bill. We saw this play out within the SafeWA incident after Hon Peter Collier, I think, asked how long police retained contact-tracing information. It emerged that the information was retained for 25 years, after which the information is held in perpetuity under the State Records Act. Of course, the Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Bill 2021 prevented police from using contact-tracing information as part of their investigations. That quickly closed the loophole, but it did nothing about police looking at different types of data and going down the same scenario of retaining information within its own archives under the State Records Act. There is a bit of nuance and complexity here. It is certainly something to dig into at the committee stage.

The other aspect is automated decision-making. This is where the power of GDPR really strikes out on its own as opposed to the PRIS bill. GDPR gives individuals the right to opt out and say they do not want to be involved in the automated decision-making process, profiling or analytics, which is fed into an ML—machine learning—model to then base decisions on that model. That is quite clear. It gives that opt-out option back to the individual. The opt-out provision itself is quite vague. Again, it puts the onus not on the individual, but rather a faceless bureaucrat within the department. The only part that comes close to assessing whether information should be used as part of an automated decision-making process is to create an assessment. The department will need to create an assessment having regard to a few different areas. I do not know whether that assessment will be publicly available or private and what will be in it. Having regard to certain provisions is sufficiently vague and certainly warrants more investigation and a few more comments within the committee phase.

Anonymisation is another area. Credit where credit is due; there are good parts on anonymisation. The ability for an entity to share de-identified information, if it can get away with it, to another entity, to really abstract that

information away from an individual, de-risks that information if it happens to be leaked at any stage. There is a cautionary tale here about what happens when supposedly de-identified information is shared. The University of Melbourne easily re-identified patients from confidential data released by the federal health department without using decryption methods. The datasets included de-identified medical billing records of 2.9 million people, which is about 10 per cent of the Australian population. That information included birth, gender and medical event data. The researchers at the University of Melbourne used that supposedly de-identified information that the federal government shared and enriched it with other publicly available data sources to create a profile that could individually identify each record in a database back to an individual. This is really a technical consideration. I support what the government is trying to do in terms of de-identification, but I certainly have questions about how it will ensure that that permanently de-identified information will actually be de-identified.

Obviously, when we talk about an agency sharing information with another agency, it should be behind an IT system, right? It should be fairly well protected. But I refer to when the government releases that information publicly. There are a number of examples when the government can do this for a number of reasons. I know the Western Australian government on a few occasions has done it through hackathons, challenges and engaging with the private sector to solve some big, scary problems using public datasets. I think that is a fantastic thing.

Hon Stephen Dawson: Synthetic data has been used.

Hon WILSON TUCKER: Yes, thank you, minister. The minister has helped me to segue very nicely to the next point, which is synthetic data. I have spoken about the concept of synthetic data previously. It is computer-generated records. If one is using a large dataset of, for example, records based on demographic profiling of a cohort of people, it is basically using an abstracted version, computer-generated information, to achieve statistical significance. It abstracts those records away from the individual to de-risk the fact that someone is sharing information, to stop that de-identification.

I had a question that the minister has already answered. I know that the minister is already well aware of this; he is obviously in close contact with Alex Jenkins from the WA Data Science Innovation Hub, who is a big proponent of synthetic data.

The last point I make in the minutes before we get into the committee stage is about the law enforcement provisions. I think the legislation will give a lot of scope for law enforcement bodies to ignore some of the privacy provisions and really act as a bit of a black box. Of course, we saw some classic examples. The government faced some negative PR backlash on the usage of that information. The Premier said one thing and the Commissioner of Police did another. The police retained that information for 25 years, and then it went back into the state archives. That is much longer than originally intended when that data was provided in the first place. Really, the main concerns that I and the rest of the population have are the police accessing information against the wishes and knowledge of the public and the amount of time the police retain that information.

This bill provides a lot of exclusions for the police. Clause 23, "Exception: law enforcement functions", provides that a law enforcement agency will not be required to comply with the IPPs—there are quite a few IPPs listed; not all of them, but a number—if it believes on reasonable grounds that noncompliance is necessary for the purpose of it or any other law enforcement agency.

There are some other exemptions here. Principles 10.1 and 6 mean that the Western Australia Police Force will not need to respond to requests for information if it is using that information, unlike other entities. It also means that if information is shared with the police from another entity—I gave a previous example whereby there are some disclosure requirements on an entity—there are provisions to give the police a back door to get around this. In a sense, the Western Australia Police Force is a black box. There are no data-retention provisions baked into this bill, so history could repeat itself similar to the access to the SafeWA app data. That was never unlawful, but this legislation will create, one could say, a permanent, lawful back door for the police. There are also no provisions on retention in this legislation. We can certainly see that history could repeat itself with the police retaining personal information of Western Australian residents in perpetuity, or at least for a very long time.

They are my main points. My ideal scenario that I would like to see is front door access, so one place—like a front door to government—to serve all these requests. I would like to see the deletion of non-essential information. I understand that the government needs to retain some information, but not all information. I would also like it to be easier to request information. I have amendments on the notice paper that I will go into in more detail.

I support the second reading of the bill. As I said, I have amendments on the notice paper. I think they are very sensible. I did not create them in a vacuum. On that note, I put on the record my thanks to Dr Vanessa Teague, who is a cryptographer and professor at the Australian National University; Julia Powles, who is an associate professor at the University of Western Australia; and Elizabeth Coombs, former New South Wales Privacy Commissioner. They were instrumental in helping me come up with these amendments and were very generous with their time and expertise.

With that, I look forward to the committee stage.

HON SOPHIA MOERMOND (South West) [3.03 pm]: I rise to speak on the Privacy and Responsible Information Sharing Bill 2024. I will not be very long. I think it is obvious that data management is an increasingly important aspect of our digital society. I have a few concerns around that. My concerns will not be as eloquently expressed as Hon Wilson Tucker's; nonetheless, they are very similar.

The term "responsible" is used quite a bit but is not explained in the legislation. I have concerns around the type of information that might be collected and the timeframe that data will be retained. I am worried about who will have access. I have had two stalkers myself so far. There are people who use data with nefarious intentions, and I hope that sufficient safeguards will be put in place so that data is not misused. I have concerns around data breaches. It appears that the technology that people are using to access data is becoming more complex, and I hope that the data we give to our government will be stored safely.

HON DR BRAD PETTITT (South Metropolitan) [3.05 pm]: I also rise in broad support of the Privacy and Responsible Information Sharing Bill 2024 but, like my colleagues on the crossbench, I want to raise a few issues that are perhaps missed opportunities in this bill that it would be good to see included. The primary one I want to focus on is that this bill misses the opportunity to incorporate Indigenous data sovereignty into this legislation. Members will excuse me while I dig a bit deeper into this; my staff have done some very good research with some stakeholders on this, and I think it is worth highlighting it. I will be very interested in the government's response to this.

We went back to a consultation summary report titled *Privacy and responsible information sharing for the Western Australian public sector* produced by the government in September 2021 following consultation in 2019. There is a whole section in this summary report titled "Support self-determination of Aboriginal people". The report states —

> We heard that Government has an opportunity to consider how the proposed legislation could support greater self-determination and the empowerment of Aboriginal people and communities. We also heard how the proposed legislation could support a range of other priorities for Aboriginal people and governments, such as the Closing the Gap initiative.

Indigenous data sovereignty is the right of Indigenous people to govern the collection, ownership and application of data about Indigenous communities, peoples, lands and resources. The enactment mechanism of Indigenous data governance is built around two central premises. The first of these is the rights of Indigenous nations over the data about them, regardless of where it is held and by whom; the second is these people's rights to the data they require to support nation rebuilding. A communiqué titled *Indigenous data sovereignty: Communique* from June 2018 states —

> 'Indigenous Data Governance' refers to the right of Indigenous peoples to autonomously decide what, how and why Indigenous Data are collected, accessed and used. It ensures that data on or about Indigenous peoples reflects our priorities, values, cultures, worldviews and diversity.

The problem is that in the bill before us, there is only a small section that is titled "Aboriginal information assessment", and there is no mention of Indigenous data sovereignty. In fact, the bill before us today includes provision for an Aboriginal information assessment only if, under clause 177(1)(b) —

> the relevant activity under the agreement will primarily or especially affect Aboriginal people.

This is a far cry from the promise made by the government in December 2022 in its *Privacy and responsible information sharing: Factsheet*, in which it said —

> Legislation to protect the privacy of Western Australians and promote responsible sharing of information will introduce seven areas of reform.

The seventh area of reform promises —

> Introducing a mechanism that supports Aboriginal data governance in WA, by requiring that Aboriginal people and communities are involved or consulted when data that primarily affects Aboriginal people is shared.

In fact, I believe that, somewhere along the line, a previous draft of the bill must have included greater provisions for Aboriginal data sovereignty, although for some reason the bill before us today has had that aspect removed. I say that because of a communiqué released by the Aboriginal Advisory Council of Western Australia, titled *Communique—Meeting No. 27/2023*. That meeting was held on 5 December 2023. It states —

> The Office of Digital Government from the Department of Premier and Cabinet (the Department) sought advice from the Council on the proposed Privacy and Responsible Information Sharing (PRIS) legislation. The PRIS Bill includes a mechanism which supports Aboriginal data sovereignty and governance in WA, by requiring that Aboriginal people and communities are involved or consulted when data about Aboriginal people is shared. The Council endorsed the framework proposed in the draft PRIS Bill and noted the ongoing relationship with DGov.

I am hoping the government can explain why it has decided to remove Indigenous data sovereignty from the Privacy and Responsible Information Sharing Bill 2024.

I would now like to read an excerpt from a consultation paper submitted to the government in 2019 by three academics from the Centre for Aboriginal Economic Policy Research at the Australian National University. It states —

> As a whole, the discussion paper highlights a stark absence of knowledge and skills necessary to understand and engage with Aboriginal data issues and policy. We consider the level of engagement with the unique interests and needs of Aboriginal peoples, and the risks associated with data relating to Aboriginal peoples, as wholly inadequate.
>
> …
>
> Data design, collection, storage and dissemination practices that exist today operate with limited or no input from Indigenous peoples. The result of this erasure from data structures is that Indigenous peoples rely on data that has been collected *on* or *about* rather than *for* or *with* Indigenous peoples.

This highlights a key issue for us: that the bill before us today is a significant departure from the principles of Indigenous data sovereignty and Indigenous data governance, and also falls short of the WA government's own Aboriginal empowerment strategy and the National Agreement on Closing the Gap reform. Consistent with the Aboriginal empowerment strategy, there should be a revision of clause 177(3) to, at a minimum, support shared access to data and directly involve First Nations people and communities in decision-making about what, how and why Indigenous data is collected, accessed and used. That is the key issue that it would be good to get a response to. It is certainly one that has been raised with my office by key stakeholders in this space.

I know that people who are much more knowledgeable in this area, like Hon Wilson Tucker, have already talked about automated decision-making and the like so I will keep my remarks on that brief, only to note that it is very important that we have appropriate safeguards in place when using automated decision-making. It is essential to require an assessment prior to employing an automated decision-making process and to ensure that human intervention at the impact assessment stage is meaningful. I am keen to make sure that we have the right things in place with regard to this.

Once again, the Greens are happy to support the Privacy and Responsible Information Sharing Bill 2024 and the Information Commissioner Bill 2024 in their totality, but there are some key concerns around some omissions, especially the omission in relation to Indigenous data sovereignty. I would appreciate information in response to the contributions made to the second reading debate, or during Committee of the Whole. Thank you.

HON NICK GOIRAN (South Metropolitan) [3.13 pm]: I rise in this cognate debate to consider the Privacy and Responsible Information Sharing Bill 2024 and the Information Commissioner Bill 2024. It must be said that the first of those two bills is an extremely large bill; it has 247 clauses and two schedules, and covers some 215 pages. At the same time, the house of review is also being asked to consider a 72-clause bill across some 44 pages. We are doing all that work this afternoon, and one needs to ask the question: is any specific scrutiny necessary? I would suggest to members that it is, not least for some of the reasons that members who earlier contributed to this debate have already articulated, and not only because there needs to be a purpose in having a house of review—that is, to scrutinise legislation.

A couple of things emerged at the time these bills were introduced. I note that they were introduced by Hon Sue Ellery, who read them in on behalf of Hon Stephen Dawson, the Minister for Innovation and the Digital Economy. This all happened on 20 June this year. Two interesting things happened. Firstly, when introducing the larger of the two bills, the Privacy and Responsible Information Sharing Bill 2024, the Leader of the House said that it was the first of its kind in Australia. That assertion in itself warrants special scrutiny of the bill, which is, as I say, a particularly large bill. Secondly, in respect of the other bill, the Information Commissioner Bill 2024, the Leader of the House said in the second reading speech —

> The bill will establish a tripartite, single-authority structure whereby the regulation of privacy and freedom of information will sit within one organisation. This model recognises the complementary nature of privacy and freedom of information laws. Both are underpinned by common principles of transparency and accountability; both involve the consideration and balancing of the public interest in the protection of personal privacy with the free flow of information for public benefit.

This is being said by the most secretive government in WA history, the Cook Labor government. This second reading speech makes reference to the "free flow of information for public benefit". It is wonderful to say that in a second reading speech, but it is no good if the government never actually implements it in practice. Unfortunately, as we know, the WA Labor government has an allergic reaction whenever any member suggests that legislation it has brought forward ought to be considered by the Standing Committee on Legislation. It is on the public record that only one bill has been sent to that committee, and it did not end well for the government. These two bills were introduced more than three months ago. One wonders why the government did not take the opportunity to give this joint package of bills, one of which is particularly large, to a committee that has nothing to do and could have considered it over the last three months. We would then have been able to address things in a more expedient fashion today. We know the government certainly wants to get on with its legislative program, and fair enough, but it should

at least use some of the mechanisms and levers available to it to do so. As I said, it has an allergic reaction to anything going to the Standing Committee on Legislation, for reasons that are not apparent, other than, perhaps, the sheer embarrassment of what happened on the one occasion when it did send legislation to it.

At the heart of these bills are issues of transparency and accountability. Those were the words of the government when introducing these bills. The government says that they are underpinned by common principles of transparency and accountability. Let us just consider for a moment the Cook Labor government's track record on transparency and accountability. I want to take the house through a couple of debacles that have occurred during this Labor administration. The first was the SafeWA app debacle. I encourage members to refamiliarise themselves with an excellent report by Western Australia's Auditor General, dated 2 August 2021. One need only look at the overview provided by the Auditor General in this report. It states —

> Of most concern in this instance was the use of personal information collected through SafeWA for purposes other than COVID contact tracing.

The Auditor General goes on to state —

> Of further concern, is the ongoing limited communication around WA Health's use of personal information collected by other government entities (including Transperth SmartRider and Police G2G border crossing pass data …

The Auditor General further states —

> In the absence of any comprehensive privacy legislation in Western Australia, including oversight mechanisms, citizens have a right to expect that their personal information will only be used by governments in line with stated purposes.

The Auditor General goes on to state —

> My predecessor, Des Pearson AO, made a similar observation in 2002 when he noted *"In a paper-based environment there were obvious physical limitations to the public sector's ability to monitor, collect, store, manipulate and share information. Technology has removed most of those limitations. In so doing it has created a very real risk of compromising the right to individual privacy. In this environment the public has a right to reassurance that government is addressing this risk."*

The Auditor General concludes by stating —

> Protecting the privacy of citizens' information and being transparent about the use of data helps ensure trust in public institutions is not eroded. This is necessary not only when responding to a viral pandemic, but also for the ongoing peace and prosperity of our democratic society.

This WA Labor administration has a poor track record when one considers the Auditor General's report of 2 August 2021, but this is not the only fiasco that has occurred when it comes to privacy breaches under this administration. The report that I just quoted from was dated 2 August 2021. Three days later, another independent statutory agency called the Corruption and Crime Commission provided a different report, and its report is titled *A review of the Department of Transport's management of unlawful access to TRELIS*. Within a period of three days, we had the Auditor General calling out and exposing the WA Labor government for its mishandling of information with the SafeWA app and the Corruption and Crime Commission drawing to people's attention unlawful access to the transport executive and licensing information system. In that report, the Corruption and Crime Commission had this to say —

> … Of the WA government databases, TRELIS holds the most personal information about members of the WA public.
>
> … Confidential and sensitive information on TRELIS could be exploited for personal or criminal reasons.
>
> … The WA community has an expectation that personal information held in TRELIS is protected, not only from external hackers, but from abuse and unlawful access by the more than 3,000 persons authorised to use TRELIS to perform official duties.
>
> … The Commission undertook a thematic review of unlawful accesses to TRELIS under *Corruption, Crime and Misconduct Act 2003* … s 41. It considered more than 100 incidents of unlawful access to TRELIS.

The Corruption and Crime Commission later on states —

> … The review showed that DoT is reluctant to treat unlawful access to TRELIS by authorised users as serious misconduct. DoT's default position is that unlawful access is a mere conflict of interest.

This is in the report tabled by the Corruption and Crime Commission on 5 August 2021, a mere three days after the Auditor General had exposed and called into question the WA Labor government's handling of personal

information through the SafeWA app. This is the track record of this administration. It is no wonder that many members of this chamber, including the crossbench, are expressing some concern and want to spend a moment or two to have the house of review actually do its job and scrutinise this legislation. Yet again, this legislation will not be given specialist review by the Standing Committee on Legislation, which will not be given any work. Therefore, it falls to the rest of us to scrutinise this bill, particularly when we consider the shambolic track record of this administration when it comes to handling people's personal data and privacy. Those two episodes that I spoke of were in 2021.

I move to what I refer to, for the purposes of today's debate, as the "Tucker motion". The Tucker motion was considered on 18 August 2022. It is called the Tucker motion by me because it was moved by Hon Wilson Tucker, an honourable member of this chamber, and he chose on that day to use his precious, mere allocation of non-government business on this topic. I think it is worth getting on the record that this honourable member is an Independent member, and so he is given, roughly, only one opportunity a year to lead the chamber for 80 minutes on non-government business. When an Independent member, who gets only one shot a year, chooses to move a motion on a particular topic, it is probably worth pausing for a moment and thinking: Why would that member invest their precious time on this topic? What did he do on 18 August 2022? Hon Wilson Tucker moved this motion —

> That the house —
>
> (a) expresses its dismay at the apparent disregard for appropriate information security controls and the irresponsible handling of sensitive data by state government agencies;
>
> (b) notes that repeated and consistent breaches of private data by state government agencies is eroding trust in government institutions;
>
> (c) notes that the Privacy Act 1988 does not apply to state government agencies;
>
> (d) notes that Western Australia's privacy legislation is not fit for purpose; and
>
> (e) calls on the government to implement state-based privacy legislation with all haste.

As I say, this honourable member gets only one shot a year to move a motion, and he decided that this was his highest matter of concern on that day. Who could blame him? Who could blame him when we had the Auditor General, some 12 months earlier in August 2021, call into question the WA Labor government's capacity and competence when dealing with private information? Who could blame the honourable member when, three days later, the Corruption and Crime Commission exposed the absolutely farcical situation in which in 2021, the Department of Transport—I think Hon Rita Saffioti was the Minister for Transport at the time, if indeed she is still holding that title; she is I am told—did not consider the unlawful access of TRELIS, which the Corruption and Crime Commission said holds the most personal information about members of the WA public, to be a matter of serious misconduct, but just simply said that it was a mere conflict of interest. It is no wonder that Hon Wilson Tucker decided on 18 August 2022 to invest his precious allocation of non-government business time in this particular topic.

At the time, the minister who responded to that motion was Hon Alannah MacTiernan, since retired, who, according to my notes, gave responses back to Hon Wilson Tucker along the lines that this was all being actively worked on, but she could not give a timeframe, and that there was a backlog in the drafting of legislation. As I said in an earlier debate today, law reform at times tests our patience, and it requires great persistence by those people who feel strongly that there needs to be some reform. Perhaps in response to Hon Wilson Tucker, who had invested his precious non-government business allocation in this topic in August 2022, the Attorney General and the Minister for Innovation and the Digital Economy—two separate ministers there: Mr Quigley and Mr Dawson—felt compelled to issue a media release a few short months later. On 14 December 2022, those two honourable ministers issued a media release entitled "New privacy laws to protect the personal data of Western Australians". This is really on form for the WA Labor government. It was very, very quick to issue a media release on 14 December 2022 entitled "New privacy laws to protect the personal data of Western Australians". What new privacy laws? There was nothing on 14 December 2022. Was there anything in 2023? There was nothing. Here we are now in 2024 and it must be this package of bills presently before the house that the government, Mr Quigley and Hon Stephen Dawson, were very quick to boast to the people of Western Australia they were bringing about. Once again, the government is testing people's patience—testing the patience of Hon Wilson Tucker and others who have been calling for something to be done on this for quite some time.

Quite unbelievably, in this media release on 14 December 2022 the following comments are attributed to the Attorney General, Hon John Quigley. He said —

> "The Western Australian public is keener than ever to see their personal information handled safely and responsibly.

No wonder the people of Western Australia would be so keen to see their personal information handled safely and responsibly when there is an irresponsible government that does not handle that information safely and responsibly. The government got called out by the Auditor General and seems to be constantly at loggerheads with her. It gets

called out by the Corruption and Crime Commission, yet seems to say, "Don't worry about it; unlawful access to people's information is just a mere conflict of interest." This is the track record of this administration. That is why it is absolutely appropriate that members will have this package of bills sent to the Committee of the Whole House for further examination and consideration of amendments and the like.

In this media release issued by Ministers Quigley and Dawson on 14 December 2022 they also talk about having consulted extensively. Minister Quigley in particular said that he was confident that his privacy reforms would be at the forefront. Members who have been here for the duration of the forty-first Parliament will know that consultation has not been one of the strong points of the WA Labor government. That is in contrast to what one might hope from a responsible government, which is a humble, consultative approach. We have seen the exact opposite; we have seen a contemptuous attitude. We have had people plead for consultation and public inquiries, but the government says no. We have seen legislation rammed through without opportunities for scrutiny. When somebody like the Attorney General put out a media release nearly two years ago boasting about new laws which were not even in place and that we are only dealing with now, saying that there had been extensive consultation, members might understand why I might ask for a bit of caution to be exerted at this time.

I note that one of the submissions to all of this on the public record made quite a pertinent point. According to my notes, it said —

> The problem with the proposed framework is that it is not about privacy protection for individuals but providing public sector agencies with the opportunity to exploit existing datasets and information on individuals currently precluded by convention, regulation or data sharing protocols.

That is a submission put forward to the government by a Western Australian about this proposed framework. The question that I hope the minister handling this bill will be able to respond to, preferably in the reply to the second reading debate, is: What is the government's response to that? What is the government's response to the, I would say, allegation by this submitter to the government that this framework is about exploiting existing datasets and information on individuals currently precluded by convention, regulation or data sharing protocols? In other words, to reframe the question: is there any information that the government currently cannot share that it will now be able to share as a result of this bill; and, if so, what is that type of information and what justifies that? There may well be a very good justification for it; and, if so, let us hear it. Is there anything that is prevented at the moment by way of regulation—in other words, by law—that will now be allowed because of this regime? Interestingly, this submitter does not just limit their concern to information that the government is not supposed to be sharing as a matter of law. They also talk about convention and protocols. The second part to that question then is: is there any information at the moment in various areas—it might be in child protection, and might be in police, it might be in health, it might be in education, it could be in any number of portfolio areas—that the government does not currently share because of convention or protocols that will now be allowed because of this bill; and, if so, what is that information and what gives justification for that? I hasten to add that there may well be a good justification for it.

I can immediately think of two. Members will recall that for some time I have been pursuing the former Minister for Child Protection about children in the care of the state. Sadly, more than 5 000 Western Australian children are in the care of the state. They have been taken from their ordinary homes because they are considered to be at risk and they are taken into the care of the state. Sadly, from time to time the whereabouts of some of them are unknown—in other words, they go missing. It took quite a long time to get to the place where there is now a daily report that the Minister for Child Protection and the director general of Communities receive about which child is missing, if any. Obviously, the desirable outcome is that there are none, but there is usually at least one. At the present time, when I last asked last week, I think there was one. According to my notes, yes, there was one last week. I am hoping to follow up in question time today and I will ask the government whether that child has been found. I can think of a scenario in which the Department of Communities' child protection agency—as it now is, albeit I think there should be a standalone department of child protection, but that is a debate for another day—is easily able to share information with WA police about a child in the care of the state who goes missing. That seems to me an obvious example in which data sharing would be appropriate. I imagine those on the crossbench who have a strong interest in this would probably agree with that. That would be an example in which we would want data sharing between government silos. Why? It would be because yes, the information is sensitive, but there would be something even more important, which would be a child in the care of the state who is missing. We would want child protection and the police to be working as efficiently as possible in those circumstances. We can see there will be times when it would absolutely be appropriate for there to be data sharing. That is one example.

I will quickly give another example from the area of education. I understand protocols are in place for children who have displayed harmful sexual behaviours and there is data sharing between the Department of Education and the Western Australia Police Force on any child or student who has been charged as a result of those harmful sexual behaviours. We could again see a scenario in which two government departments need to have an efficient way of sharing information without impediment. I ask the government to be in a position to articulate to us the type of datasets that will be able to be shared that were previously precluded by way of law or regulation, or, alternatively, convention or protocol.

Lastly, I move to a very important report by the Standing Committee on Public Administration tabled in the fortieth Parliament—that is, the committee's thirty-fourth report, *Consultation with statutory office holders*. I recall that under its terms of reference the Standing Committee on Public Administration ordinarily consults with certain statutory office holders. In the last Parliament, the committee was chaired by Hon Adele Farina, who was one of the most outstanding members of Parliament and lawmakers I have seen. She and her committee tabled this report, having consulted with the Inspector of Custodial Services, Information Commissioner, Ombudsman and Public Sector Commissioner. The committee did so because those office holders had tabled annual reports. I note, as we come towards the end of September, that agency annual reports ought to be tabled. I hope that the current Standing Committee on Public Administration will take the opportunity in October and November to meet with some of the statutory office holders about their annual reports. I am not saying anything that is not self-evident, but the Standing Committee on Estimates and Financial Operations will certainly not have time to examine every single agency about their annual report. We will make best endeavours, but if we could have some assistance from other committees, it would be terrific.

The Information Commissioner was one of the statutory office holders consulted. The committee makes a number of findings and recommendations in its report. The question that then arises is the extent to which this package of bills has addressed the points raised by the Standing Committee on Public Administration. In particular, I draw the minister's attention to recommendations 2, 3, 4 and 5. Recommendation 2 reads —

> The Information Commissioner detail in the External Review Procedure the circumstances in which the Office of the Information Commissioner would consider an exchange of submissions to be appropriate.

Recommendation 3 reads —

> The Office of the Information Commissioner develop guidelines to assist agencies in developing submissions that are able to be shared.

Recommendation 4 reads —

> The Attorney General undertake a review of the *Freedom of Information Act 1992*, with public consultation, with a report to be tabled in the Parliament of Western Australia before the end of 2023.

And recommendation 5 reads —

> The review of the *Freedom of Information Act 1992* specifically consider the Information Commissioner's recommendations regarding private contractors who provide public patient services.

The Standing Committee on Public Administration provided those four recommendations to the fortieth Parliament after hearings were held with the Information Commissioner. In March 2020, I wrote to the committee identifying a systemic flaw in the external review process with the Information Commissioner. Many members of this place would have probably had the opportunity to undertake the freedom of information process and will know that once the application has been considered by the agency there is an opportunity for what is referred to as an internal review. If a person is dissatisfied with a decision, they can have it reviewed or have an internal review. If they are dissatisfied with the outcome of the internal review, they can then have an external review whereby the matter will come before the Information Commissioner for his or her consideration and, if you like, ruling or judgement. In my view, there is a systemic flaw in the external review process whereby, ironically, information is hidden during the course of the process. That information is the government agency's submission. If a Western Australian wants to access information from a government agency—let us pick an agency; in my case, it was the Department of Health—and it refuses to provide that information, the matter will ultimately find itself before Information Commissioner as an external review. At that point, the two parties—the person seeking the information and the government department—will provide submissions to the Information Commissioner on why they say the information should or should not be provided, keeping in mind that this information can also be provided in a redacted form. What happens at the moment, or certainly happened in this particular instance—it is what exercised the Standing Committee on Public Administration and Hon Adele Farina to pick up this issue—is that the government department's submission is kept secret from the person trying to get information from it. It does not seem consistent with an ordinary, transparent process that has at its heart the free flow of information to have a government agency hiding from the public not only information, but also the submission it wants to give the independent arbiter, the umpire, in this particular situation.

That issue was at the heart of a hearing that took place in October 2020. As we have now marched on, nearly four years later, it is appropriate to ask what, if anything, has changed and whether any of the Standing Committee on Public Administration's findings and recommendations have been considered or will be implemented by the passage of these bills. I hope the minister will be in a position to address those concerns in his reply to the second reading debate. If he does not, I give notice that I will take them up as we dive into the clause-by-clause consideration of the two bills.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Innovation and the Digital Economy) [3.48 pm] — in reply: I thank all honourable members who have made a contribution to the debate thus far on the Privacy and Responsible Information Sharing Bill 2024 and the Information Commissioner Bill 2024: Hon Tjorn Sibma, Hon Wilson Tucker, Hon Dr Brad Pettitt, Hon Sophia Moermond and Hon Nick Goiran. I was

pleased to hear that the opposition is not opposing the legislation and, certainly, members comments on the bill. In terms of the issues raised, I intend to address some of them now, of course noting we will go into Committee of the Whole and there will be an opportunity for us to delve further into the detail and tackle issues I do not respond to in this reply.

Hon Tjorn Sibma questioned why we are dealing with the Privacy and Responsible Information Sharing Bill 2024 in the last session of Parliament. Since coming to office in 2017, we have consistently stated our intention to introduce a statewide privacy and information sharing framework. In 2019, the state government published a discussion paper and committed to developing and introducing this comprehensive framework to bring our state in line with the rest of Australia and introduce the most modern and robust privacy and information sharing framework in the country. We have had the unique opportunity to take a contemporary approach and design legislation that is fit for the digital age, that integrates privacy and information sharing into one law and ensures that the laws work harmoniously together. Due to this unique approach, it has been important to ensure that the development and crafting of this framework has been carefully considered and is fit for purpose for the Western Australian context in addition to being aligned with the frameworks in other Australian jurisdictions. The government has undertaken extensive consultation to make sure that it gets this critical piece of legislation right for both the WA public and the government agencies that will need to implement it.

Both Hon Tjorn Sibma and Hon Wilson Tucker suggested that the information sharing portion of the Privacy and Responsible Information Sharing Bill 2024 has assumed greater prominence and emphasis than the privacy aspects. Privacy and responsible information sharing have common objectives, being transparency and accountability, in the way that government handles information, and both elements of the legislation aim to facilitate and ensure the consistent and safe handling of government information, including personal information. As Hon Tjorn Sibma acknowledged, these two concepts can coexist. I do not agree with the suggestion that information sharing provisions have been given greater prominence. The Privacy and Responsible Information Sharing Bill 2024 is first and foremost a privacy bill. The protection of privacy is essential to ensuring public trust in the way that the government handles the personal and other information that it holds. For the first time, the privacy provisions will establish a strong and consistent legal framework for privacy regulation for the Western Australian public sector. The bill provides for demonstrable consequences for breaches of privacy, enforced through what will be independent regulator. The WA government's integrated legislative approach balances the public interest and an individual's right to information privacy with the public interest in the free flow of information. In other jurisdictions, privacy legislation and information sharing legislation have been implemented at different times. They have been implemented as separate and discrete requirements and those jurisdictions have struggled to resolve the inherent tension between privacy and information sharing to deliver effective privacy by design. Rather than simply following legacy models in other jurisdictions, we have embraced the opportunity of a greenfield environment to establish an integrated PRIS approach with clear and coherent information policy objectives that will articulate a common goal; that is, to ensure contemporary privacy protections and a balanced approach to handling government-held information in the public interest. The PRIS legislation will enable arrangements for privacy and information sharing to be harmonised in a way that has been difficult to achieve in other jurisdictions. The PRIS bill provides for tight integration between an individual's right to information privacy and the role of privacy in enabling the responsible sharing of information for legitimate public interest. WA will be the national leader in this regard, having the only legislative framework that ensures that privacy and information sharing are designed to work together from the outset in a way that is fit for the digital age.

Hon Tjorn Sibma referred to the consultation undertaken on this bill and said that regular people did not take part in the consultation activities, or words to that effect. The state government heard from a wide variety of people and organisations from both the regional and metropolitan areas of WA, including the community at large. We hosted more than 30 events to consult with the community at large, alongside key stakeholders representing researchers, consumers, Aboriginal people and the culturally and linguistically diverse community. More than 900 people attended community consultation events. The discussion paper was downloaded more than 2 400 times and almost 90 unique comments or submissions were received as part of the process. Further, the information privacy principles and other protections are not novel. In particular, the use of privacy principles is synonymous with privacy protection around the world. We have been informed by other jurisdictions which, themselves, have consulted widely within Australia and around the world. Extensive consultation activities took place in 2019 and 2022, including with civil society privacy advocates and regulators in other jurisdictions that engage with the general public about their privacy on a daily basis.

Hon Tjorn Sibma also raised concerns about the compulsory collection of personal information by state agencies and contracted service providers. The PRIS bill is not just a bill about the use and disclosure of information; it will regulate the totality of how government deals with personal information from the point of collection to the point of disposal. In relation to the collection in particular, the bill contains a specific information privacy principle concerning the collection of personal information that information privacy principle entities are required to comply with. In particular, information privacy principle 1.1 expressly provides that an IPP entity must not collect personal information other than sensitive personal information unless the information is necessary for one or more of the IPP entity's functions or activities. If an IPP entity is collecting sensitive personal information, information privacy principle 1.2 provides

that an IPP entity must not collect sensitive personal information that relates to an individual unless the information is necessary for one or more of the IPP entity's functions or activities and additional criteria may be satisfied. That includes that the individual consents to the collection or the collection is required and authorised by law.

The bill also introduces an Australian first in IPP 1.4, which requires entities to be satisfied that their collection of personal information is fair and reasonable in the circumstances, irrespective of consent. Entities must consider matters such as an individual's reasonable expectation as to the collection of their personal information in that way, the kind of personal information involved, the amount of personal information involved and whether the collection is, on balance, in the public interest. This unique IPP will prevent entities from relying on consent as a shield for bad practices. Contracted service providers will also be bound by the privacy provisions of the bill when the state's services contract says so.

The honourable member also noted the recent data breaches that have affected many people in the community. That is why this bill introduces a new mandatory notifiable information breach scheme, which requires IPP entities to assess, contain and mitigate suspected notifiable information breaches and notify affected individuals and the Information Commissioner of assessed notifiable information breaches. As the honourable member correctly stated, the notifiable information breach provisions have been developed having regard to the schemes in other jurisdictions such as the commonwealth, New South Wales and Queensland. Hon Tjorn Sibma referred to the Corruption and Crime Commission's report into the incidence of unauthorised access to information in the transport executive and licensing information system at the Department of Transport. These incidents, whilst unfortunate and, indeed, certainly the exception rather than the norm, are a reminder for the sector that it needs to continually improve and develop more robust protections like those we have proposed in the legislation before us. I also point to the CCC's follow-up review that was completed in 2023 that praised the Department of Transport's positive response in mitigating future risk and determined that it had adequately addressed all the recommendations contained in the 2021 report. Additionally, there are already offence provisions on the statute book dealing with the mishandling of information. They include, but are not limited to, sections 81 and 44A of the Criminal Code. Agency-specific legislation already includes secrecy and confidentiality offence provisions.

In relation to information sharing, the bill introduces new offences for the unauthorised disclosure or use of information that is obtained under an information-sharing agreement, which is punishable by up to three years' imprisonment in some circumstances. The privacy provisions in the PRIS bill are essential to supporting a culture of privacy protection and building expertise in the public sector in a way that better promotes privacy by design. That will embed good privacy practices in all stages of an entity's decision-making, as well as the design of information management systems and structures, processes and services. In particular, this bill will require agencies to undertake privacy impact assessments before undertaking high-risk privacy functions or activities. These assessments will assist IPP entities to identify privacy risks and better implement measures to mitigate such risks. It will also assist IPP entities to identify whether high-risk activities may contravene or be inconsistent with the IPPs. These are critical to implementing true privacy by design when planning for the delivery of government services and programs. Privacy impact assessments will help entities redesign decision-making processes through a new privacy lens and empower them to manage privacy risks. The bill will also provide a clear and consistent framework through which individuals can seek recourse for an interference with their privacy by making a complaint to the Information Commissioner and if it is determined that their privacy has been interfered with, the commissioner may make orders, including an order for the payment of compensation.

Hon Wilson Tucker raised concerns about agencies giving employees access to personal information. Information privacy principle 4 expressly requires an IPP entity to take reasonable steps to protect the personal information it holds from misuse and loss and from unauthorised access modification or disclosure.

Hon Tjorn Sibma also referred to the Auditor General's audit report that assessed WA Health's COVID-19 contact-tracing application. Mention was made in particular of the findings of the Auditor General that there was a failure to adequately inform the public about information collection. The honourable member observed that we are rarely advised for what purposes our information is being collected. With the introduction of these two bills, we will have a dedicated Information Commissioner with strong investigatory powers to deal with privacy matters, exercising both enforcement and monitoring functions. IPP entities will be required by the proposed legislation to make clear, via collection notices, the purposes for which an individual's information is collected or indeed used or disclosed in accordance with information privacy principle 1.9.

IPP 5 also requires IPP entities to have a privacy policy that is up to date, clear, concise and expressed in plain language. The primary purpose of this policy is to inform the public how the entity handles personal information and helps to build trust with the public. Hon Tjorn Sibma listed each of the information privacy principles and noted that information privacy principle 10 in particular demanded some attention. I am certainly happy to go into this further with the honourable member during Committee of the Whole House, but, broadly, the inclusion of IPP 10 concerning automated decision-making is a notable difference from privacy principles in other Australian privacy legislation. IPP 10 is based upon the approach taken by overseas governments, particularly European Union members, to address the benefits afforded by automated decision-making whilst managing risks to privacy harm, negative bias and discrimination. Incorporating a purpose-specific IPP for automated decision-making supports

expected alignment with future national and also international jurisdictional privacy regimes. I agree with Hon Tjorn Sibma's comment that the information privacy principles are in advance of what we currently have. I note the IPPs are expressly required to be complied with, and failure to do so will be an interference of privacy for which a complaint may be made or an investigation commenced by the Information Commissioner.

Hon Tjorn Sibma is correct that this bill will assist and facilitate medical research. He referred to current barriers faced by the Telethon Kids Institute, now known as The Kids Research Institute Australia. The Kids undertakes many valuable research projects to improve the health, development and lives of children and young people in this state. Currently, when undertaking research projects in partnership with the state government, the institute must navigate a variety of legal frameworks that provide different circumstances for how and why information can be shared. This was noted in the institute's response to the PRIS discussion paper in 2019. The institute commented that the lack of a comprehensive whole-of-government information sharing framework limits the quality and also quantity of research that can be conducted in this state. On occasion, Parliament has also had to pass specific amending legislation to enable the work of the institute to be undertaken, such as amendments to section 16 of the Young Offenders Act 1994.

The PRIS bill will expressly enable bodies that carry out health-related research, such as The Kids Research Institute Australia, to request information from all public entities. It will also expressly authorise public entities to provide government information to the institute for the permitted purposes specified in the bill. Because of the consistent information sharing framework provided by the bill, organisations such as The Kids will be able to more effectively partner with the state government to access a range of high-quality information sets that are held by agencies, thereby enabling them to undertake more informed research that will benefit WA kids and young people.

Hon Wilson Tucker expressed concerns about the propagation of information across the public sector and how individuals are able to make requests to access and correct their personal information held by multiple agencies. There will be no specific process for an individual to request information about which agencies have their personal information; however, the accountability and transparency mechanisms under the PRIS bill and the Freedom of Information Act 1992 support the access and correction rights of individuals.

IPP 1 requires an entity to take reasonable steps to provide an individual with a collection notice when it collects personal information. That notice, generally given at or before collection, must describe the purposes for which the information is collected and also how it will be used or disclosed.

IPP 5 requires an entity to develop privacy policies that explain to individuals how it handles personal information, including what it is used for and to whom it might be disclosed. IPP 5 will also require an entity to let a person on request know the kinds of personal information that it collects and holds, how it handles that information, the purposes for which the personal information is handled and whether any personal information held by it is used for an automated decision-making process.

Under the Freedom of Information Act 1992, an individual can request government agencies to give access to their personal information and request that inaccurate personal information is corrected. The bill will not disrupt these access rights and will extend similar rights to personal information held by contracted service providers under IPP 6.

Hon Wilson Tucker also commented on the sharing of information in the public interest and the need to strike a balance. The government considers that this bill will achieve that. One of the objects of the bill is to balance the public interest in protecting the privacy of personal information handled by IPP entities with the public interest and the free flow of information. Information can be shared only under the responsible information sharing provisions if it is for a specified permitted purpose as set out in the bill.

Hon Wilson Tucker also mentioned the European Union's general data protection regulations under privacy rights that have been provided to individuals under that legislation. The commonwealth *Privacy Act review report* released last year proposed the introduction of new rights for individuals in relation to personal information about them in the commonwealth Privacy Act. Such rights are not currently included in the privacy legislation of other Australian jurisdictions. It is our view, and certainly we consider, that a consistent national approach to developing such rights is preferable. I note the general privacy discussions taking place between the commonwealth, states and territories that have already commenced following the recommendation of the commonwealth's *Privacy Act review report*, which has been to establish an interjurisdictional privacy working group. We will wait and see what steps the federal government takes in response to the commonwealth review on these matters.

Hon Wilson Tucker also correctly remarked that Western Australia has missed out on collaboration with not only federal, but also state and territory jurisdictions because of what we find ourselves with at the moment. One example of this has been that some WA agencies are not expressly authorised under their own legislation to provide critical government information to the National Disability Data Asset or NDDA. We are the only jurisdiction that faces these barriers to information sharing. The NDDA links data information from state and territory governments and provides insights about the needs of people with disability to inform and improve programs and services. We currently have minimal oversight of the impact of our services on people with disability—a gap that the NDDA would address. We have also, importantly, committed to investing just under $4 million in this project, with funds able to be recouped from

the commonwealth if we can share data to the NDDA. Without PRIS legislation, we risk not being able to gain important insights into the delivery of services to Western Australians with disability. Further, without PRIS, WA would have limited return on the money invested in this initiative. This bill will enable public entities in this state to overcome legislative barriers to sharing information nationally and to facilitate better outcomes for our community in WA.

Hon Tjorn Sibma also commented that we have not been able to provide specific examples of the policy problem regarding information sharing. There are a number of examples of when public entities have had to undertake an onerous process of amending legislation to enable the sharing of information for specific projects. An example of this is the School Curriculum and Standards Authority. It had to amend its legislation to enable it to disclose student data for the purposes of participation in NAPLAN Online testing to permit SCSA to disclose identified student information for the purposes of research involving students. With the PRIS bill in place, this could have been enabled by way of an information sharing agreement and it would not have had to spend the time and resources amending legislation. More broadly, due to the complex and fragmented nature of the current legislative environment, agencies may be uncertain about the relevant requirements, and understandably reluctant to share information in these circumstances. The bill contains clear requirements for safely handling personal information, and equally clear authorisations to share information when it is of benefit to the public. This clarity will build capability and support cultural change across the sector.

Hon Tjorn Sibma also queried the resourcing implications for the new Information Commissioner and the new deputy commissioners to be established under the Information Commissioner Bill 2024 and how they will be empowered to undertake their functions. In addition, the honourable member wanted to know how these commissioners will be accountable to Parliament. The exact course of establishing the offices is currently being determined based on an examination of comparable structures, functions and staffing in other jurisdictions, including Queensland and Victoria, and the Information and Privacy Commission in New South Wales. Funding for the new office will be sought through a budget submission at the appropriate time by the Department of Justice.

I turn to the independence and accountability of the commissioners. I confirm that this bill will preserve the independence of those statutory officers, while making it clear that the commissioners will not form part of the public service. They will have the same status as the current Information Commissioner under the Freedom of Information Act 1992. The Information Commissioner will also be required to report annually to Parliament on the operation of part 2 of the Freedom of Information Act 1992 and schedule 1 of the Privacy and Responsible Information Sharing Bill and the operations of each of the commissioners in the preceding financial year.

Hon Wilson Tucker indicated that he will move a number of amendments, and we will deal with those when we go into the committee stage. The honourable member also commented on de-identified information. De-identified information currently falls outside the scope of the commonwealth Privacy Act because, if properly de-identified, an individual is not identifiable from the information; therefore, the information is not personal information. However, there is a risk that de-identified information can be re-identified when linked to other information. These matters are picked up by IPP 11 in the PRIS bill. In recognising the risk that de-identified information can be re-identified when linked to other information, IPP 11 will put in place additional protections for de-identified information, requiring IPP entities to ensure that it is protected from misuse, loss and unauthorised re-identification, access, modification or disclosure, as well as re-identification, unless limited exceptions can be satisfied.

Hon Sophia Moermond made some comments, and I acknowledge her contribution to the second reading debate.

In his contribution, Hon Dr Brad Pettitt raised Aboriginal data governance and the fact that there are no references to data sovereignty. Advice received during consultation with Aboriginal stakeholder groups during the development of the legislation was that the proposed provisions in the bill should provide a mechanism to support Aboriginal data governance, but not go as far as to enable Aboriginal data sovereignty. These provisions represent a significant opportunity to deliver better outcomes for Aboriginal communities and support Aboriginal-led projects. They will also enable better engagement between government and Aboriginal stakeholders and will give better protections to the sensitive information held by government agencies. These provisions are an excellent foundation for future work in the Aboriginal data governance space and the work undertaken by the council and the department can provide a basis for better ways in which government agencies and Aboriginal organisations can work together to deliver projects that are important to Aboriginal people and communities. There is a bit more work to be done there.

Hon Nick Goiran asked a number of questions. The PRIS bill is the first of its kind in that this will be the first act to combine privacy and responsible information sharing. It otherwise builds on legislation and lessons in other jurisdictions, and, in some cases, goes further, such as the provisions on automated decision-making. The member also asked a number of other questions that I propose to deal with when we get into the Committee of the Whole stage.

That brings me to the completion of my reply. I again thank members for their contributions to the debate on the bills. Obviously, we will examine both further when we go into Committee of the Whole.

I commend the bills to the house.

Questions put and passed.

Bills read a second time.

PRIVACY AND RESPONSIBLE INFORMATION SHARING BILL 2024

Committee

The Deputy Chair of Committees (Hon Stephen Pratt) in the chair; Hon Stephen Dawson (Minister for Innovation and the Digital Economy) in charge of the bill.

Clause 1: Short title —

Hon WILSON TUCKER: The minister's speech in reply to the second reading debate mentioned some of the disclosure requirements on entities to make individuals aware that their information is being collected. So that I can frame in my mind the scenarios whereby usage by those entities would be shared with individuals as we get into some of the more specific clauses, could the minister please walk me through the scenarios in which entities will share information and make the individual aware that they have collected their personal information? Just to maybe add a little colour, during my contribution to the second reading debate, I gave two examples of general data protection regulation; then I gave another example from the PRIS bill whereby an individual gives information to entity A that it then shares with B and C. Could the minister please explain in those terms which entity in that workflow will disclose information back to the individual? That would be very helpful.

Hon STEPHEN DAWSON: A collection notice shall be provided to an individual each time the IPP entity collects personal information from them. However, the level of detail may vary. For example, the identity of the IPP entity may be obvious from the context or the entity may have already taken steps to notify an individual when the same or similar information was collected on a previous occasion. Notice must be provided in layers, so a full explanation to brief notices as individuals become more familiar with how the IPP entity operates and what it does with their personal information. There is no specific process for an individual to request information on which agencies have their personal information. However, the accountability and the transparency mechanisms under the PRIS bill and the FOI act will provide individuals with greater information.

IPP 1 requires an entity to take reasonable steps to provide an individual with a collection notice when it collects personal information, and that notice, which generally will be given at or before collection, must describe the purposes for which the information is being collected and will be used or disclosed.

IPP 5 requires an entity to develop privacy policies that explain to individuals how it handles personal information, including what it is used for and to whom it might be disclosed. IPP 5 also requires that, when requested, an entity must let a person know the kinds of personal information it collects and holds, how it handles that personal information, the purposes for which personal information is handled and whether any personal information held by the entity will be used for an automated decision-making process.

As I kind of alluded to earlier, under the FOI act, an individual can request government agencies to give access to her or his personal information and request that inaccurate personal information be corrected. As I indicated earlier, the bill before us does not disrupt these access rights, but extends similar rights for personal information that is held by contracted service providers under IPP 6.

Hon WILSON TUCKER: I thank the minister for the answer. He mentioned that if similar data is shared with another entity, say from entity A to entity B, then entity B will not need to disclose the fact that it is using similar information. Is that correct?

Hon STEPHEN DAWSON: Just to clarify, they would both have to let the person know that they have collected the data.

Hon WILSON TUCKER: By "the person", does the minister mean the individual?

Hon Stephen Dawson: By way of interjection, that is correct.

Hon WILSON TUCKER: Are there any exclusions or exceptions to that rule? If entity A discloses back to the individual that they shared the information with entity B, is entity B required to disclose back to the individual?

Hon STEPHEN DAWSON: Information privacy principle 9 provides that at or before the time—or if that is not practicable, as soon as is practicable afterwards—an IPP entity collects personal information that relates to an individual from the individual, it must take such steps, if any, as are reasonable in the circumstances to ensure that the individual is given, or made aware of, certain things. However, in some circumstances it will not be reasonable to take those steps. What is reasonable in the circumstances will always turn on the facts and circumstances; considerations such as the nature of the information, the timing of any information, the degree of interference and the public interest being served by the collection will come into play. Sometimes it may be impossible to give prior notice, such as when emergency services are being delivered. In other cases, immediate notification might be unreasonable as it could jeopardise the integrity of an investigation. In the area of family and domestic violence, for example, it may not always be appropriate for the information to be disclosed to the party.

Hon WILSON TUCKER: I thank the minister. I am curious about the collection notice and the disclosure back to the individual. How will the individual be notified? Will it be by post or email? How will they be notified?

Hon STEPHEN DAWSON: Notice can be provided in different ways: for example, by letter; in online form; or through a telephone script. It is set out that the notice should be easy to understand. IPP 1.12 requires the IPP entity to ensure that the notice is clear, concise and expressed in plain language, so people can understand it.

Hon WILSON TUCKER: I thank the minister. In situations in which de-identified information is shared between, say, entity A and entity B, how will the individual be notified that entity B is using their information if it is de-identified in such a way that the individual cannot be identified?

Hon STEPHEN DAWSON: If it is de-identified correctly, it is not personal information, so IPP 1.9 would not apply.

Hon TJORN SIBMA: I seek some clarification as to the agencies captured under the provisions of this bill. I refer to clause 6, "Public entities", and the list of public entities. "Police Force of Western Australia" is listed under clause 6(1)(c). Is the Western Australia Police Force bound entirely by the provisions encompassed by this bill, or is there some operations-dependent opportunity for WAPOL to work outside these information privacy principles?

Hon STEPHEN DAWSON: WAPOL is generally covered, but just to be clear, law enforcement agencies are not exempt from the entirety of the IPPs. This is consistent with the position in other jurisdictions. Clause 23, "Exception: law enforcement functions", expressly provides an exception to the application of specified IPPs to the handling of information by law enforcement agencies if the agency believes on reasonable grounds that noncompliance is necessary for the purposes of its—or any other law enforcement agency's—law enforcement functions. The IPPs that are limited in their application by this exception include those that deal with the collection, use and disclosure of personal information.

Hon TJORN SIBMA: I note that we are about to break up for the next proceeding. In the meantime, the reasons I specifically focused on that dimension are twofold. WAPOL is obviously listed by name at clause 6. Perhaps at another juncture I will seek to find out why the Corruption and Crime Commission, for example, is exempted at clause 17. The genesis of my interest is an article that appeared in *The West Australian* on 6 September, which I will read from. It is titled, "Police Commissioner Col Blanch forms committee to govern use of data-harvesting project". I will seek leave to table this after I have read the appropriate parts. It states —

> Intimate details of the lives of West Australians are being encoded and stored forever in a police "data lake" that is so invasive the force is creating an independent ethics committee to govern its use.
>
> Data from body-worn video, roadside traffic cameras, drone footage, mobile phone records … is being centralised and stockpiled in perpetuity so it can be trawled by future generations of detectives.
>
> The data-harvesting project is so far-reaching and contentious that Police Commissioner Col Blanch is forming a committee to advise him about how the information should be used.
>
> Mr Blanch believes the data pool will become an important resource for police but is wary that he may be accused of overseeing an institutionalised invasion of privacy.
>
> "Analysing massive amounts of data quickly enables more police to be out on the roads and responding to calls for help instead of in the office trying to make sense of it all," he said.
>
> "We are now at the point where technology is allowing us to solve almost every crime. The question for society is how much are we prepared to spend in order for that to happen? It is actually no longer just about putting more police officers on the street. It's about giving the police officers we have the technology, capability and support to focus on police work.
>
> "So, the question then becomes, how many data scientists do you employ to support the frontline police officers?

The article goes on and on. It continues —

> The data project is being headed by a chief technology officer who was poached from the resources sector.
>
> An ethics committee comprising academics, human rights experts and data scientists will draw lines in the sand ahead of legislation that will enshrine guidelines.
>
> The committee will operate in line with Federal and State artificial intelligence policies. Committee members will view police data use through the prism of the theoretical question "we can do this but should we?".
>
> "I am confident that I have a handle on what is morally right and wrong regarding the use of personal data but I don't know how the next police commissioner will see things," Mr Blanch said.
>
> Of particular moral concern is the fate of the mountain of data compiled during police —

Sorry, I have lost my place.

Committee interrupted, pursuant to standing orders.

[Continued on page 4518.]

QUESTIONS WITHOUT NOTICE

POLICE — AUTHORISED STRENGTH

1079. Hon PETER COLLIER to the minister representing the Minister for Police:

(1) Will the minister confirm that the total number of police officers on 30 June 2020 was 6 637?

(2) If no to (1), what was the total number of police officers on this date?

(3) Will the minister confirm that the Labor government's commitment of an additional 950 officers above attrition commenced from 30 June 2020?

Hon SUE ELLERY replied:

On behalf of the minister representing the Minister for Police, I thank the honourable member for some notice of the question.

(1)–(3) The Western Australia Police Force advises that authorised strength FTE was 6 381—that is a 6 637 headcount. The target recruitment total for the 950 program is 7 331. Funding for the 950 program was effective as of 1 July 2020.

HAKEA PRISON — INSPECTOR OF CUSTODIAL SERVICES REPORT

1080. Hon PETER COLLIER to the minister representing the Minister for Corrective Services:

(1) Has the 2024 Hakea Prison inspection report been completed?

(2) If no to (1), when will it be completed and tabled in the Legislative Council?

Hon SUE ELLERY replied:

On behalf of the minister representing the Minister for Corrective Services, I thank the honourable member for some notice of the question.

The Department of Justice advises as follows.

(1) No.

(2) The Office of the Inspector of Custodial Services is an independent statutory body that reports directly to Parliament. Recent reports tabled in Parliament indicate that reports take approximately 12 months to publish from time of inspection.

SOUTHERN PORTS AUTHORITY — GOLD VALLEY IRON ORE AGREEMENT

1081. Hon COLIN de GRUSSA to the Leader of the House representing the Minister for Ports:

I refer to the minister's announcement in June 2024 of the agreement between the Southern Ports Authority and Gold Valley Iron Ore—GVIR—to ship 1.5 million tonnes per annum through the port of Esperance.

(1) What is the term of the agreement?

(2) Is the agreement predicated on full cost recovery based on 1.5 million tonnes throughput per annum?

(3) In the event that GVIR increases throughput or another iron ore producer commences exporting through the port, will the iron ore be trucked to Kalgoorlie, then transferred to rail or will the Leonora–Kalgoorlie rail line be utilised?

Hon SUE ELLERY replied:

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

(1)–(2) The agreement is commercial-in-confidence.

(3) The arrangements for loading the product to rail are negotiated between Gold Valley and its rail services providers.

METROPOLITAN RAIL NETWORK — INTERRUPTIONS

1082. Hon TJORN SIBMA to the minister representing the Minister for Transport:

I refer to the reliability of the Perth rail network.

(1) How many occasions over the last seven days have services on Perth's rail network been interrupted and/or cancelled and on which lines?

(2) Has the underlying problem or problems responsible for the disruption been identified; and, if so, what is the problem or problems?

Sorry, Leader of the House, that should have been directed to you.

Hon SUE ELLERY replied:

It was not redirected to me. The Minister for Emergency Services is just out of the chamber on urgent parliamentary business, and I answer on his behalf.

(1)–(2) There were six unplanned terminations/cancellations of train services across the network over the past week. All the underlying problems were identified and dealt with at the time of the disruptions.

WA COUNTRY HEALTH SERVICE — CHILD DEVELOPMENT SERVICE

1083. Hon DONNA FARAGHER to the parliamentary secretary representing the Minister for Health:

I refer to the press statement titled "$39 million for major expansion of Child Development Services" dated 9 April 2024, which states —

> The Cook Government will invest $39 million in both the Child and Adolescent Health Service metropolitan service (CAHS–CDS) and WA Country Health Service regional service (WACHS–CDS), as part of the 2024–25 State Budget.

(1) Can the minister advise how much of the $39 million has been allocated to the WA Country Health Service Child Development Service?

(2) How many staff are expected to be employed in the WACHS–CDS as part of this funding allocation?

(3) Of those referred to in (2), how many WACHS–CDS staff have been employed to date?

Hon PIERRE YANG replied:

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

(1) There has been $8.63 million allocated.

(2) There will be 19.4 FTE.

(3) There have been 3.1 FTE employed to date.

GRIFFIN COAL — GOVERNMENT CONSULTANTS

1084. Hon Dr STEVE THOMAS to the minister representing the Minister for State and Industry Development, Jobs and Trade:

I refer to the government paying consultants for advice on how to manage the government's management of the foreign-owned and insolvent Griffin Coal and the minister's statement to the house on 12 September 2024 during debate on the Collie Coal (Griffin) Agreement Amendment Bill 2024 when he said —

> We are not currently paying consultants for advice on a solution.

(1) What is the total that has been paid to the following consultant firms for advice on Griffin Coal during 2023 and 2024 to date —

  (a) KPMG;

  (b) Ad Astra Corporate Advisory;

  (c) Sternship Advisers;

  (d) Preston Consulting; and

  (e) the legal firm Ashurst?

(2) What reports has each consultant delivered to the government and when?

(3) Which consultant firms delivered a final report to the government and when did they deliver it?

(4) To who or whom were the reports furnished, and will the minister tabled the reports to the house; and, if not, why not?

(5) As of 16 September 2024, are any consultants still engaged by the government as consultants on the insolvent Griffin Coal; and, if so, which ones?

Hon SUE ELLERY replied:

On behalf of the minister representing the Minister for State and Industry Development, Jobs and Trade, I thank the honourable member for some notice of the question. An answer has been provided, and I signed off on it for the Minister for Emergency Services, but it is not in the file. If it comes in before the end of question time, I will give it to the member then.

FITPACKS — NEEDLE AND SYRINGE PROGRAM

1085. Hon NEIL THOMSON to the parliamentary secretary representing the Minister for Health:

A child in Broome recently received a needle stick injury from a discarded needle, and I note that locals report a proliferation of discarded needles in and around the Broome Health Campus.

(1) Does the government accept any chain of responsibility after needles are distributed, including when they later injure a community member?

(2) Noting the minister's answer to question without notice 998 that stated that pre-packaged needles and syringe packs include a disposal receptacle and are labelled with safe disposal information, has the minister considered other measures to enhance community safety?

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

(4) Has the minister considered only distributing self-retracting needles?

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

(6) If yes to (4), why have these not been adopted?

Hon PIERRE YANG replied:

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

(1) The Department of Health takes all measures possible to encourage and support the safe disposal of used needle and syringes.

(2)–(3) Yes.

(4)–(6) Retractable needles are not deemed suitable for use in the context of intravenous drug use as they have the potential to increase risk of transmitting bloodborne disease.

OSBORNE PARK HOSPITAL — MOTHER AND BABY UNIT

1086. Hon SOPHIA MOERMOND to the parliamentary secretary representing the Minister for Health:

I refer to the recent media statement titled "More support for new mums and babies at Osborne Park Hospital".

(1) How many beds are expected to be provided by the new mother and baby unit?

(2) How many staff are expected to be a part of this unit?

(3) How many proposals for contractors has the government received so far in relation to the women's and babies' hospital?

Hon PIERRE YANG replied:

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

(1)–(2) The mother and baby unit at Osborne Park Hospital will deliver an eight-bed unit, with a similar staffing profile to the existing unit at King Edward Memorial Hospital for Women. The final unit specifications will be subject to stakeholder consultation.

(3) The details remain commercial-in-confidence.

PUBLIC HOUSING — FIXED-TERM LEASE TERMINATIONS

1087. Hon Dr BRAD PETTITT to the minister representing the Minister for Housing:

I refer to today's ABC online article titled "Calls for government departments to work with families after suicide linked to public housing rejection".

(1) How many tenancies were terminated in the last five years at the end of a fixed term?

(2) How many public housing tenancies were terminated in the last five years without proceeding to trial?

Hon JACKIE JARVIS replied:

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

The Department of Communities advises that an answer is unable to be provided within the time provided. Should the member wish to place this question on notice, the minister will endeavour to provide a response.

COMMUNITIES — HOUSING

1088. Hon WILSON TUCKER to the minister representing the Minister for Housing:

I thank the minister for the response to my previous question regarding state-managed residential dwellings in the goldfields region. Can the minister further break down the 1 977 properties by town or city location?

Hon JACKIE JARVIS replied:

I thank the member for some notice of the question. I represent the Minister for Housing in this chamber. On behalf of the Minister for Housing, the Department of Communities does not readily collect data in the manner requested and the requested data cannot be provided in the time available. Should the member have a more specific question or wish to place the question on notice, the minister will endeavour to provide a response in due course.

CORONAVIRUS — CANNABIS USERS

1089. Hon Dr BRIAN WALKER to the parliamentary secretary representing Minister for Health:

I refer the minister to the words of then-Premier Mark McGowan, who told us that we should "follow the science" when it came to COVID-19, and to a recent study published in the peer-reviewed journal *Cannabis and Cannabinoid Research*, which concluded that "cannabis users had better (COVID) outcomes and mortality compared with non-users."

(1) When the government undertook its whole-of-government review of the state's COVID response last year, did it consider any of the ways in which cannabis might have eased symptoms for patients, be it in terms of the severity of infection, lower rates of respiratory distress or mortality?

(2) If no to (1), why was that not a consideration for the McGowan or Cook governments?

(3) Will the minister commit to having this latest study considered in detail by her department in the hope that we can learn from the reviews that others have undertaken, if not necessarily from our own?

Hon PIERRE YANG replied:

I thank the member for some notice of the question. The following answer has been provided by the Minister for Health.

(1) No.

(2) It did not form part of the independent review's terms of reference.

(3) The Department of Health undertakes evidence-based methods to inform its policies and recommendations, including learning from the reviews of others.

POLICE — REGIONAL ENFORCEMENT UNIT

1090. Hon MARTIN ALDRIDGE to the minister representing the Minister for Police:

I refer to the regional enforcement unit and a recent change in Western Australia Police Force policy that now prevents Parliament from knowing the resourcing level of the unit, despite the information being disclosed in 2018 and 2020.

(1) On what date did the Western Australia Police Force advise the minister that its policy had changed in relation to disclosing resourcing levels of the unit to Parliament?

(2) Noting that the policy refers to resourcing information below the district/divisional level, why does the policy apply to the regional enforcement unit as a statewide service?

(3) Without disclosing actual resourcing levels, can the minister confirm that the unit is operating at authorised strength with no vacancies?

(4) Noting that the former Minister for Police has been able to answer such questions to Parliament and include relevant resourcing detail in ministerial media statements, when will the minister lodge a section 82 notice with the Auditor General so that Western Australia Police Force claims of operational sensitivity can be scrutinised?

Hon SUE ELLERY replied:

I thank the member for some notice of the question. I provide this answer on behalf of the minister representing the Minister for Police.

(1)–(4) The Commissioner of Police is in frequent contact, providing information on an array of issues relating to operational sensitivities pertinent to the minister's role as Minister for Police. For the awareness of the honourable member, the regional enforcement unit is within the divisional level. The Western Australia Police Force advises that the unit is operating at authorised strength. Due to operational sensitivities, staffing information below the district/divisional level is not released.

FIREARMS — DESTRUCTION

1091. Hon LOUISE KINGSTON to the minister representing the Minister for Police:

I refer to Hon Dr Brian Walker's question on Thursday, 12 September regarding the recent media event showing the destruction of firearms by detonation. There have been gun ranges closed in Western Australia due to contamination, for example the Midland Sporting Firearms Association range, and detonating a large number of firearms would contain significant amounts of lead and heavy metals that would be released into the environment.

(1) What measures are being taken to manage contamination issues at the explosion site?

(2) Are the remains of the weapons then being reviewed to ensure that no intact parts remain?

(3) Are staff working at the sites using suitable personal protective equipment?

(4) How far away was the person who took the photo?

Hon SUE ELLERY replied:

I thank the member for some notice of the question. I provide this answer on behalf of the minister representing the Minister for Police.

(1)–(4) The Western Australia Police Force advises that due to public safety and operational security this information will not be disclosed.

TEACHERS — QUALIFICATIONS

1092. Hon NICK GOIRAN to the Leader of the House representing the Minister for Education:

I refer to the supplementary information provided to the Standing Committee on Estimates and Financial Operations following the 2023–24 budget estimates hearing on 25 June 2024. It asserts that at the beginning of the school year, "There was a teacher in front of every classroom." How many of those people did not have a teaching qualification or degree?

Hon SUE ELLERY replied:

I signed off on the answer to this. It is not in my file. If it comes in, I will give it to the honourable member.

PUBLIC HOUSING — BUSSELTON–DUNSBOROUGH

1093. Hon STEVE MARTIN to the minister representing the Minister for Housing:

I refer to the public housing stock in the Busselton/Dunsborough region.

(1) How many properties are there in total stock for the region as of the latest available data?

(2) How many properties in the region are currently vacant?

(3) What is the average time the properties in (2) have remained vacant?

Hon JACKIE JARVIS replied:

I thank the member for some notice of the question. The following response has been provided by the Minister for Housing.

(1)–(2) Occupancy rate data represents a single point of time that fluctuates for a range of reasons. Properties may be awaiting acceptance of offers from applicants or undergoing maintenance repairs or refurbishment prior to new occupants moving in. This includes properties that have been spot purchased, which may require refurbishment to be brought up to clean, safe and working order. Levels of occupancy will fluctuate between regions for a range of reasons, including areas where there are higher levels of ageing stock or where stock is located in areas of demand.

I seek leave to have data below representing public housing occupancy as at 31 July 2024 incorporated into *Hansard*.

[Leave granted for the following material to be incorporated.]

Category	Number of Properties
City of Busselton LGA	602
Returning Voids*	22
Not-Returning Voids	1
*Vacant housing stock is categorised between 'returning' and 'not-returning'. Returning properties will undergo maintenance on any necessary repairs to be made available and then relet to an applicant on the wait list. Not-returning properties represent dwellings that have been earmarked for a purpose other than reletting to an applicant on the wait list, such as where the property is being considered for demolition or redevelopment.	

It should be noted that returning and non-returning voids represent less than four per cent of total public housing in the City of Busselton local government area.

(3) The Department of Communities advises that an answer is unable to be provided within the time provided. Should the member wish to place the question on notice, the minister will endeavour to provide a response.

KNIFE CRIME — STOP-AND-SEARCH LAWS

1094. Hon PETER COLLIER to the minister representing the Minister for Police:

I refer the minister to his response to question without notice 605 on 29 May 2024. What category of crime includes knife attacks?

Hon STEPHEN DAWSON replied:

I thank the Leader of the Opposition for some notice of the question. The Western Australia Police Force advises that knife attacks are recorded as selected offences against the person when the incident modus operandi involves a type of edged weapon.

WEST COAST DEMERSAL SCALEFISH RESOURCE MANAGEMENT ARRANGEMENTS

1095. Hon COLIN de GRUSSA to the parliamentary secretary representing the Minister for Fisheries:

I refer to the west coast demersal scalefish resource management arrangements.

(1) When was the most recent stock assessment completed for the WCDSR?

(2) Has the data from that assessment been provided to licence holders that operate within the WCDSR or the Western Australian Fishing Industry Council?

(3) Is there any proposal to adjust sectoral allocations or total allowable catch for licence holders on the basis of the assessment?

(4) If yes to (3), what is the basis for the proposed adjustments?

Hon KYLE McGINN replied:

I thank the member for some notice of the question. The following answer has been provided by the Minister for Fisheries.

(1) The most recent stock assessment of the west coast demersal scalefish resource was completed in 2021. The 2024 stock assessment of the WCDSR is in the final stages of completion.

(2) The 2021 assessment is publicly available.

(3) Management settings for WCDSR have had regard for the 2021 stock assessment.

(4) Not applicable.

ROAD SAFETY SUMMIT

1096. Hon TJORN SIBMA to the Leader of the House representing the Minister for Road Safety:

I refer to the road safety roundtable meeting that was held on 2 September.

(1) Were minutes of the meeting kept; and, if so, can they be tabled?

(2) With respect to the decisions that eventuated from the meeting, how were those decisions authorised and by whom?

Hon SUE ELLERY replied:

I thank the member for some notice of the question.

(1)–(2) The road safety roundtable brought together a range of road safety experts and advocates, all of whom provided valuable insights, interesting ideas and suggestions. Those ideas were recorded and are now under review.

There will be short, medium and long-term initiatives that emerge from the discussion, but any changes in road safety policy or road rules must be practical, enforceable, backed by evidence and not have unacceptable unintended consequences.

As a starting point, on the Friday following the roundtable, new key initiatives totalling $32.5 million were announced. The new initiatives include $20 million for improvements to local government high-speed roads, two new breath and drug-testing buses for enforcement across the entire state and increased police traffic enforcement in regional WA in new high-visibility police traffic patrol cars. Funding will also be used to increase the collection of data to be more predictive and work out where crashes might happen in advance. The key driver behaviours killing people on our roads are speeding, drink driving, driver fatigue, mobile phone usage and not wearing a seatbelt—all of which were discussed at the roundtable.

President, if I might add, I had two files running. I mixed them up. I was looking for the minister's questions in mine and mine in his; chaos was happening. All is now resolved.

The PRESIDENT: Pleased to hear it, Leader of the House.

SCHOOLS — SERVICES

1097. Hon DONNA FARAGHER to the Leader of the House representing the Minister for Education:

That is excellent news! Hopefully, the Leader of the House might have the answer to this question.

I refer to services provided in government schools in Western Australia and I ask the following.

Will the minister provide a breakdown by headcount and FTE of the total number of —

(a) youth workers;

(b) social workers; and

(c) student support officers

currently employed to work in government schools?

Hon SUE ELLERY replied:

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

An answer cannot be provided in the given time; therefore, an answer will be provided in two sitting days' time, Thursday, 19 September.

ECOLOGICAL THINNING

1098. Hon Dr STEVE THOMAS to the Minister for Forestry:

I refer to an ecological thinning trial happening on Mornington Road between Harris River Road and Gastaldo Road in Collie with a sign claiming it to be the Department of Biodiversity, Conservation and Attractions conducting ecological thinning.

(1) What volume of log has been harvested as ecological thinnings on the site?

(2) What volume of residue has been produced in the process?

(3) To whom have the ecological thinnings been sold or to what market will they be presented?

(4) When did the ecological thinning commence on the site and when will it finish?

(5) What is the total area of land on which DBCA is conducting ecological thinning?

Hon JACKIE JARVIS replied:

I thank the honourable member for some notice of the question. The question has been directed to me as Minister for Forestry.

(1)–(3) The Department of Biodiversity, Conservation and Attractions' ecological thinning program is based on forest health outcomes, not timber production, under the forest management plan. The Forest Products Commission undertakes this ecological thinning work for DBCA and salvages any timber for use by local businesses in WA.

(4) Ecological thinning of the Hamilton forest enhancement area commenced under the previous FMP as part of machine operational trials and continues under the current 2024–33 FMP.

(5) The Hamilton forest enhancement area is 451 hectares.

FITPACKS — NEEDLE AND SYRINGE PROGRAM — BROOME HOSPITAL

1099. Hon NEIL THOMSON to the parliamentary secretary representing the Minister for Health:

I refer to concerns raised with me by health professionals that children as young as eight years old are being provided fitpacks through the Department of Health's free needle program and the concern that those needles are being used for drug use by either themselves or other adults or children.

(1) Are there any restrictions on the age of a person requesting a fitpack?

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

(3) Does the department maintain any records of persons requesting a fitpack?

(4) How many sharps disposal bins does the Department of Health provide in and around the Broome Hospital grounds, which are accessible to people acquiring fitpacks?

Hon PIERRE YANG replied:

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

(1)–(2) Fitpacks are distributed in line with best practice to reduce the bloodborne virus risk of those using intravenous drugs. When distributing fitpacks, clinical judgement is used as well as providing information and referrals to drug services where appropriate.

(3) In accordance with harm reduction principles, patient confidentiality is maintained when distributing fitpacks. Additionally, fitpacks are provided by a range of providers, including private operators.

(4) There are two sharps disposal bins on the hospital grounds.

FAMILY AND DOMESTIC VIOLENCE PRIMARY PREVENTION GRANTS PROGRAM

1100. Hon SOPHIA MOERMOND to the minister representing the Minister for Prevention of Family and Domestic Violence:

I refer to the $6 million grant funding under the family and domestic violence primary prevention grants program.

(1) Could the minister table a breakdown of how the $6 million is split across the 16 successful recipients?

(2) How many applications for this grant were received in total?

Hon JACKIE JARVIS replied:

I thank the honourable member for some notice of the question. The following response has been provided by the Minister for Prevention of Family and Domestic Violence.

(1)–(2) Seventy-one applications were received. Not all applications met the requirement to focus on primary prevention. The breakdown of the 16 successful grants is in tabular format. I seek leave to have the response incorporated into *Hansard*.

[Leave granted for the following material to be incorporated.]

LC QWN C1210 – Primary Prevention Grants

Organisation Name	Project Name	Price (exc. GST)
Youth Affairs Council of WA Inc	The Youth Affairs Council of Western Australia (YACWA)'s Family and Domestic Violence (FDV) Primary Prevention Project	$499,966.00
Innovation Unit Australia New Zealand Limited	Defusing the Manosphere: Equipping trusted male role models to shape healthy masculinities	$230,625.00
City of Cockburn	Baby Makes 3	$400,044.42
Zonta House Refuge Assn Inc	Zonta House Partnering in Prevention Program	$500,000.00
Communicare Group Limited	Kuop Maaman Djinaning-Bo (Good Men Looking Forward)	$500,000.00
Desert Blue Connect Inc.	Mid-West Early Years Gender Equality (MEYGE)	$425,962.00
Anglicare WA – Application 1	Anglicans Standing Together	$237,700.00
Gawooleng Yawoodeng Aboriginal Corporation	Binarrig-gerring Jawalenga-woor Strong Men Big Mob Primary Prevention Project	$500,000.00
Health Communication Resources Inc	Using community media to drive gender equality in Geraldton, WA	$242,886.00
Indigo Junction Incorporated	Youth Empowerment Program! (YEP!)	$500,000.00
Mens Outreach Service Aboriginal Corporation – Application 1	Dijun Way (DW) YoungN Deadly	$499,536.00
Save the Children Australia	Safer Pathways	$217,000.00
University of Western Australia	Yurla Wangga FDV Primary Prevention Towards Ending Violence	$500,000.00
Pilbara Community Legal Service Incorporated	Love Shouldn't Hurt	$191,129.64
Pat Thomas House Inc t/a Ovis Community Services – Application 1	Safe Futures	$351,440.55
The Trustee for Women at Risk Trust – Application 2	Co-Designing Impact Primary Prevention Project	$167,987.00

GREYHOUND ADOPTION PROGRAM KENNEL FACILITY

1101. Hon Dr BRAD PETTITT to the minister representing the Minister for Racing and Gaming:

I refer to comments made by Mr Ian Edwards, CEO of Racing and Wagering Western Australia, on 8 May 2024 that work to the new greyhound adoption program kennel facility was about to start and it should be open by 2025.

(1) Has work started on the new kennel facility?

(2) If yes to (1), when did work begin?

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

(4) When in 2025 will the new kennel facility be completed and operational?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. Racing and Wagering Western Australia advises the following.

(1) Construction work has not yet commenced.

(2) Not applicable.

(3) A provider has not yet been appointed following the tender process.

(4) Construction timeframe has been scheduled at 12 months by RWWA dependent on the tenderer's ability to meet timeframe deliverables.

KIMBERLEY COMMUNITY ALCOHOL AND DRUG SERVICE CLINICS

1102. Hon WILSON TUCKER to the parliamentary secretary representing the Minister for Mental Health:

For each year over the last five years, can the minister please provide the full-time equivalent staff allocation and actual headcount figures for each of the following Kimberley community alcohol and drug service clinics —

(a) Broome;

(b) Derby;

(c) Fitzroy Crossing;

(d) Halls Creek;

(e) Kununurra; and

(f) visiting services available across the region?

Hon PIERRE YANG replied:

I thank the honourable member for some notice of the question. The following answer has been provided by the Minister for Mental Health.

(a)–(f) The actual FTE over the last five financial year periods inclusive of all sites is as follows. If the honourable member would like a further breakdown, I would ask that he put the question on notice. The rest of the answer is in tabular form and I seek leave to have it incorporated into *Hansard*.

[Leave granted for the following material to be incorporated.]

Year	FTE Actual
19/20	20.6
21/21	21.1
21/22	21.5
22/23	19.1
23/24	19.9

FIREARMS — LICENSING REQUESTS

1103. Hon Dr BRIAN WALKER to the minister representing the Minister for Police:

I refer the minister to correspondence received by one of my constituents from the WA police firearms licensing unit, explaining that it has experienced a high volume of applications in recent weeks, leading to a potential six-week processing delay.

(1) How many firearms licensing requests have been received by the firearms branch since the government's buyback scheme was announced?

(2) How many of those applications are still outstanding?

(3) How does the number of applications for renewal and/or new licensing applications compare with the firearms surrendered under the scheme?

Hon STEPHEN DAWSON replied:

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

(1)–(3) The Western Australia Police Force advises that 5 412 firearm licence applications were received in the same period, 38 442 firearms were surrendered and 1 354 firearm licence applications remain outstanding.

BINDOON BYPASS — GREAT NORTHERN HIGHWAY

1104. Hon MARTIN ALDRIDGE to the minister representing the Minister for Transport:

I refer to the Bindoon bypass on the Great Northern Highway.

(1) Have all environmental approvals for the southern section been attained?

(2) Is total land acquisition for the southern section of the project on track for stage 4 to go to contract in March 2025?

(3) What is the total cost of the project to date?

(4) Noting that civil works on the northern section are ongoing and works are yet to start on the 46-kilometre southern section, has the state government considered the likely shortfall in funding?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. I am just seeing this for the first time.

(1)–(4) All required environmental approvals have been attained for the southern section, and land acquisition is on track. Estimated expenditures to date for Main Roads Western Australia projects are contained within the state budget papers. An updated cost estimate for the southern section is currently underway to determine whether additional funding is required. We will see whether I can get the information about the estimated cost for the member.

WATER CORPORATION — PERTH VEGAN EXPO

1105. Hon LOUISE KINGSTON to the parliamentary secretary representing the Minister for Water:

The Perth Vegan Expo, which was run by the Animal Justice Party, was held in Perth on 6 and 7 April 2024 and supported by Water Corporation. Why is a government department supporting an Animal Justice Party event when one of the public sector code of ethics key points is impartiality?

Hon MATTHEW SWINBOURN replied:

I thank the member for some notice of the question. The following answer has been provided to me by the Minister for Water.

The premise of the question is incorrect. The event referred to by the member was not run by the Animal Justice Party. Water Corporation, a government trading enterprise, supports community not-for-profit events at their request across Western Australia. Water Corporation provides this service to ensure community health and safety outcomes, particularly during periods of high temperatures. It can also reduce plastic waste. In this instance, Water Corporation supplied water refill stations for the expo. In making the application, the organisation that made the request accepted the terms and conditions by confirming that the event was free from political and religious beliefs.

CHILDREN IN CARE — WHEREABOUTS UNKNOWN

1106. Hon NICK GOIRAN to the minister representing the Minister for Child Protection:

I refer to the answer to my question without notice 1018.

(1) Has the child that the Department of Communities reported to WA police as a missing person been found?

(2) Are the whereabouts of the five children recorded as "unaccounted for—in contact" now known?

(3) For how many days were the whereabouts of the six children unknown?

(4) Further to (3), were any of the children a victim of crime during this period?

(5) How many children who are in the care of the CEO have their whereabouts currently recorded as —

(a) unaccounted for—in contact;

(b) unaccounted for—not in contact; and

(c) missing?

Hon JACKIE JARVIS replied:

I thank the honourable member for some notice of the question. The following response has been provided by the Minister for Child Protection.

The Department of Communities advises the following as of the 17 September 2024.

(1) Yes.

(2) The whereabouts of one of the young people is now known. Four young people remain unaccounted for—in contact.

(3) Unaccounted for, in contact: four and 17 days.

Three young people remain unaccounted for, not in contact for 13, 20 and 105 days; and missing: three days.

(4) There have been no known reports. Generally, reporting of crimes may also be delayed for a variety of reasons.

(5) There are —

(a) six;

(b) two; and

(c) one.

FIRST HOME BUYERS

1107. Hon STEVE MARTIN to the Minister for Finance:

I refer to first home buyers in Western Australia.

(1) How many first home buyers were there in Western Australia in 2023–24?

(2) In reference to (1), how many of those purchased an established home?

(3) How many referred to in (2) paid no transfer duty at all?

(4) In reference to (1), how many of those entered a contract to build or purchased a newly built home?

Hon SUE ELLERY replied:

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

(1)–(4) RevenueWA does not hold data on the total number of first home buyers in Western Australia. The only data collected by RevenueWA is applications for the first home owner grant and/or the first home owner concessional rate of duty. Not all first homebuyers will apply for the grant or the concession.

CRIMINAL INJURIES COMPENSATION ACT — POLICE OFFICER — PAYMENT ELIGIBILITY

1108. Hon PETER COLLIER to the parliamentary secretary representing the Attorney General:

(1) What is the maximum amount available to a police officer eligible for payment under the Criminal Injuries Compensation Act?

(2) Has the maximum amount available to police officers increased since the introduction of the act?

(3) Does the government have any intention of increasing the maximum amount available to police officers?

Hon MATTHEW SWINBOURN replied:

I thank the member for some notice of the question. The following answer has been provided to me by the Attorney General.

(1) It is $75 000 for each incident, with a total maximum allowed of $150 000.

(2) No.

(3) The review of the criminal injuries compensation scheme in Western Australia tabled in Parliament on 11 February 2020 recommended that there be no change to the maximum amount of compensation that may be awarded in respect of a single offence, noting the government is currently considering the recommendations contained in that report.

ROAD TRAUMA TRUST ACCOUNT

1109. Hon TJORN SIBMA to the Leader of the House representing the Minister for Road Safety:

I refer to the additional $32.5 million road safety funding through the road trauma trust account. What is the precise breakdown of the expenditure over the next four years?

Hon SUE ELLERY replied:

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

There is $5 million a year from 2024–25 to increase funding and the scope of the regional road safety program to include treatments on local government roads for a total of $20 million. There is $2.1 million in 2024–25 for the Western Australia Police Force for operation regional influence. There is an allocation of $1.063 million in 2024–25, $2.586 million in 2025–26, $2.446 million in 2026–27 and $2.5 million in 2027–28 for the purchase, fit-out and operation of two additional breath and drug-testing buses for regional WA for a total $8.595 million. Also, $1.8 million is allocated in 2024–25 to purchase a whole-of-government, including all local governments, annual subscription to vehicle telematics data to support a range of road safety purposes.

TEACHERS — QUALIFICATIONS

Question without Notice 1092 — Answer Advice

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.04 pm]: In response to a question asked earlier in question time by Hon Nick Goiran to me representing the Minister for Education, I can provide the following answer.

An answer cannot be provided in the given time; therefore, an answer will be provided in two sitting days' time, on Thursday, 19 September.

FINANCE — REAL ESTATE AGENT TRUST ACCOUNTS

Question on Notice 2102 — Answer Advice

HON SUE ELLERY (South Metropolitan — Minister for Finance) [5.05 pm]: Pursuant to standing order 108(2), I wish to inform the house that the answer to question on notice 2102 asked of me as Minister for Finance; Commerce; Women's Interests will be provided by Thursday, 19 September 2024.

GRIFFIN COAL — GOVERNMENT CONSULTANTS

Question without Notice 1084 — Answer

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services) [5.05 pm]: Hon Dr Steve Thomas asked a question earlier during question time. An answer was not available at the time. The answer is as follows.

(1) (a) It is $1 271 478 including GST.

(b) It is $561 061 including GST.

(c) It is $263 534 including GST.

(d) It is $207 757 including GST.

(e) It is $609 472 including GST.

(2)–(4) This information is commercial-in-confidence.

(5) Yes. KPMG, Preston Consulting and Ashurst are currently engaged. Ad Astra Corporate Advisory and Sternship Advisers are not currently engaged.

FIREARMS ACT

Question without Notice 1043 — Answer

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services) [5.06 pm]: I provide an answer to part (3) of Hon Louise Kingston's question without notice 1043 asked last week on 11 September. The answer is zero.

JUDICIAL COMMISSION

Question without Notice 1041 — Answer

HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary) [5.06 pm]: I provide an answer to Hon Dr Brian Walker's question without notice 1041 asked on 11 September.

I seek leave to have the response incorporated into *Hansard*.

[Leave granted for the following material to be incorporated.]

Answer

(1) The Solicitor-General consults relevant Heads of Jurisdiction, including the Head of the Court to which the person is proposed to be appointed, as well as appropriate representatives of the legal profession.

(2) The Department of Justice does not have a role in the selection of judicial officers. Consequently there is no requirement for the Department to have any guidelines.

(3) No.

PRIVACY AND RESPONSIBLE INFORMATION SHARING BILL 2024

Committee

Resumed from an earlier stage of the sitting. The Chair of Committees (Hon Martin Aldridge) in the chair; Hon Stephen Dawson (Minister for Innovation and the Digital Economy) in charge of the bill.

Clause 1: Short title —

Committee was interrupted after the clause had been partly considered.

Hon TJORN SIBMA: I refer again to the article of 6 September, which I will seek leave to table at the conclusion. Potentially during the brief recess, the minister's advisers had the opportunity to familiarise themselves with the article. I go on very briefly. The article ascribes a sense of an ethical dilemma to the Commissioner of Police about what in parts is called the data lake or in parts the data mountain. Irrespective of the interchangeability of the analogy, obviously the issue is that we are dealing with a copious or enormous amount of material. I quote the article —

> Of particular moral concern is the fate of the mountain of data compiled during police investigations which do not yield arrests or convictions.

It goes on to recount in brief detail some of the ethical conundrums that this Parliament has ended up remediating in relation to the use and misuse of data collected from the SafeWA app, for instance. The concept of the volume being hoovered up here is absolutely apropos of the bill and relates directly to the series of exclusions in the bill to which the minister referred. Yes, the Western Australia Police Force is a public entity for IPP purposes, but it has unique carve outs, the majority of which deal with the matter of collection. I do not think it is an insignificant matter. In relation to this, the article—this is the first time I became aware of the matter—states —

> Mr Blanch recently awarded a $4.9 million contract to "missions specialist" company …

That would presumably enable it to understand and make more effective the harvesting of data and its use. It insinuates further that Fugro is the company that has been commissioned by WAPOL to do the work. My first question in relation to that is: to what degree have the Western Australia police been involved and consulted in the formation of this bill?

The CHAIR: Member, you indicated that you were intending to seek leave.

Hon TJORN SIBMA: I seek leave to table the article.

[Leave granted. See paper 3501.]

Hon STEPHEN DAWSON: It is fair to say that WA police were consulted during all stages of the bill. I will add a couple of things to that. Firstly, I thank the member for tabling the article. I am not so sure that the member has not conflated two different things. Obviously, the article refers to the data mountain. The member also mentioned the contract that the police force has entered into with Fugro, which specialises in autonomous vehicles, robotics, remote communications and data. I think they are two different issues. I do not think Fugro has been brought on board to deal with the data issue.

Secondly, I put on the record that, as I said previously, the WA Police Force will be bound by the privacy provisions of the bill. Subject to the application of the law enforcement exception, which will not apply to all IPPs, the WA Police Force will need to consider the privacy of personal information through the life cycle of information handling—from collection to use and disclosure, security and destruction. This bill will not affect its current powers, but it will need to consider privacy matters and consequences upon commencement of this legislation. It will also be subject to the oversight of the new Information Commissioner and Privacy Deputy Commissioner, which is critical to ensuring that personal information is being protected. In addition, it is important to note that the information-sharing provisions of this bill only authorise information-sharing arrangements to be entered into for a permitted purpose. A purpose that relates to a law enforcement function of a law enforcement agency, other than a community policing function, is not a permitted purpose so the WA Police Force cannot use the responsible information-sharing provisions to disclose information for that purpose. But, as I said, its current powers under existing legislation will not be impacted; we will not be taking away its rights.

Hon TJORN SIBMA: The purpose of this is not only to clarify what effect this bill will have on the police, but also to explore to what degree the police force is potentially constructing some kind of policy framework that operates in parallel with the policy and objects of the bill or doing something quite different. I appreciate the position that the minister is in because this is not a police bill, even though he occasionally represents the Minister for Police in this chamber. I am curious to understand whether anybody who has had a principal role in and been directly responsible for the drafting of this bill and its policy has been invited by the Commissioner of Police to participate in the ethics committee that he constituted?

Hon STEPHEN DAWSON: I do not have that information, honourable member. My advisers are not aware of who is on that ethics committee that the commissioner has established or is establishing. WAPOL runs that itself and it has not been disclosed to us.

Hon TJORN SIBMA: Thank you, minister.

There is obviously a danger in taking the words of the most diligent journalist and investing them with absolute truth, and that is absolutely no criticism of Mr Harvey or any particular journalist. Sometimes the nuance is obstructed or obfuscated in the process of attempting to put together a sharp article. I was struck by the reference in that article to the driver of the commissioner's anxiety, which I will not necessarily say in a pejorative sense, or his desire to answer some of these ethical and moral questions around the harvesting and utilisation of the data. By constructing an ethics committee to provide advice to him and the service in relation to it, he intended to do this ahead of guidelines that will be enforced or enshrined in legislation. I am attempting to understand whether the commissioner is attempting to get ahead of these guidelines. Indeed, if everything is so clear and the police have been consulted to date, what would be the necessity behind the commissioner deciding upon that course of action? Potentially, the commissioner is foreshadowing other legislation. Without being cute about it, we appreciate to a degree that the government has prioritised its legislation. I understand that we will not get the codeword briefing on a number of those bills, but I will use this opportunity to ask: is further legislation planned in the life of this Parliament emanating from the police or dealing more specifically with the police concerning the use of information?

Hon STEPHEN DAWSON: Not to my knowledge, honourable member. It is my understanding—I will say it again—that what Col Blanch intends to do under existing legislation does not rely on this legislation; it is a different piece of work. It is fair to say that a number of government agencies are sitting on what I have previously called a treasure-trove of data. Many of them are trying to put it to good use by better focusing resources on the services we fund and the supports that are needed by community members. Obviously, the police are sitting on a data pool, which has been alluded to previously. I commend the commissioner for seeking to establish an ethics committee because that is what happens in other agencies. For example, if somebody wants to do research with one of our hospital service providers, until recently they have each had their own ethics approvals process. It needs

to go through proper and rigorous consideration before approval is given. In this case, the commissioner is seeking to emulate what is standard practice in a number of other government agencies when people want to use data that is held by them.

Hon TJORN SIBMA: Indeed. I think it is always wise to be charitable in our interpretation of these matters. I have abundant respect for the police commissioner. On face value, the intention behind the establishment of such a committee is probably pretty sound, but my curiosity is piqued, I suppose. Are the IPPs as established here and effectively the theory and policy of the bill not sufficient guidance alone? That might be a question that the minister cannot answer, because he cannot put himself in the mind of the Commissioner of Police. Another way of perhaps asking the question more fruitfully is: if agencies still feel the need to constitute ethics committees or advisories, should they not make use of the new class of officers this bill will effectively constitute—the Information Commissioner and Privacy Deputy Commissioner? For example, I will refer to a government trading enterprise. I will use the Water Corporation, because it was an entity referred to during questions most recently. If the Water Corporation thought that it needed to do something around the data it has harvested from individual residential users and consumers of water, should it go and speak to the Information Commissioner or the Deputy Privacy Commissioner? Will that not be the relevant officer in this state who can provide the definitive policy guidance on these matters and will be best placed to interpret the bill?

Hon STEPHEN DAWSON: Those positions do not exist at this stage.

Hon Tjorn Sibma: At this stage?

Hon STEPHEN DAWSON: Yes, at this stage. It will likely be 2026 by the time we are in a position to enact all parts of this legislation. The intention is, subject to the passage of the bill, that we would have at least an Information Commissioner position established towards the middle of next year, and that person will then recruit or be involved in the recruitment of the new deputy positions. In the absence of those positions, the government needs to continue to work. As I said previously, the police commissioner can do things under current laws, and that is what he is doing. But aside from establishing these new positions, this bill will also provide a framework for data sharing and how information will be protected.

Hon TJORN SIBMA: I thank the minister. I may have previously missed the advice that these new positions to be created by the bill—there is no disagreement on the policy or the intent there—most likely will not be filled in the physical sense by a person until 2026. I think that might be the first time that the chamber has been advised of that. Perhaps I am wrong. If I am wrong, I will retract that.

Hon Stephen Dawson: What I said was not all provisions will be enacted until 2026, but the intention is to appoint a new Information Commissioner by the middle of 2025. That person will then be involved in the recruitment of the other two positions.

Hon TJORN SIBMA: That is fine. I thank the minister. That makes better sense and saves me asking the next question.

I might then talk about the definition of entities, if possible. I will use the Western Australia Police Force somewhat here. I want to understand how obligations might apply between public entities and other entities. The example that I will use here is Crime Stoppers Western Australia. I would like to know precisely where the Crime Stoppers WA organisation might fit into the framework that this bill attempts to establish, please.

Hon STEPHEN DAWSON: The bill covers public entities and contracted service providers. I do not have police advisers with me, as we have previously ascertained, so we are not quite clear whether Crime Stoppers is a contracted public entity. I suspect it is, from my previous dealings with it, but I do not have any advisers before me now who can confirm that for the member today.

Hon TJORN SIBMA: I thank the minister for being so candid about the advisers he has with him. I will just step out what I consider to be a potential problem, and I hope that I am disabused of that notion, possibly after the dinner adjournment. That is a long way of saying: could the minister perhaps take this question on notice, please? In a practical sense, I want to step through this. I am going to assume that, indeed, that relationship is actually true and Crime Stoppers WA is a contracted partner of some kind with the Western Australia Police Force. Indeed, that has been my personal experience as a citizen of Western Australia in situations in which I have attempted to alert the police to a problem.

Hon Stephen Dawson: By way of interjection, we are just checking. Crime Stoppers is a not-for-profit community organisation that provides a range of things. It is my understanding that it is funded by the state government, so it would be captured.

Hon TJORN SIBMA: When someone submits an online report through Crime Stoppers, they are first advised that their report is anonymous. They can stay anonymous. I would like to guarantee that that is absolutely the case. When someone starts a report, obviously, they are prompted to put in a summary of their concern relating to a specific crime or a kind of crime. They are required to enter whether it is a one-off incident or whether it relates to a case that they have previously reported and received a case number for, in which case they are asked to resubmit using that number. They are then asked to upload a range of files. It could be video footage, still photographs, 24-hour

surveillance cameras from their house and the like. They are then asked to submit further fields about location and activity to a greater degree of specificity, then to identify particular people or vehicles of concern, and then a range of summary finalised details. What I want to establish is: What provisions will apply to Crime Stoppers? Will it benefit from the kinds of carving out or the exceptions to abiding by the range of IPPs that the Western Australia Police Force has carved out? I think, generally speaking, when I look through that list, it is a sensible but broad range of carve outs. Are the parameters and obligations to abide by the information privacy principles here more strict and more onerous on Crime Stoppers than they would be on the police service? Because I cannot necessarily see that organisation enjoying specifically the same kinds of carve outs that the police service identifies, but whenever I have spoken to anybody involved in Crime Stoppers, I hear that it is dealing with as large or perhaps a larger data amount or as wide or deep a data lake, if not deeper on occasion, because it is an accumulation of multiple reports, perhaps about the same individual. Obviously, an individual has to experience a factor of trust in order to make that report. They will ask: Am I truly anonymous? Is this going to blow back on me? That is particularly true for a matter that might be happening outside that person's home or on their street. Could I please be reassured that there is at least a similarity or a continuity of carve outs—I will use that phrase rather than "exceptions"—or effectively the same conditions or proscriptions apply to both the Western Australia Police Force and Crime Stoppers, since they are actually using the same information? In fact, I suspect that Crime Stoppers has become the de facto data accumulation and collection agency for the Western Australian police. I have experienced that personally and directly.

Hon STEPHEN DAWSON: I am advised that Crime Stoppers would be dealt with in the same way as the Western Australia Police Force. Clause 130 states, in part —

> (1) If a State services contract in relation to a contracted service provider includes a provision of a kind referred to in section 129 —
>
> (a) the information privacy principles, and any approved privacy code of practice that applies to the outsourcing entity (the relevant outsourcing entity) that is a party to the contract, apply to an act done, or practice engaged in, by the contracted service provider for the purposes of the contract in the same way and to the same extent as they would apply if the act were done, or practice were engaged in, by the relevant outsourcing entity;

Hon TJORN SIBMA: I thank the minister for directing my attention to that clause. Forgive me for asking what sounds like a very basic question, but should I interpret that to mean that, in effect, the obligations of a contracted entity to a particular public entity to comply with the privacy principles mirror exactly those of the public entity to whom they are contracted? To ask that another way, is it correct to assume that the correct interpretation of clause 130 would mean that in this instance, Crime Stoppers WA would enjoy—I use the word advisedly—exceptions to the IPPs listed for the Western Australia Police Force, which are 1.2, 1.4, 1.7, 1.8, 1.9, 1.10, 2, 7, 9 and 11.2? Is that the correct interpretation?

Hon STEPHEN DAWSON: I am told that it depends on what exact functions they are doing for WA Police.

Hon TJORN SIBMA: I do not think that is an unreasonable response in the circumstances, but it is the kind of response that starts to make me feel reasonably nervous because here we have introduced some doubt and conjecture in a way that I do not think is particularly helpful and may potentially be at odds with the intent of the bill. I can absolutely understand that an entity entering into a contract with a public entity would need to fulfil the terms of that contract, but if there is to be a lawful encumbrance on them that will require them to do so, I think it would need to be covered off more explicitly in the bill at a minimum, frankly. Secondly, for all practical purposes, I would think legal counsel at such entities might get a little nervous about liability, particularly if they cannot necessarily control actions or utilisation by the third-party user. I do not want to make more of this than I need to, but I think it is an unhelpful revelation that they are only bound to the degree that their contracted party is bound. It could, for example, introduce confusion if a contracted entity is serving multiple public entities that have different exception provisions. I just want to understand how this matter may be dealt with. Will it be dealt with by way of regulation? Some insight into the government's policy in that respect would be helpful at this stage.

Hon STEPHEN DAWSON: The contract would likely stipulate how the data is to be used or collected, and also the purpose for which it is to be collected. To use the member's example, he referred to a contracted party working for numerous agencies. It is likely that they would have different contracts for each agency, and each agency's contract might well stipulate different things as to what is collected, what is used and how it is used et cetera.

Hon TJORN SIBMA: Again, I think the minister has absolutely passed the reasonable answer test, but unfortunately this chamber does not always permit reasonable answers on the fly. I might ask a more explicit question and if the minister could take it on notice and provide a response as to the government's position after the dinner adjournment, that would be helpful. I will put this as a suggestion, rather than a question. I think it would be wise for the Western Australian state government to write to the public entities that will be obliged to comply with this bill to assess their contracts with third-party contractors, and to reassess whether or not their contractual terms comply with the purposes, provisions and obligations under this bill. I would think there would need to be contract revisions, either wholesale or partial. If that is contemplated, good; if not yet, I would suggest that the government do that.

Hon STEPHEN DAWSON: I am told that the Department of Finance is already working on guidance for the sector; that is not the agency I have before me, but obviously a number of agencies will be impacted by this legislation and a number of them have a role to play in the rollout of the legislation, but that work is underway at the moment.

Hon COLIN de GRUSSA: The minister will have observed that there are a number of amendments in my name on supplementary notice paper 158, issue 4. I will come to those in a while, but I want to take a step back and talk about the consultation process that has been undertaken. The minister mentioned consultation with a number of different agencies throughout the development of the legislation. Were committees formed as part of the consultative process, or were the agencies and other entities consulted individually?

Hon STEPHEN DAWSON: There were no committees as such, but a great deal of consultation took place. A broad range of non-government organisations were consulted, including those representing community and health services; researchers; medical and health professionals; regulators and advocates for privacy; business and industry; Aboriginal people; and legal professionals. The community at large was consulted; there was a consultation process, and submissions were received. The WA public sector was consulted, including public universities and government trading enterprises. There were multiple rounds of consultation within the public sector. In the second half of 2019, public sector entities were consulted on a draft policy position. There was consultation in mid to late-2022, although there was a pause for a time because of COVID-19. Then throughout last year there was consultation with key agencies and drafts. The department undertook extensive public consultation on the discussion paper in 2019. There were 34 events with 914 attendees, and 60 written submissions and 28 online comments were received. There was a second period of consultation with the public sector on the draft policy position and the implementation report. This included consultation with 130 public sector agencies, including government trading enterprises, 54 of which provided feedback. As we progressed, there were further rounds of consultation internally across a range of government entities. A number were targeted, just by virtue of what they do, to make sure that we got their views on that. Public sector organisations were also consulted on the elements of Aboriginal data governance consultation and Aboriginal representative organisations.

Hon COLIN de GRUSSA: The consultation that the minister outlined is pretty extensive—obviously, as we would expect it to be given the effects this will have on so many of those entities. Is that consultation specific to the development of the legislation and would there then perhaps be implementation consultation or a working group working on the implementation as well? Are they separate processes?

Hon STEPHEN DAWSON: That consultation happened in the development of the legislation. I am told there is now an implementation committee, which has representatives of the key agencies that are affected by the legislation. The Department of the Premier and Cabinet and the Department of Justice are leading a project on the implementation of the legislation. Project governance is provided by the Directors General Technology, Innovation and Science Council comprising representatives from DPC; the Department of Communities; the Department of Education; the Department of Finance; the Department of Health; the Department of Jobs, Tourism, Science and Innovation; the Department of Energy, Mines, Industry Regulation and Safety; the Department of Transport; Treasury and the Western Australia Police Force. A further group is involved in the implementation of it, and that includes representatives from large and small government agencies, GTEs, local government authorities and public universities. I am also told that the State Records Office of Western Australia and the existing Office of the Information Commissioner contribute to the work of the implementation steering committee to ensure it aligns with, and builds on, other information management requirements and activities.

Hon COLIN de GRUSSA: To be clear, that process is ongoing. I have a couple of questions, I guess. That process is happening now. Will that process continue after the passage of this legislation? How is the general public represented in this process, given that it will be the one providing the private information to the entities?

Hon STEPHEN DAWSON: I am told that the creation of the position of the new Information Commissioner will come into being before this legislation is enacted. Once that position is appointed, as part of the rollout of the legislation, that commissioner will then take into consideration how the public's views are captured or considered.

Hon Colin de Grussa: By interjection, just on the committee itself, will that continue until that commissioner is appointed?

Hon STEPHEN DAWSON: Yes; it will. It may well continue after that as well, but an element of it will be the responsibility of the new Information Commissioner.

Hon COLIN de GRUSSA: I will leave that aspect alone now. I am not expecting responses to queries that I have on my amendments; we will get to them in due course. Perhaps over the adjournment, which is soon upon us, the minister and the advisers might have a chance to look at the various amendments I have proposed. I want to talk a little bit about the specific aspects of the bill that the amendments are focused on, which is around automated decision-making. Obviously, this is an area of significant concern, and it has generated some very interesting stories over recent years in terms of how those processes have gone wrong and created problems. We are all aware of the Horizon scandal in the United Kingdom, as well as things like robodebt and so on. I am not suggesting that those processes were entirely automated, but in some part they were.

Will this bill, once it is enacted, authorise the use of automated decision-making in those entities captured under the legislation?

Hon STEPHEN DAWSON: No. I am told that it will regulate automated decision-making where it is already authorised.

Hon COLIN de GRUSSA: To be clear then, minister, this legislation will not authorise those entities to use automated decision-making, but is there other legislation that does?

Hon STEPHEN DAWSON: I am told that section 45B(3) of the Work Health and Safety Act 2010 allows it to take place. But is this bill authorising automated decision-making by government? No. The purpose of those provisions of the bill is not to authorise the use of automated decision-making, but rather to provide principles for information privacy principle entities to follow should they use personal information in automated decision-making. An IPP entity would need to have authority to use automated decision-making processes involving the use of personal information from some other legal source.

Hon WILSON TUCKER: I would like to pick up on a line of questioning that Hon Tjorn Sibma began around the concept of retrospectivity in the bill. The minister mentioned that the bill will come into effect when the Information Commissioner is appointed—if I understood that correctly.

Hon Stephen Dawson: Just by way of interjection, that's not what I said. I said that elements of the bill will be enacted over the next, kind of, year and a half. But if the bill passes, the intention is to fill the Office of the Information Commissioner from mid-2025. But other provisions in the bill may not be enacted until after that.

Hon WILSON TUCKER: Okay. That makes more sense. Thank you for the clarification.

There was talk about the police having a treasure-trove of biometric information, which is classified as personal information. I imagine there is quite a lot there. The minister mentioned that some other agencies potentially have those treasure-troves of information as well. When the bill comes into effect, will there be any retrospectivity around the disclosure of that information? Will people be made aware that different entities have treasure-troves of personal information? Will they be made aware of which specific agencies have that information relating to them?

Hon STEPHEN DAWSON: There will be no retrospectivity in disclosing what IPP entities currently have. However, moving forward, if we take IPP 2 as an example, should an IPP entity wish to use or disclose personal information that is collected before the commencement of the bill, it must still comply with the requirements of IPP 2, such as not using or disclosing information for a purpose other than for which it was obtained, unless an exception applies, and making a written record of the secondary purpose for any use or disclosure. The commencement of the bill will not trigger new obligations to notify individuals of the specified matters in relation to information that an information privacy principle entity has already collected.

Hon WILSON TUCKER: I would like to move on now to some of the exclusions that will be afforded to the police. The minister has mentioned previously that the police will have to comply with the bill, but a lot of exclusions will apply to the police, particularly the IPPs that the police will not have to adhere to necessarily. I mentioned a scenario in which an entity shares information from A to B and then both entities have to disclose the usage of their information to the individual. To paraphrase, principle 10.1 provides that there is no need to disclose information back to the user if that information was collected from another entity.

I am trying to understand whether there will be any way in which the police will provide information back to the user—that is, the WA resident or individual—that they are using that information.

Hon STEPHEN DAWSON: The police will not have a blanket exemption from all the IPPs; it will depend on the circumstance. Clause 23 of the bill refers to the law enforcement functions, so just to move the debate along, perhaps the honourable member would be better off asking those questions on that clause. I would ask honourable members to get their particular questions on clause 1 out of the way now or that we start moving our way through the bill and we can deal with the amendments as we go. My advisers tell me that there is a good, discrete point at clause 23 that questions about the police could be better asked and answered.

Hon WILSON TUCKER: I take the minister's point. We can certainly get on to the terminology and the functions of the police, because I think they could be interpreted quite broadly and could give them a lot of concessions in not disclosing certain information.

If the minister would like to dig into this as part of the specific clause, feel free to advise me. I have tried to follow and dig through the logic in the bill. It is fairly complicated. A number of exclusions will apply to the police. One thing I am not quite clear on is IPP 2, which I believe is about the disclosure for secondary purposes. There is one thing I am not quite sure about, and it would be helpful to know this before we get to the substantive clauses.

The police will have an exemption from using information that is not related to the primary purpose for which it was originally shared. Will they be able to use that information for a secondary purpose without justification when the time comes to share that information through the information-sharing agreement?

Hon STEPHEN DAWSON: An IPP entity that is a law enforcement agency, such as the police, will not be required to comply with a range of IPPs, including IPP 2, if it believes on reasonable grounds that noncompliance is necessary for the purpose of its or any other law enforcement agency's law enforcement functions.

The CHAIR: I give the call to Hon Wilson Tucker, but I recognise that other members are seeking the call.

Hon WILSON TUCKER: I have a few other questions on clause 1. I will ask one or two more on this point and then I will hand off.

Just to clarify, is IPP 2 about disclosure related to a secondary purpose or is it about the usage of that information for a secondary purpose?

Hon STEPHEN DAWSON: IPP 2 is about use or disclosure for a secondary purpose.

Hon WILSON TUCKER: Law enforcement agencies will be exempt from IPP 2, so they will be able to acquire information for a primary purpose—that is, law enforcement—and then they will be able to use information for a secondary purpose. That is how I understand that exclusion, but correct me if I am wrong, minister. My follow-on question is: what provisions will restrict the use of that information by the police? What will govern the secondary purpose? Could it be any purpose?

Hon STEPHEN DAWSON: It is important to acknowledge that they will be subject to the independent oversight of the Information Commissioner, but again I draw the member's attention to clause 23, which provides that an IPP entity that is a law enforcement agency is not required to comply if it believes on reasonable grounds that noncompliance is necessary for the purposes of its or another law enforcement agency's law enforcement functions.

In terms of the exemption from specified IPPs for law enforcement agencies, this partial exemption will be consistent with those in other jurisdictions for law enforcement agencies. Partial exemptions for law enforcement agencies are function based as opposed to outlining specific activities for two reasons. That is in recognition of the significant number of government agencies that have law enforcement functions and to accommodate an increasing diversity of law enforcement functions that extend beyond traditional police powers. This will give flexibility for the partial exemption to apply to agencies that are given law enforcement functions in the future. The definition of "law enforcement agency" in clause 4 of the bill includes, but is not limited to, the Western Australia Police Force, the Corruption and Crime Commission, the Director of Public Prosecutions and the Australian Federal Police. Again I make the point that there will be independent oversight by virtue of the creation of the Information Commissioner role.

Hon LOUISE KINGSTON: I have a question about the storage of the information. I cannot find anywhere in the bill that says how the information will be stored. There is reference to it in principle 4.1, which refers to "reasonable steps to destroy or permanently de-identify personal information". I would like to know how it will be stored across all the different agencies.

Hon STEPHEN DAWSON: IPP 4 is about information security. It says —

> 4.1 An IPP entity must take reasonable steps to protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure.
>
> 4.2 An IPP entity must take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose, unless the IPP entity is expressly required or authorised to retain the information by or under another law.

Hon LOUISE KINGSTON: That goes back to my question. It does not state in the bill how that information will be stored.

Hon Stephen Dawson: They still have to abide by the State Records Act. The State Records Act lays out exactly how information should be stored and, in some cases, for how long.

Hon LOUISE KINGSTON: A lot of this is going to be digitised. A lot of people in regional areas do not have good connectivity, so what will be put in place so that those records can be stored for easy access to this information once it is all digitised?

Hon STEPHEN DAWSON: The information privacy principles are really just overarching standards that IPP entities must apply and comply with when collecting, using or disclosing personal information. A person in Mumballup will not be trying to access this data. Agencies that will be captured by this already have storage requirements under the State Records Act and the data will probably already be stored in head office in Perth or in a regional location if it is a regional agency. They are already captured by the State Records Act. A normal person living in a regional community will not be accessing this information. This will apply to government agencies and entities.

Sitting suspended from 6.00 to 7.00 pm

Hon WILSON TUCKER: Are we still on clause 1?

The DEPUTY CHAIR (Hon Sandra Carr): That is correct, honourable member.

Hon WILSON TUCKER: Fantastic. I have a few questions before we jump into the clauses. Previously, we talked about information retrieval. I want to get something clear in my mind about the ability to retrieve someone's information or disclose information. I gave the example of an individual providing information to entity A and then entity A sharing that with entity B. Entity B then shared it with entity C, and entity C shared it with entity D. I would like to close this out in my mind. In the case in which information goes from A to B to C and to D, will each entity be required to provide that information back to the individual? This is a two-part question. If the answer is yes, I believe that the minister mentioned a provision in which, if the information is similar or identical to the information shared with the next entity, the entity will not need to divulge that information. I could give the minister some specific examples, but maybe we will start with the first case. If information is shared from entity A to B and then to C and D, will all those entities need to disclose to the individual that they are using that information?

Hon STEPHEN DAWSON: Yes, if it is an information privacy principle entity, disclosure would need to take place, provided the agency is captured by the bill. It is not captured by the bill before us if it is a commonwealth agency or if it is an agency that is not captured by the bill. Schedule 1 states —

> 1.10 If an IPP entity collects personal information that relates to an individual from someone other than the individual, the IPP entity must take such steps (if any) as are reasonable in the circumstances —

That is what is listed there.

Hon WILSON TUCKER: In the scenario the minister described, will every entity then have to disclose to the individual that they are using their information?

Hon Stephen Dawson: By way of interjection, there are exceptions. IPP 1.10(b) states that they do not need to do it —

> … except to the extent that giving or making the individual aware of that information would pose —
>
> (i) a serious threat to the life, health, safety or welfare of any individual; or
>
> (ii) a threat to the life, health, safety or welfare of any individual due to family violence.

There is an exception, but more broadly the answer is yes.

Hon WILSON TUCKER: Thank you for the clarification. I have a second part to this question. If that information is replicated—let us say that it is someone's name, birthdate and some sort of biometric or personal information—from entity A to B to C and then to D, do the other subsequent entities need to disclose to the individual the usage of that information?

Hon STEPHEN DAWSON: They do not need to disclose, but they have to use it in accordance with the IPPs.

Hon WILSON TUCKER: Is the minister able to help me understand exactly what that means? There are no disclosure requirements. Which IPPs does that relate to? Is the minister saying that there are no disclosure requirements for those subsequent entities?

Hon STEPHEN DAWSON: It is at the collection notice stage, under IPP 1.9. It states that the disclosure needs to include the following information —

> (c) the purposes for which the information is collected and will be used or disclosed.

At that stage, we will be collecting information that is going to be used for these purposes. We would disclose that the government is going to use it for whatever reason. We tell people at the collection notice stage. The other agencies—B, C, D—have to use it in line with the IPPs collectively.

Hon WILSON TUCKER: Is there no requirement for entities B, C, D, in line with the IPPs, to disclose the fact that they are now using that information?

Hon STEPHEN DAWSON: We spoke previously about entity A. If B were to get the information, then it needs to ensure that the individual is given or made aware of information referred to in subclause 1.9(a), which I referred to earlier on, with the exceptions of threats to life, harm and domestic violence issues. For A it is a collection notice and B needs to disclose.

Hon WILSON TUCKER: There is a fair bit of terminology so, apologies; I am trying to get up to speed. During the collection notice, there is a disclosure with entity A back to the individual. The data is subsequently shared with entity B. Then B has a disclosure requirement as part of —

Hon Stephen Dawson: By way of interjection, it is IPP 1.10.

Hon WILSON TUCKER: Okay. As part of that, there is a second disclosure requirement for B. The individual will receive two disclosure notifications that say, "A is using your information", and B will then provide another disclosure notice back to the individual saying, "We are using your information. This is where you can access it from." Thank you; I wanted to clarify that scenario. I will leave this disclosure provision there for now. We can certainly get into the weeds when we need to in the subsequent clauses. I want to touch on the deletion and retention scenario. I will start off with a very general question. Could the minister please point out the requirements within this bill for entities to delete information? When I say information, I mean personal information.

Hon STEPHEN DAWSON: IPP 4 talks about information security. I am not going to read it out, honourable member, but it is there for your information.

Hon WILSON TUCKER: IPP 4 talks about deleting information once the primary purpose has been fulfilled. It says —

> (4.2) An IPP entity must take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose …

We can get into "any purpose" when we get to that clause—absolutely. Outside of principal 4, is there anything else compelling agencies to delete that personal information that has been either collected directly from the individual or shared with them from another entity?

Hon STEPHEN DAWSON: The State Records Act talks about destruction of information or how or why information may be destroyed. It has to be under an approved retention and disposal authority. Yes, the State Records Act sits alongside it.

Hon WILSON TUCKER: Is there a way we can view the intersection with the State Records Act?

Hon Stephen Dawson: Honourable member, if you want to look at the State Records Act on your iPad or whatever, you will be able to see what it says in relation to documents. It is a different piece of legislation. There are requirements in the act for the destruction and retention of documents and years et cetera of how long documents need to be retained for.

Hon WILSON TUCKER: Perhaps I will take a bit of a different tack. What is the intersection between the privacy policy and the State Records Act? Does the State Records Act override an entity's privacy policy?

Hon STEPHEN DAWSON: I am told that the State Records Act prevails. It stipulates certain things that need to take place. What is in this bill can sit aside it for a number of agencies. Clause 153 reads —

> (1) Nothing in this Part or the information privacy principles limits the operation of the *Freedom of Information Act 1992* or the *State Records Act 2000*.

That is the primary piece of legislation. This will work alongside it for those agencies that are captured by the legislation we have.

Hon WILSON TUCKER: During the briefing, I heard that agencies are considering and I am sure a lot of them have data retention policies in place, which is obviously something outside of this act. The same question applies and I think it is applicable when we talk about data retention. Where does the hierarchy sit with an entity's data retention policy and the State Records Act?

Hon STEPHEN DAWSON: The State Records Act is the law. Agencies need to abide by the law. Their policy needs to align with the law. The State Records Act sets out the requirements for record keeping for all state and local government authorities in Western Australia. Under that act, there are a number of retention and disposal authorities for categories of government records. That is the law so the policy of an agency needs to abide by the law as it is currently written. An agency's policy cannot be different from something in the act.

Hon WILSON TUCKER: I will leave it there for now. We can certainly get into some more detail when we get to the appropriate clauses. The point I am really building to here is that this bill does not have anything related to data retention except for the fact that once that primary purpose has been fulfilled, there is an obligation by these entities to delete that information. There is also a provision about retaining information for any purpose. It seems to give a lot of latitude for organisations to justify retaining information beyond the reason for which it was originally shared. There is also the obligation of putting a retention policy in place and the intersection with the State Records Act comes into play. We have seen examples in which it means entities can retain information for a very long period—for example, SafeWA and the police retaining information for 25 years before it is handed over to the State Records Office. I just wanted to make that point known. We can certainly get into the detail when we get to the subsequent clauses.

Hon NICK GOIRAN: A lot of my questions are in relation to the second of the two bills, but I refer to the Privacy and Responsible Information Sharing Bill 2024 and the provisions that might protect Western Australians from the release of what might be described as sensitive information. Members will recall that during the second reading debate I referred to a couple of episodes. The first was the breach of information from the SafeWA app and the work done by the Auditor General. The second was the unlawful access of Western Australian information held in the transport executive and licensing information system by the Department of Transport. Regarding those two case studies, what would the Privacy and Responsible Information Sharing Bill change about what happened in both of those instances?

Hon STEPHEN DAWSON: They were obviously two different things. With the SafeWA app, at the time the police used the power that they said they had, which I think took us all by surprise at that stage.

Hon Nick Goiran: I think a bill came before Parliament to prevent that from happening in the future.

Hon STEPHEN DAWSON: To fix it. Police used their lawful power to access information, if I can put it that way. It took us by surprise, because we did not think that that power was available. That has been clarified.

With TRELIS, that was an unauthorised access of information. It is a little different from SafeWA. We did not have comprehensive privacy laws at that time, but we have now designed privacy protections into a system. I am confident that the privacy provisions in this bill will create cultural change and bring expertise in the public sector in a way that better promotes privacy by design. That, coupled with the privacy lessons that we have learnt in WA and other jurisdictions, including the handling of personal information by the public sector, will reflect best practice for the modern digital world that we live in. This legislation will also introduce new statutory authorities that will oversee the public sector's safe handling of personal information and will provide a mechanism for citizens to make complaints about interferences with their privacy. This did not exist before. I am not sure whether the member was in the chamber or was away on urgent parliamentary business, but we spoke earlier about the establishment of the new Information Commissioner role and the new deputy commissioners, and also in the bill before us the new powers and penalties for the misuse of private information, including monetary penalties and imprisonment penalties. They are new and have not existed previously to the same degree. Agencies are now aware of this legislation and aware that, hopefully, it will pass soon. There will be much more of an awareness in the public sector about privacy and responsible information sharing, which has not existed across the board, until now.

Hon NICK GOIRAN: The minister mentioned privacy complaints. In the bill at part 2, division 9 deals with the process for privacy complaints. I take it that the minister is saying that that privacy complaints mechanism or scheme does not presently exist. This bill will create that scheme, that privacy complaints avenue for individuals, and obviously that is welcomed. Ideally, we do not want people to have to make a complaint. If we tease out the scenario with Health having information—in that scenario, it was the SafeWA app—a different government agency, the WA Police Force, was able to access that information. To the best of my recollection, I think that it obtained it by warrant through to the Department of Health and it was then the obligation of Health to provide that information to WA Police. Perhaps Health was not excited about that, but it had to comply with the law and maybe that it what ultimately alerted government officials to the problem—this was not what was intended. If my recollection of that episode is right, what will prevent WA Police from doing that type of thing again under this legislation? Is there a particular provision that will prevent them from going to the court, obtaining a warrant and seeking information from another government agency?

Hon STEPHEN DAWSON: Under this bill, agencies cannot share for law enforcement purposes, but nothing in this bill would stop police from going to a court to seek to access data. The judicial process oversees that.

Hon NICK GOIRAN: With regard to that TRELIS episode, as the minister said, it was unlawful access. Will this bill not deal with circumstances in which there has been—I might call it improper; the minister might say unlawful—unlawful access to private information? Does it only deal with sharing? Is the mere access of the private information an offence somewhere in the bill?

Hon STEPHEN DAWSON: In that case, the unlawful activity is still actionable under whatever law it was actionable under previously. I do not know whether the Criminal Code was breached in relation to that information. But if someone breaches the IPPs under this legislation, further penalties could be applied or further action could be taken under this legislation. If it were illegal under something else, that would not change with the bill before us.

Hon NICK GOIRAN: The problem in that episode was that there was a difference of opinion between the Department of Transport and the Corruption and Crime Commission. The Corruption and Crime Commission said that it was unlawful access of TRELIS and the Department of Transport said that it was a mere conflict of interest. I am wondering whether this bill will elevate that. I am somewhat trivialising this with my comment, but if Department of Transport officers come along and say that it is not a big deal because it is just a mere conflict of interest, and another body says that it is a big deal because it is unlawful access, will this bill resolve that stand-off between the two agencies? The minister mentioned that there will be some penalties. Which part of the bill sets out the penalties for unlawful practice?

Hon STEPHEN DAWSON: I misspoke. Under the bill, compensation will be payable to an individual. If somebody has broken the law elsewhere, that will be dealt with. This bill will bring into fruition the new Information Commissioner role and the two deputies. They will essentially be an umpire. If one agency says that someone has done something illegal or contrary to the act, the Information Commissioner will be the arbiter and can make a decision in that case. That did not exist previously.

Hon NICK GOIRAN: The unlawful access of TRELIS is a useful case example because the Corruption and Crime Commission brought it to our attention. Let us say that a Department of Transport officer unlawfully accesses TRELIS, gives the information to a third party and that third party starts to use that information to stalk another Western Australian. Of course, I acknowledge that the stalking offence would be dealt with by the police under the normal provisions of the code, but would this situation trigger a person to put in a complaint? Could the person whose information was accessed through TRELIS put in a complaint that the Department of Transport had unlawfully accessed TRELIS and seek compensation? The minister was away on urgent parliamentary business

when the second reading speech was delivered so this might have been said through his spokesperson at the time, but will this new scheme allow for compensation for that kind of scenario? I think the maximum might be $75 000 or something of that ilk. Is that what this will enable?

Hon STEPHEN DAWSON: Yes, they could make a complaint to the Information Commissioner. In that scenario, it is likely that the department probably would have fallen foul of one of the IPPs. As a result, the commissioner could consider compensation.

Hon NICK GOIRAN: A repeat of the TRELIS episode could, in theory, lead to a complaint by the aggrieved person, which could lead to compensation flowing. I know there are a lot of ifs in all of that, but that is new because that is not available at the present time. Further to that, what will the maximum penalty for breach of privacy be under this new, Australian-first regime?

Hon STEPHEN DAWSON: To clarify, no new penalty is associated with this, but there will be a new opportunity to access compensation. It will be a compensation payment of up to $75 000, as Hon Nick Goiran said earlier.

Hon NICK GOIRAN: I take it that the compensation will be paid from the general appropriations, so the compensation for the indiscretion or breach by somebody within the public sector will, in a sense, be paid by the Western Australian taxpayer. They will have breached the privacy scheme, but the taxpayer will be the one who will foot the bill. We might say that that is undesirable, but I do not necessarily have a solution to that. I can understand why the government has created such a scheme; in a sense, it is no different from a victim of crime for whom the taxpayer funds the cost of compensation. However, when a crime is committed, it is possible for the state to recover the cost from the offender. Will there be any capacity under this scheme for the state to recover the cost from the person who perpetrated the breach?

Hon STEPHEN DAWSON: No, there will not, honourable member. That is not to say that there is not something in another piece of legislation that may allow the state to recover an amount like this, but there is not in this piece of legislation.

Hon NICK GOIRAN: This bill will not allow for any special recovery from the privacy breacher, but the minister is saying that another piece of legislation may enable that to happen.

Hon Stephen Dawson: To clarify, that might exist in another piece of legislation. I do not know of any, but it may well exist somewhere else. It does not exist in this bill.

Hon NICK GOIRAN: If an individual within government breaches privacy, the scheme will not impact them in the sense of any personal penalty; they will not pay any personal compensation or be charged with any offence. This new scheme will have no personal impact on them.

Hon STEPHEN DAWSON: No, but it may well be a disciplinary matter under the Public Sector Management Act, for example. It likely is. I am not sure what else is in that act in terms of recourse. The reality is that this legislation is about holding agencies to account. Agencies are supposed to be responsible for their staff. People do the wrong thing at times. If someone does the wrong thing, there will be a disciplinary procedure and they are likely to lose their job. Under this legislation, agencies will have to be much more responsible for the data they hold, so they will need to have safeguards in place to make sure that people do the right thing.

Hon NICK GOIRAN: While there are no special provisions in the bill in terms of a punishment for the individual who breaches privacy, are there any provisions in this bill that will give any special protections to people who release information?

Hon STEPHEN DAWSON: The answer to the honourable member's question is no.

Hon WILSON TUCKER: In my contribution to the second reading debate, I mentioned the WA Data Unit, of which I am sure the minister is very aware. Reading from the government's website, the purpose is to bring together a whole-of-government de-identified dataset from the Western Australia Police Force, the Department of Health, the Department of Justice, the Department of Communities and the Department of Education. I have some basic questions about the architecture of the data unit given that this bill will enable that data unit to exist and bring together a lot of entities to share information. First, where will these datasets be centralised? A lot of agencies will share information. Will they share it directly with each other or will the data be centralised in a repository or other government data lake?

Hon STEPHEN DAWSON: It will depend on the project as to where it might be held. It will be done by agreement between the agencies responsible.

Hon WILSON TUCKER: I think I probably know the answer to this question given the minister's previous response. I think the keyword in that previous question was "de-identified". The minister mentioned previously that with de-identified information, there will be no requirement to disclose that information. Will there be any requirement to delete de-identified information? Does that fall under principle 4 for retaining it for any purpose?

Hon STEPHEN DAWSON: It is not personal information, so, no, there is not.

Hon WILSON TUCKER: Just to summarise, will de-identified information live in a potentially centralised location in perpetuity, and will there be no requirement within this bill to delete it?

Hon STEPHEN DAWSON: It could, honourable member, potentially, but the storage of data is getting quite expensive these days, and the amount of data that exists out there is extensive, so it is not the agency's plan to keep data forever if it is not needed. I certainly believe that agencies will try to get rid of it as quickly as possible. Principle 11 reads —

> An IPP entity must take reasonable steps to protect the de-identified information it holds from misuse and loss and from unauthorised re-identification, access, modification or disclosure.

An agency could keep stuff for a long time, but I do not think that will be the aim or the norm.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Objects —

Hon NICK GOIRAN: This follows on from the discussion we just had on clause 1. The minister will see that one of the objects of the act, specifically at paragraph (h)(ii), is —

> ensuring that information shared under this Act is protected from unauthorised use or disclosure.

Again, the TRELIS example immediately comes to mind. How does the bill protect information shared from unauthorised use or disclosure?

Hon STEPHEN DAWSON: The bill will provide protections for the sharing of information by establishing information privacy principles specifically relating to the use and disclosure of personal information. That is in schedule 1. Clause 159 will provide that government information may only be shared under an information sharing agreement for certain permitted purposes. Clauses 157 and 158 will expressly exempt certain kinds of government information from being shared under an information sharing agreement. Clause 175 will establish responsible sharing principles that must be assessed and applied before an information sharing agreement is entered into. Clause 189 will provide offences for the unauthorised further disclosure or use of information obtained under an information sharing agreement.

Hon NICK GOIRAN: Clause 189 provides offences for unauthorised further disclosure or use of information. Going back to that discussion we had at clause 1, are they the offences that would then be applicable in the TRELIS example? If somebody in the Department of Transport is accessing information, we had a discussion earlier that that would then trigger the —

Hon Stephen Dawson: By way of interjection, clause 189(1) refers to "information obtained under an information sharing agreement". In the case of TRELIS, that would not be captured.

Hon NICK GOIRAN: The information that has been provided is held by the Department of Transport and somebody within the department is accessing it, so it is not captured by clause 189. Let us say that the information is held by the department and there is an information sharing arrangement with the Western Australia Police Force and a person from WA police accesses TRELIS in an unlawful fashion. Would clause 189 capture that individual?

Hon STEPHEN DAWSON: Let us not use the Western Australia Police Force. Let us use another department—the Department of Communities, for example. In that case, if it were someone in the Department of Communities, yes. Police have other provisions in the bill in terms of lawful sharing and stuff for police. It is probably not a good example. But the member wants to make that point. For, say, Department of Communities, yes.

Hon NICK GOIRAN: In terms of the consistency of the application of the offences, whether the person is in the Department of Communities, the Department of Transport, the Western Australia Police Force or anywhere else, will unlawful access and disclosure of Western Australian private information be treated in the same way? In other words, whether it is under this legislation or another provision, if someone does that in Western Australia, they will potentially be subject to imprisonment for 12 months?

Hon STEPHEN DAWSON: Yes, but these are aligned with section 81 of the Criminal Code. The honourable member is correct; it is consistent.

Clause put and passed.

Clause 4: Terms used —

Hon NICK GOIRAN: There is a large number of definitions in clause 4, and I want to take the minister particularly to the definition of "personal information". It is a substantial definition; it starts on page 12 of the bill and carries over to page 13. Was the definition of "personal information" taken from somewhere or based on some other regime?

Hon STEPHEN DAWSON: It is based on the current definition of "personal information" in the Freedom of Information Act. However, it differs in two ways. Firstly, personal information is information that relates to an

individual rather than being information about the individual. This clarifies that technical information, such as IP addresses or location data, and inferred information, such as predictions about an individual's behaviour, is personal information. This is also aligned with the definition of "personal data" in the European Union General Data Protection Regulation, which is generally considered to be broader than the Australian equivalent. Secondly, the definition includes a non-exhaustive list of information that may be personal information in order to assist IPP entities to identify the types of information that could fall within the definition of "personal information". This is based on proposals 4.1 and 4.2 of the commonwealth *Privacy Act review: Report 2022* to which the commonwealth government has responded that it agrees in principle. There are a couple of things.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Public entities —

The DEPUTY CHAIR (Hon Sandra Carr): I draw members' attention to issue 4 of supplementary notice paper 158.

Hon TJORN SIBMA: I think the definition of "public entity" would benefit from exploration. Could I please gain an appreciation of how the Western Australian Electoral Commission might be captured under the definition of "public entity" in clause 6?

Hon STEPHEN DAWSON: It is captured by paragraph (a), which refers to any department of the public service.

Hon TJORN SIBMA: Will there be any exemptions or exceptions from compliance with any of the IPPs described in the bill?

Hon Stephen Dawson: Do you mean for the Western Australian Electoral Commission?

Hon TJORN SIBMA: For the Western Australian Electoral Commission.

Hon STEPHEN DAWSON: There is no specific exemption that will apply to it, but there could be a general exemption that may apply to it or to some of the data that it holds.

Hon TJORN SIBMA: A colleague of mine drew my attention to how, for example, the WAEC might be defined as a department of the public service, noting its stated independence. I am not necessarily sure whether it is an entity described under paragraph (b)—that is, an entity specified in column 2 of schedule 2 of the Public Sector Management Act 1994—or some other body. Can we just reconfirm for the purposes of consideration here that we should consider the WAEC to be an entity as described under clause 6(1)(a)? I just want to reconfirm that that is the case.

Hon STEPHEN DAWSON: It is definitely not in schedule 2. I am advised that there is a department called the department of the Western Australian Electoral Commission.

Hon TJORN SIBMA: That clarification is useful and I thank the minister for his advice. May I inquire into whether the WAEC was consulted during the drafting of this bill, considering the rather extensive reforms to the Electoral Act that this chamber has dealt with over the last 12 calendar months? To the degree that it has participated in that, what advice did it provide to the drafters of this bill?

Hon STEPHEN DAWSON: I am told that it was consulted on the bill. I do not have in front of me its comments. I am happy to see whether that is available. Is it germane to the point that we are dealing with at the moment?

Hon Tjorn Sibma: It might be germane to the next question I am about to ask.

Hon STEPHEN DAWSON: Okay.

Hon TJORN SIBMA: Sorry; I am foreshadowing the chair calling me in a way that is verging on unruly, and I apologise to the deputy chair for my conduct and my lack of decorum. It always serves one to be polite when one can.

There are certain disclosures that eventuate out of a strict reading of the Electoral Act. As I understand it, one of the requirements under the Electoral Act is that the personal details, the geolocation—by which I mean the address—and the name of an individual standing at an election are still required to be published in *The West Australian*. Will publishing the addresses of electoral candidates contravene to any substantial degree the principles that this bill is nobly attempting to embed in theory and in practice?

Hon STEPHEN DAWSON: I am told no, honourable member.

Hon TJORN SIBMA: Will this bill place any encumbrances or restrictions on the use of personal information as has been outlined at clause 4 by political parties registered in the state of Western Australia?

Hon STEPHEN DAWSON: No, the Privacy and Responsible Information Sharing Bill will not apply to political parties.

Hon TJORN SIBMA: This is a question asked genuinely. What is the rationale for the non-application of these provisions to political parties registered in the state of Western Australia?

Hon STEPHEN DAWSON: I am told that as the major political parties are national organisations, it is appropriate that such matters are dealt with at the national level under the commonwealth Privacy Act 1988. I understand that this issue has been looked at as part of the Privacy Act review.

Hon TJORN SIBMA: The minister will be pleased to hear that this is the final question from me personally. What restrictions will apply to a public entity—for example, Main Roads Western Australia? I will use that entity because I have its annual report on my desk. When collecting detail for the purposes of revealing the diversity and inclusion indices of that department, are there some restrictions on the kinds of questions or information that it can collect on its workforce's racial or ethnic origins, gender identity, sexual orientation or religious beliefs?

Hon STEPHEN DAWSON: In relation to sensitive information and collection, information privacy principle 1.2 states that an entity must not collect sensitive personal information that relates to an individual unless the information is necessary for one or more of the IPP's entity's functions or activities and the individual consents to the collection of the information required or authorised by, or under, laws. Therefore, no.

The DEPUTY CHAIR (Hon Steve Martin): The question is that clause 6 do stand as printed.

Hon STEPHEN DAWSON: There are two amendments standing in my name at clause 6. I will speak to both at the same time before I move them. I wish to move two amendments to clause 6 of the Privacy and Responsible Information Sharing Bill. The first amendment to clause 6 will add new paragraph (ea) at page 18, line 21, in subclause (2), stating —

> a department of the staff of Parliament referred to in the *Parliamentary and Electorate Staff (Employment) Act 1992*;

Clause 6(2) of the bill will provide for those entities that are not public entities for the purpose of the bill and will therefore not be subject to the privacy or responsible information sharing provisions. This amendment will make clear that the department of the staff of Parliament is not a public entity for the purposes of the bill and therefore not subject to the operation of the bill. This exemption is consistent with their treatment under the Freedom of Information Act 1992. The intent of the amendment is to exclude the Department of the Legislative Council, the Department of the Legislative Assembly and the Parliamentary Services Department.

The second amendment is minor and technical in nature and amends paragraph (f) in subclause (2) to delete (e) and substitute (ea). This amendment is consequential to the first amendment and will make it clear that a person who holds an office established for the purposes of a body referred to in paragraphs (a) to (ea) is also not a public entity. These two amendments are being moved following further consultation with the Clerks of the Parliament. The practical complexities in the application of the bill to the parliamentary departments are now better understood, especially in circumstances in which both houses of Parliament are not subject to the operation of the bill and having regard to the unique role performed by the parliamentary departments. The parliamentary departments handle documents that may contain personal information for the houses and committees of the Parliament, and there may be uncertainty as to whether documents belong to the parliamentary departments or instead belong to the relevant house or committee. Further, those documents may directly or indirectly relate to the proceedings of Parliament and give rise to complex questions about the application of parliamentary privilege. In those circumstances, these amendments to clause 6 will now carve out parliamentary departments from the operation of the bill in the same way as both houses of Parliament and a joint committee or standing committee of either house. This amendment will also result in increased alignment with the new regulatory structure proposed under the Information Commissioner Bill 2024. I ask that the chamber support these amendments.

By leave, I move —

> Page 18, after line 21 — To insert —
>
> (ea) a department of the staff of Parliament referred to in the *Parliamentary and Electorate Staff (Employment) Act 1992*;
>
> Page 18, line 24 — To delete "(e)." and insert —
>
> (ea).

Amendments put and passed.

Clause, as amended, put and passed.

Clause 7: Judicial bodies —

Hon NICK GOIRAN: Clause 7 refers to a person holding a quasi-judicial office. How is that to be defined?

Hon STEPHEN DAWSON: I am told that it is consistent with the approach taken under the Freedom of Information Act at the moment. It is a commonly understood use of those words as it is in the FOI act now.

Hon NICK GOIRAN: Is "quasi-judicial office" defined in the Freedom of Information Act?

Hon STEPHEN DAWSON: It is not defined, honourable member.

Hon NICK GOIRAN: In clause 7, are we providing any form of protection for judicial bodies?

Hon STEPHEN DAWSON: Clause 18 refers to the application of privacy obligations of judicial bodies. It states —

> The obligations imposed by this Part and the information privacy principles apply to an IPP entity that is a judicial body only in relation to the handling of information, or information that is held, in relation to matters of an administrative nature.

Hon NICK GOIRAN: If I understand that correctly, IPP entities have full obligations under the act, but if an IPP entity is a judicial body, it does not have full obligations; it just has obligations in respect of the handling of information, or information that is held in relation to matters of an administrative nature. Judicial bodies are defined in the act. Does this unknown, undefined term, "quasi-judicial office", have to fully comply with the provisions as an IPP entity or does it get the benefit of the lesser version for judicial bodies?

Hon STEPHEN DAWSON: They will be treated the same as a judicial body. They are captured only in relation to data of an administrative nature, not to the cases, for example.

Hon NICK GOIRAN: How has the minister drawn that conclusion? Quasi-judicial offices, as we have already identified, are not established in the legislation, but a judicial body is; we can see that at clause 7(1). A judicial body is expressly referred to in clause 18, but there is no mention of a quasi-judicial office there. If that were true and we looked at clause 18, would it not then say at line 23, "privacy principles apply to an IPP entity that is a judicial body or quasi-judicial body"? It does not say that. I seek clarification on how we have come to the conclusion that quasi-judicial offices will get the same, albeit limited, protections that judicial bodies have.

Hon STEPHEN DAWSON: Judges or tribunal members will not be captured by the Privacy and Responsible Information Sharing Bill. Only the organisation that they work for, such as a tribunal or a court, will be captured. Clause 7 states —

> (2) A registry or other office of a judicial body, and the staff of such a registry or other office, are part of the judicial body.
>
> (3) A person holding judicial or quasi-judicial office is not themselves, and is not part of, a judicial body or other public entity.

Hon NICK GOIRAN: Let us take another practical example. What about the Office of Criminal Injuries Compensation? Is that a judicial body or a quasi-judicial office? Will it be captured completely by this regime as an IPP entity or will it have the limited protections under clause 18?

Hon STEPHEN DAWSON: I am told that neither the Chief Assessor of Criminal Injuries Compensation nor the assessors of that office will be captured by the legislation. However, the organisation—the office—will be.

Hon NICK GOIRAN: The Office of Criminal Injuries Compensation will be captured, but the assessors will not. The minister would say, no doubt, that that is consistent with how courts and tribunals are dealt with in the sense that the administrative officers of the courts and tribunals will be captured but the judges or tribunal members themselves will not. Why should quasi-judicial offices not be captured?

Hon STEPHEN DAWSON: Under the legislation, we are preserving the independence of the judicial functions. It is the nature of the work they are performing. It is not appropriate for us to know the exact detail of the cases that they are working on. They are often, or probably always, sensitive in nature. However, it is important that we know more broadly about the administrative functions of the office so that we can deal with the data associated with those but not the minutiae of the case that individual offices are dealing with.

Hon NICK GOIRAN: Why, then, is it different for the Department of the Legislative Council and the Department of the Legislative Assembly?

Hon STEPHEN DAWSON: It is different. We have taken advice from the clerks on how the houses are treated in other legislation. They have the strong view that they should not be included in this legislation. There has been debate in this place previously about parliamentary privilege and what is captured by it. People have previously gone to courts over it. A policy decision was made after consultation with the clerks of the Parliament that they would not be included in the legislation.

Hon NICK GOIRAN: My final question on this is the continuing intersection between clauses 7 and 18. We identified earlier that clause 18 will mean that if an entity is an IPP entity, it will have to comply completely with the regime, but a judicial body will have to comply with it only to the extent that information is held in relation to matters of an administrative nature. I put it to the minister that the Office of Criminal Injuries Compensation is not a judicial body because the definition of clause 7(1) states —

> A judicial body is a court or tribunal established under a written law.

Unless we are now saying that the Office of Criminal Injuries Compensation is a court or a tribunal established under a written law, it is not captured by that provision. Therefore, would that office have to completely comply as an IPP entity, or would it be able to avail itself of the clause 18 limitation?

Hon STEPHEN DAWSON: I am told that the assessors themselves are not the public entity. They would sit outside of the Privacy and Responsible Information Sharing Bill. They are not captured by PRIS. The work or cases they are doing are not captured. More broadly, the work of the Office of Criminal Injuries Compensation, if it has 400 cases, is captured and that is disclosable.

Clause put and passed.

Clause 8 put and passed.

Clauses 9 and 10 put and passed.

Clause 11: De-identification and re-identification of information —

Hon WILSON TUCKER: I would like two points of clarification about de-identification and re-identification. During my contribution to the second reading debate, I gave the example that the federal health department released information that it felt had been adequately de-identified. The University of Melbourne was able to re-identify that information. I believe around two million records were re-identified. That is about 10 per cent of the Australian population, who became very much identifiable. There is a little bit of technical ability around what they did, but the department said it did not require a great deal. The example given was an undergraduate degree in computer science, which I have. I am not saying I could do it because I have certainly picked up a few cobwebs in the last few years, but it was not that difficult for them to do that. I am a little bit concerned about the expertise within the public sector and within each individual agency to appropriately and permanently de-identify records, to make sure the records cannot be re-identified. What expertise do the individual agencies have to de-identify or is there a centralised resource, such as the Office of Digital Government? Will the ODG provide a shared service that agencies can rely on to appropriately de-identify records?

Hon STEPHEN DAWSON: It is a matter for each agency. Most agencies have significant digital, computing or cyber teams. It is a matter for each agency. Clause 11 states that —

> (1) To ***de-identify*** personal information means to modify, or apply a process to, the information, with the result that the identity of an individual is not apparent, and cannot reasonably be ascertained, from the information.

I cannot comment on what the feds did or did not do, or how advanced the graduate was who was able to re-link data. As it stands, it says it "cannot reasonably be ascertained from the information".

Hon WILSON TUCKER: The federal health department felt it had adequately de-identified that information. It turned out it had not. I believe it was a number of graduates who looked at it from the University of Melbourne. As I said, it did not require a great deal of expertise. They took the de-identified information and looked at other publicly available information and enriched it with that other information to create a profile on a record that relates to a person and profile them in such a way that they became identifiable to an individual. The minister mentioned the responsibility here lies with each agency and each entity. However, we know the definition of entities is quite broad. Perhaps public sector employees have that expertise. In the state government, potentially, there are a lot of underfunded local governments who might say otherwise but there are a lot of entities. What assurance can the minister give us that every entity can de-identify information in such a way that it cannot be re-identified?

Hon STEPHEN DAWSON: These are new provisions. An element of training will need to go on with the agencies and government entities that will be captured by this legislation. That will be rolled out post the legislation passing Parliament. It is a new provision, so it does not currently exist. It is certainly something everyone is alive to noting what took place in the federal agency. The onus is on agencies to make sure that the information is de-identified.

Hon WILSON TUCKER: Will any resources be available to entities or agencies that do not feel they have the in-house expertise to adequately de-identify personal information?

Hon STEPHEN DAWSON: Yes, there will be.

Hon WILSON TUCKER: How will agencies apply for it? What form will these additional resources take?

Hon STEPHEN DAWSON: Entities will be able to access support from the Office of Digital Government if they need to. However, my understanding is that the vast majority of agencies will have expertise in-house that can do this. Training will be provided but the last resort is that DGov will be available to assist.

Hon WILSON TUCKER: Moving on within the lens of de-identification and re-identification, I would like to go back to "sensitive personal information". A number of different clauses relate to sensitive personal information.

Hon Stephen Dawson: I am not going to go back to clause 4, with greatest respect. We have dealt with clause 4. I am happy to answer questions about the clause we are on, but we cannot go backwards.

Hon WILSON TUCKER: I understand that, minister. It is within the lens of de-identification. I will ask the question and if the minister thinks I have missed the boat, that is fine. Within the 10 provisions that relate to sensitive personal information, if any number of these were compiled together, could they be considered personal information in such a way that it would be able to uniquely identify someone? Did the government consider this when the list was derived?

Hon STEPHEN DAWSON: Sensitive personal information is a subset of personal information. I am not sure what else I can say to be honest.

Hon WILSON TUCKER: What I was trying to get at is, if we compiled all these together, would it then be able to uniquely identify an individual? Was any consideration given to taking nine out of 10 to be able to build a profile of somebody, which could then identify that individual? Was that given consideration when coming up with what is considered a subset of personal information?

Hon STEPHEN DAWSON: I am not clear on what the honourable member is asking. Certainly, if he is referring to clause 4 and the list under sensitive personal information, not every agency would have any or indeed all that information available. Not every agency would know someone's sexual orientation or practices, gender identity or religious beliefs or whatever. I am not understanding him properly if he is saying rather than list 10 that are here if we only listed nine. Are we considering listing only nine of them?

Hon Wilson Tucker: I am referring to not necessarily the agency holding this information, but the agency collecting this information and the categorisation of those different categories that are considered sensitive information. If they are compiled together, would that then constitute personal information in such a way that someone could identify an individual? If we are talking about someone's religious beliefs, their job, their sexual orientation, their criminal record, it builds a profile of somebody, which could then identify them.

Hon STEPHEN DAWSON: Whether an individual's identity is apparent or can reasonably be ascertained from the information requires a risk assessment of the information in question, including the types of information and how much information there is. Consideration needs to be had about whether a reasonable person with that information could ascertain the identity of an individual. For example, even without an individual's name, date of birth or address, an individual's identity could still reasonably be ascertained based on other information variables available.

Clause put and passed.

Clauses 12 and 13 put and passed.

Clause 14: IPP entities —

Hon NICK GOIRAN: Clause 14(2) has attracted my attention. How would disputes about the application of clause 14(2) be managed?

Hon STEPHEN DAWSON: In the event of a complaint being made, the Information Commissioner would essentially be the adjudicator as to in which kind of category that information was handed over, whether it was as a minister or parliamentary secretary in their capacity as a member of executive government or whether it was a minister or parliamentary secretary in their capacity as a member of the Legislative Council or the Legislative Assembly.

Hon NICK GOIRAN: In adjudicating that complaint, would the Information Commissioner be entitled to any of the information held by the person as a member of the Legislative Council?

Hon Stephen Dawson: Can you ask that again?

Hon NICK GOIRAN: As the Information Commissioner is adjudicating this complaint, will they be allowed to have access to information that is in the possession of a member of the Legislative Council?

Hon STEPHEN DAWSON: The intention is not to override parliamentary privilege. The commissioner may well issue a letter asking for something to be disclosed, but the member of Parliament can go back and say, "Actually, it's covered by parliamentary privilege" and have Parliament on their side. That would be the end of it.

Hon NICK GOIRAN: In respect to a contracted service provider set out at 14(1)(d), is this intended to capture the private sector?

Hon STEPHEN DAWSON: It is, but only in the case in which they have a contract with the state that says that they will be bound. Many will not have that.

Hon NICK GOIRAN: In that respect it will only capture the private entity to the extent that the contract is applicable. If it is doing other works with other private entities, it is not intended for that to be captured.

Hon Stephen Dawson: That is correct.

Clause put and passed.

Clause 15 put and passed.

Clause 16: Automated decision-making processes and related concepts —

Hon COLIN de GRUSSA: Earlier, during the clause 1 debate, we discussed the automated decision-making process aspects of this bill. Clause 16 sets out what those automated decision-making systems are, what an automated system is and how those systems work. In response to the question I asked around whether this bill will expressly authorise automated decision-making systems used, the minister responded that it did not, in line with the very similar wording to that of the Attorney General at the consideration in detail stage in the other place when he was asked questions on clause 16.

I will read his response in. He said —

> This provision is not appropriate for legislation focused on privacy and information sharing to comprehensively regulate other agencies' use of automated decision-making in government. That would be more appropriately dealt with in more specific legislation. However, the purpose of automated decision-making provisions in this bill will not be to authorise the use of automated decision-making, but rather to provide principles for IPP entities should they use personal information in automated decision-making.

He is essentially saying that this bill made provisions for those entities to use automatic decision-making systems, but it does not specifically authorise them to use them. I am a little concerned that although the bill does not specifically authorise them to use those principles, it almost alludes to the fact that they can; it is a bit of a Trojan Horse in some respects. Looking at this could be seen as authorising the use of those systems.

I have an amendment on the supplementary notice paper that I had drafted in consultation with Dr Julia Powells from the University of Western Australia, who is one of the leading privacy researchers. This specific amendment refers to subsection (6) of clause 16 around what the IPP entity must have regard to in terms of establishing whether principle 10 applies to the entity. When I originally drafted this amendment, I intended on making it quite explicit that those organisations must have authorisation to use automatic decision-making systems; however, having looked at this, the definition of an automated decision-making system is pretty broad. Most entities are probably already using a system that would now be classified as an automated decision-making system, thereby requiring those entities to have written legislative authorisation. That would mean a whole bunch of legislative changes that would probably be quite unworkable. The amendment I have here simply adds at subclause (6) to ensure that the IPP entity has regard to guidelines, which are referred to in subclause (5) above it, but also to any written law authorising the use of the automated decision-making process. Whether that law exists, of course, is another question, but it specifically captures that those entities must have regard to that law if it exists. I think that is what is missing at the moment from this subclause, notwithstanding that we do not specifically authorise those entities to use these decision-making systems. I still think this is an extra check and balance. It further lines up with the amendments that we will get to later to schedule 1 around automated decision-making processes, but it can stand on its own. I seek the minister's support for this amendment.

The DEPUTY CHAIR: Honourable member, are you moving the amendment?

Hon COLIN de GRUSSA: Not yet; I might have some more questions.

Hon STEPHEN DAWSON: I appreciate the honourable member's comments, but I think he finished where I am about to start; that is, nothing in the bill before us will authorise automated decision-making. The bill does not comprehensively deal with automated decision-making. As I stated before the break, the bill will not authorise it. A separate authorisation in specific legislation is required for the use of automated decision-making, and IPP entities must already always consider the legality of the use of automated decision-making processes. I do not believe the amendment is needed, so we are not in a position to support it.

Hon COLIN de GRUSSA: An automated decision-making system could be a system in which part of a decision is made. It could be as simple as a calculation in a spreadsheet in some respects; it might take a little bit of data and make a calculation. That is an automated system as defined here, because that decision would be assisted by an automated system. It does not mean that the entire decision is made by that system. I just want to be clear that if there is authorising legislation for all those systems already, I accept that this amendment is perhaps not needed. I am not sure that there is specific legislation that authorises automated decision-making systems for every one of the entities that will be captured under this bill.

Hon STEPHEN DAWSON: I make clear that this is not about using Excel spreadsheets. Clause 16(3) states —

> The making of a decision is materially assisted by an automated system if —
>
> (a) the decision is made by a person in reliance on a preliminary decision-making step (including a recommendation, assessment, conclusion or inference) made by an automated system; and
>
> (b) that preliminary decision-making step has a material bearing on the decision that is made.

It is not that simple. I know the honourable member is not trivialising the issue, but it is not about using an Excel spreadsheet; it is about using a computer that makes a decision in the first place that someone then relies or acts on.

Hon COLIN de GRUSSA: The example that obviously comes to mind is robodebt. Those decisions were not made entirely by automated systems, but there were systems involved that did some calculations or whatever they did and letters were sent. We know the results of those sorts of systems. I am trying to ensure that that cannot happen under this legislation. I mean, we can never rule those things out, but I want to ensure that there will be checks and balances in place on those automated systems.

Hon STEPHEN DAWSON: I again confirm that that type of thing will not be allowed by this legislation. Another piece of legislation somewhere else would need to say that automated decision-making is allowable for these provisions to kick in.

Hon COLIN de GRUSSA: I will still move the amendment. I think it is important to express in clause 16 that the entities must have regard to any written law that authorises the use of automated decision-making processes. I move —

Page 25, lines 8 to 10 — To delete the lines and insert —

(6) An IPP entity must have regard to the following in determining whether IPP 10 applies in relation to a decision-making process of the IPP entity —

(a) guidelines referred to in subsection (5);

(b) any written law authorising the use of the automated decision-making process.

Amendment put and negatived.

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

BIRTHS, DEATHS AND MARRIAGES REGISTRATION AMENDMENT (SEX OR GENDER CHANGES) BILL 2024

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendments made by the Council.

House adjourned at 8.45 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

HOUSING — PUBLIC, SOCIAL AND COMMUNITY HOUSING STOCK

2071. Hon Steve Martin to the minister representing the Minister for Housing:

I refer to the Minister's answer to question on notice 1803, asked on 30 November 2023, in relation to public housing property disposals, and I ask:

(a) for each of the following years, how many public houses were sold:

(i) 2017–18;

(ii) 2018–19;

(iii) 2019–20;

(iv) 2020–21;

(v) 2021–22; and

(vi) 2022–23;

(b) for each of the years in (a), what was the total value of the public housing sales;

(c) for each of the years in (a), how many public houses were demolished; and

(d) for each of the years in (a), how much land previously used for public housing was sold in terms of:

(i) land; and

(ii) value?

Hon Jackie Jarvis replied:

The State Government inherited significantly ageing and inappropriate public housing stock that had not been maintained or refurbished and was in poor condition, due to the mismanagement of the previous Liberal–National Government.

Under the former Liberal–National government, many hundreds of social homes that counted towards their social housing numbers lay vacant and derelict with no plans to redevelop them, including over 160 uninhabitable apartments in Brownlie Towers alone.

There has been significant work undertaken under this State Government to prioritise the redevelopment of large-scale projects that were neglected for years including North Beach, Subiaco East, Bentley and Stirling Towers.

I seek leave to Table the following information.

(a)–(c)

	Property Disposals	FY 2017–18	FY 2018–19	FY 2019–20	FY 2020–21	FY 2021–22	FY 2022–23
(a)(i)–(vi)	Total Sales	269	232	198	140	25	14
(b)(i)–(vi)	Total Value of Sales	$86,667,800	$51,823,396	$53,360,400	$26,260,412	$4,563,000	$6,174,500
(c)(i)–(vi)	Total Demolitions	129	209	453*	199	66	125

* This figure includes Bentley Towers.

(d) (i)–(ii) The requested data is not captured in this format and therefore it is unable to be provided. As such, this data would require manual review of individual files and is not considered a reasonable use of government resources.

Should the Member have a more specific question, the Minister will endeavour to provide a response.

WATER QUALITY — MIRAMBEENA INDUSTRIAL ESTATE

2072. Hon Dr Steve Thomas to the Parliamentary Secretary to the Minister for Water:

I refer to the provision of water, by the Water Corporation, to the Mirambeena Industrial Estate north of Albany, which is designated by the State Government as a Strategic Industrial Area (SIA), and I ask:

(a) why is the water quality of the supply to this estate being described as suspect or unsatisfactory for human consumption;

(b) does the water supply to the Mirambeena SIA meet all potable water standards set by the Department of Water and Environmental Regulation;

(c) if no to (b), in what areas is the supply not compliant;

(d) please provide the water quality data for the supply to the Mirambeena SIA for the last five years;

(e) what plan does the Water Corporation have in place to remedy any water quality issues in the supply to Mirambeena SIA; and

(f) what standard of water quality is the Water Corporation required to meet in the supply of water to the Mirambeena SIA?

Hon Matthew Swinbourn replied:

(a) Most customers within the Mirambeena Industrial Estate are on Non-Standard Water Service (NSWS) agreements, which outline the conditions under which Water Corporation agrees to supply water to properties.

These agreements apply as the Estate properties are located outside the City of Albany's main water zone. This means they are not supplied with water from the town's main reticulation network which Water Corporation routinely monitors. The water in the main water zone is treated to ensure it meets the full requirements of the Australia Drinking Water Guidelines (ADWG) as determined by the Department of Health (DoH).

Estate customers are supplied water via a large transfer distribution main, which runs between Albany and Mount Barker. Due to the long length of pipe, the large volume of water moving through the main and the property distance from the Albany town water treatment plant, Water Corporation cannot guarantee the quality of water supplied to customers. Water Corporation also does not conduct routine sampling or testing within the Estate.

For these reasons, Water Corporation cannot guarantee that the water provided to properties within the Estate, meets the full requirements of the ADWG.

(b) Potable water standards are not set by the Department of Water and Environmental Regulation. Requirements for the safety and management of drinking water quality are set within the ADWG, which are published and managed by the National Health and Medical Research Council. Water Corporation compliance with the ADWG is regulated by DoH.

(c) Water Corporation cannot guarantee the microbiological water quality of the water to the Estate.

(d) There is no microbiological water quality data provided due to there being no representative monitoring point in the area.

(e) Water Corporation does not currently have plans to provide a standard level of service, in terms of water quality, to the Estate.

(f) Under Water Corporation's Memorandum of Understanding with DoH, Water Corporation is permitted to provide a NSWS with a Service Agreement Water Quality to customers who receive a water supply that has originally been treated to a drinking water service standard but, after long detention times in extended pipeline systems or protracted water age, the water may not comply with the microbiological provisions of DoH's requirements and the ADWG.

SOCIAL HOUSING — INVESTMENT

2073. Hon Steve Martin to the minister representing the Minister for Housing:

I refer to the website on the 2024–25 State Budget which states, "...$400 million additional funding for the expanded Social and Affordable Housing Investment Fund, bringing the total number of new social homes to almost 5000, with more than 2100 already delivered", and I ask:

(a) can the Minister please provide a breakdown of this 2100 delivered, including:

(i) financial years the homes were delivered;

(ii) the number of community homes included in that figure;

(iii) the number of public homes included in that figure; and

(iv) the number of affordable homes included in that figure; and

(b) does the Minister include potential affordable homes in the 5000 figure?

Hon Jackie Jarvis replied:

(a) The State Government is investing a record $3.2 billion in social housing and homelessness measures in WA, including delivery of around 5,000 social dwellings, and refurbishments and maintenance work to many thousands more.

Since our record investment, the State Government has added more than 2,400 social homes with a further 1,000 social homes currently under contract or construction.

(i) From 1 July 2021 to 30 June 2024, 2,269 social housing dwellings have been added:

Financial Year	Social Housing Dwellings Added
2021–22	600
2022–23	756
2023–24	913

(ii) 15

(iii) 2,254

(iv) The former Social Housing Investment Fund funded social housing.

(b) No.

KEYSTART — SHARED OWNERSHIP — LISTED PROPERTIES

2074. Hon Steve Martin to the minister representing the Minister for Housing:

I refer to the Keystart shared ownership loans, which lists homes available for shared ownership on the Opening Doors website, and I ask:

(a) it appears that there are only two properties listed on the entire Opening Doors website, as of 10 July 2024, both listed as under offer. Is the Cook Labor Government continuing with the shared ownership program;

(b) why are no properties listed;

(c) are there any properties not listed on the website available for shared ownership loans;

(d) if yes to (c), where has this been advertised;

(e) if yes to (c), doesn't this conflict with advice on the Keystart website that, "If you are eligible for a shared ownership loan, then you can view the available properties on the Opening Doors website";

(f) are there plans to add more properties to the website, given that the Government recently announced eligibility changes to the shared ownership loans; and

(g) what was the point of changing eligibility for shared ownership loans when no properties are actually available for the program?

Hon Jackie Jarvis replied:

(a)–(g) As previously stated publicly, the State Government prioritised the delivery of social housing for Western Australia's most vulnerable households. In addition to the state government's shared equity program, the federal government has announced a shared equity scheme that will provide more options for those wishing to enter home ownership. This legislation continues to be blocked by the Liberal–National opposition.

It is not the case that all of the shared ownership program is limited to purchasing properties from Opening Doors. The eligibility criteria was recently updated enabling more Western Australians to make the move into homeownership.

ALBANY HEALTH CAMPUS — REDEVELOPMENT FUNDING

2075. Hon Ben Dawkins to the Parliamentary Secretary to the Minister for Health:

I refer to the article in the *Albany Advertiser* on 27 June 2023, which said that a submission to treasury putting the case for a $320m redevelopment of the Albany Health Campus was knocked back for funding in the 2023–24 State Budget, and I ask:

(a) the recent 2024–25 budget also appears not to contain any funding for redevelopment of the Albany Health Campus (other than $1.8 million for the carpark), why not;

(b) similarly, the economic and fiscal outlook in this recent budget doesn't provide funds for the redevelopment in the next four years, why not;

(c) has the Government found other ways to alleviate the capacity problems outlined in the redevelopment submission;

(d) if yes to (c), what are they; and

(e) if no to (c), does this mean that the Government has turned its back on the health needs of the people of Albany and the Great Southern?

Hon Pierre Yang replied:

(a)–(e) WACHS continuously assesses, monitors and mitigates risk across the organisation as part of normal business operations. WACHS has put in place a number of mitigation strategies at Albany Health Campus to support service need, including improved patient flow processes and a hospital avoidance program. These initiatives support the whole patient journey from admission to discharge, including Hospital in the Home services; engagement with a Comprehensive Care Coordinator; and long-term planning to prevent potential unplanned re-admissions. WACHS is also working with providers on discharge options, as well as exploring the implementation of a discharge lounge.

Funding decisions are Cabinet-in-Confidence.

ALBANY HEALTH CAMPUS — NURSES — DOUBLE SHIFTS

2076. Hon Ben Dawkins to the Parliamentary Secretary to the Minister for Health:

Can the Minister advise how many double shifts have been worked by nurses at the Albany Health Campus in the 2023–24 financial year?

Hon Pierre Yang replied:

A double shift occurs when an employee works two consecutive standard working hour shifts, with a break between the two shifts. The average length of shift is dependent on the clinical area need.

Consistent with the *WA Health Australian Nursing Federation - Registered Nurses, Midwives, Enrolled (Mental Health) And Enrolled (Mothercraft) Nurses - Industrial Agreement 2022;* the ordinary hours worked in any one day will be a maximum of eight hours, unless an agreement to vary the hours and roster has been made in accordance with Clause 28 – Flexibility in Hours and Rostering of the above Agreement.

Further, for all authorised overtime worked by a full-time employee in excess of their rostered ordinary hours of work outside the ordinary hours of their shift Monday to Saturday inclusive, payment will be made at the rate of time and a half for the first three hours and double time thereafter.

For all authorised overtime worked on a Sunday by a full-time employee payment will be made at the rate of double time. For all authorised overtime worked on a public holiday by a full-time employee payment will be made at the rate of double time and a half.

324 double shifts were undertaken in the 2023–24 financial year. This represents less than one percent of the approximately 43,000 shifts undertaken at Albany Health Campus annually.

STATE GOVERNMENT — PREMIER OF CHINA VISIT

2077. Hon Ben Dawkins to the Leader of the House representing the Premier:

I refer to the visit of Chinese Premier, Li Qiang, to Western Australia (WA) in June this year, and the immense state police resources used, including hundreds of WA police officers and the use of the police helicopter, and I ask:

(a) what was the total cost of this visit to the taxpayers of WA;

(b) when will the ban on WA rock lobster to China be lifted and exports resume; and

(c) was this trip a total waste of WA taxpayer's money?

Hon Sue Ellery replied:

(a) This information has previously been provided to the Parliament.

(b) This is not a decision for the WA Government.

(c) No.

POLICE — 000 CALLS

2078. Hon Ben Dawkins to the minister representing the Minister for Police:

I refer to various media reports that when Joan Mary Drane, 78, of Yangebup called police three times in the weeks leading up to her alleged murder, that police did not attend. When St John Ambulance paramedics made additional requests for police support in relation to Ms Drane, those too were knocked back. When Police Commissioner, Col Blanch, was asked about this matter, his reaction was to back the police response after listening to the emergency call tapes. Does the Minister support the immediate release of the tapes so that the public can be assured that they will get help when they ring 000?

Hon Stephen Dawson replied:

The Western Australia Police Force advise that it is not possible to release the recordings as this matter is currently proceeding through the judicial system.

ABORIGINAL HERITAGE — SURVEY PROGRAM

2079. Hon Ben Dawkins to the Leader of the House representing the Minister for Aboriginal Affairs:

I refer to the Aboriginal Heritage Survey Program, and I ask:

(a) how many surveys have been conducted under the program to date;

(b) what is the average length of time taken to complete a survey, from the time of request or application; and

(c) will the Minister provide a schedule of surveys currently underway?

Hon Sue Ellery replied:

(a)–(c) The Department of Planning, Lands and Heritage is liaising with a number of applicants, including native title parties and local government, regarding surveys to be undertaken.

MINES AND PETROLEUM — IRON ORE PROJECTS

2080. Hon Ben Dawkins to the minister representing the Minister for Aboriginal Affairs:

How many iron ore projects in the Pilbara are currently being stalled due to Aboriginal Heritage Surveys being undertaken or requested?

Hon Sue Ellery replied:

The Hon Member would need to obtain this information from the iron ore mining industry.

ELECTORAL AFFAIRS — COMMUNITY ENGAGEMENT — ABORIGINAL ELECTORS

2081. Hon Neil Thomson to the Parliamentary Secretary to the Minister for Electoral Affairs:

I refer to the 2024–25 Budget Paper No 2, Volume 1, pages 89 to 97, and Note 3 on page 90 which indicates that, with the coming Western Australian State Election planned for March 2025, there is an intended increase in community engagement with Aboriginal electors, and I ask:

(a) will the Western Australian Electoral Commission (WAEC) be conducting community visits to the majority of regional communities as they have done in the past;

(b) will the engagement include Kimberley, Pilbara and Kalgoorlie communities;

(c) if yes to (b), please list;

(d) will the engagements be conducted utilising locally employed persons representing the WAEC; and

(e) what months will the engagements commence?

Hon Matthew Swinbourn replied:

(a) The Commission will attend a range of regional towns and remote communities as part of its electoral activities. The Commission also continues its collaboration with the Australian Electoral Commission's Indigenous Electoral Participation Program to increase engagement with Aboriginal electors in Western Australia.

(b) Yes.

(c) The Commission is currently finalising the list of Communities to be visited, by reviewing previous engagement and through consultation with the Australian Electoral Commission and Local networks.

(d) There will be opportunities for election employment around the state, including in regional areas.

(e) Community engagement is ongoing.

ELECTORAL AFFAIRS — VOTER ENROLMENT — VOICE REFERENDUM

2082. Hon Neil Thomson to the Parliamentary Secretary to the Minister for Electoral Affairs:

I refer to the 2024–25 Budget Paper No 2 Volume 1, Note 3 on page 90, concerning the Voice Referendum and the anticipated increase in voter enrolments as a result, and I ask:

(a) what was the actual result of voter enrolments, by percentage, over existing rolls in the Kimberley, Pilbara and Kalgoorlie electorates from 1 July 2023 to 30 June 2024;

(b) in reference to (a), did the Western Australian Electoral Commission undertake targeted activities in these electorates to generate the enrolments from 1 July 2023 to 30 June 2024:

  (i) if yes to (b), what targeted activities; and

(c) were there any learnings in this period relevant to planned community engagement for the March 2025 election?

Hon Matthew Swinbourn replied:

(a) Compared to an overall statewide increase in enrolment of 2%, for the period of 1 July 2023 to 30 June 2024 there were the following increases in these three districts:

Kalgoorlie – 3%

Kimberley – 15%

Pilbara – 4%

(b)–(c) The Western Australian Electoral Commission always works collaboratively with the Australian Electoral Commission to encourage enrolment. For the 2025 State General Election, the Western Australian Electoral Commission will continue to use a range of means included targeted emails and SMS, community engagement activities and clear enrolment messaging in the broader State election communications campaign.

ELECTORAL AFFAIRS — LOCAL GOVERNMENT ELECTIONS

2083. Hon Neil Thomson to the Parliamentary Secretary to the Minister for Electoral Affairs:

I refer to the 2024–25 Budget Paper No 2 Volume 1, Note 1 on page 90, concerning local government elections, and I ask:

(a) has the Western Australian Electoral Commission (WAEC) undertaken a formal analysis of the *Local Government Act* in relation to backfilling vacancies;

(b) if yes to (a), what did this analysis determine;

(c) in reference to (a), is a copy available;

(d) how many extraordinary vacancies were backfilled, thereby not requiring extraordinary elections, in 2023–24;

(e) is the backfilling of vacancies greater in country or metropolitan local governments; and

(f) what has been the estimated saving to the WAEC by this legislative change in the previous two-year election cycle?

Hon Matthew Swinbourn replied:

(a) No.

(b) Not applicable.

(c) Not applicable.

(d) The Commission does not hold this information, as the Commission is only engaged where an election needs to be conducted. It is understood that the Department of Local Government, Sporting and Cultural Industries may retain this information.

(e) As above.

(f) The backfill provisions only apply to those Councillors elected in the 2023 general Local Government elections and onwards. Between 23 October 2023 and 28 August 2024, 18 extraordinary local government elections were conducted arising from vacancies which were not covered by the new backfill provisions (that is, they related to Councillors elected prior to 2023). As such it is not possible to determine any quantum of savings however the Commission anticipates that following the 2025 general local government elections, the need for local government extraordinary elections will be reduced as all councillors will fall within the scope of the backfill provisions.

ELECTORAL AFFAIRS — ELIGIBLE ELECTORS

2084. Hon Neil Thomson to the Parliamentary Secretary to the Minister for Electoral Affairs:

I refer to the 2024–25 Budget Paper No 2 Volume 1, page 91, 'Outcome and Key Effectiveness Indicators', and the languishing percentage of eligible Western Australian electors (at approximately 95%), and the Western Australian Electoral Commission (WAEC) target of 97% this financial year, and I ask:

(a) what additional or extraordinary actions is the WAEC envisaging, or undertaking, in 2024–2025 to improve the 95% achieved to date;

(b) what is the expected cost of this campaign to reverse the current downward trend;

(c) has the WAEC identified the primary issue for the decline in voter registration;

(d) in reference to (c), is the primary issue resourcing or educational in terms of the public response; and

(e) what evidence is used to demonstrate that the planned actions/expenditure will deliver the 2% target required in 2024–25?

Hon Matthew Swinbourn replied:

(a) The Western Australian Electoral Commission (the Commission) undertakes ongoing community education and engagement to increase awareness and understanding of the electoral process, and promote enrolment and electoral participation. Engagement activity is focused on community cohorts identified by the Commission as being historically under-represented in electoral participation. These include young people, Aboriginal Western Australians and culturally and linguistically diverse Western Australians. The Commission's planned State election community advertising campaign will target these priority cohorts and the wider Western Australian community.

(b) Recent legislative changes, such as the provision allowing people to enrol to vote at a polling place and cast a declaration vote, provide an avenue for increasing enrolment and participation at Western Australian State elections. New provisions allowing 16- and 17-year-olds to enrol to vote can support a culture of increased electoral engagement, encouraging electoral participation when people turn 18.

(c) The Commission is unable to provide specific costings for activity relating to community engagement, education and legislative implementation.

(d) There is no single cause for the decline in electoral participation, rather a wide range of factors contribute to voting patterns. These include later transition to adult milestones and direct enrolment.

(e) The Commission remains focused on ongoing community education and engagement to increase awareness and understanding of the electoral process, and promote enrolment and electoral participation.

(f) Learnings from other electoral jurisdictions and other sectors demonstrates the most effective behaviour change strategies are those that work to reduce barriers to enrolment and voting, increase knowledge and trust in the electoral process and create or reinforce a social norm around voting.

INSURANCE COMMISSION — RISKCOVER FUND

2085. Hon Neil Thomson to the minister representing the Treasurer:

I refer to the 2024–25 Budget Paper No 2 Volume 1, page 179, Note 5, and the RiskCover Fund forecasts for 2024–25, and I ask:

(a) what was the loss to RiskCover Fund in 2023–24 in $ million;

(b) please list the current amounts levied, by department, for premiums for 2024–25;

(c) are increases in premiums levied in 2024–25 expected to remain fixed per annum, or are they a one-off increase to cover costs-related claims for 2023–24; and

(d) with the increase in premiums in 2024–25, and the estimated/anticipated claims, what is the solvency ratio likely to rebound to by the end of year 2024–25?

Hon Stephen Dawson replied:

(a)–(d) Details about the performance of the RiskCover Fund in 2023–24 will be outlined in the Insurance Commission's 2023–24 Annual Report.

LEGAL AFFAIRS — RISKCOVER FUND PREMIUMS

2086. Hon Neil Thomson to the minister representing the Minister for Corrective Services:

I refer to the 2024–25 Budget Paper No 2 Volume 2, page 421, 'Other – RiskCover Premiums', and I note that RiskCover premiums for Justice increases from $4.5 million to $53 million in this Budget year, and I ask:

(a) what is reason for the significant increase in RiskCover at Justice as opposed to other departments/agencies;

(b) in reference to (a), why has this increase only appeared in the 2024–25 Budget;

(c) in reference to (a), is there likely to be multiyear implications;

(d) is the RiskCover premium paid by Justice likely to return to previous levels in future budgets; and

(e) what actions has Justice undertaken to minimise the risk of further increases?

Hon Stephen Dawson replied:

(a)–(e) The Department of Justice advise that the RiskCover premium did not increase from $4.5 million in 2023–24 to $53.410 million in 2024–25. The Department received an adjustment notice from RiskCover for property damage not considered in the original 2023/24 renewal notice. This is required to be reported in the following year Budget Statement. Premiums depend on multiple factors which are often unforeseeable. The Department is required to report back to the Expenditure Review Committee on its insurance renewal costs on an annual basis.

GREYHOUND RACING — NORTHAM

2087. Hon Dr Brad Pettitt to the minister representing the Minister for Racing and Gaming:

I refer to upgrades at the Northam greyhound racing track undertaken in 2021–22, and I ask:

(a) which of the upgrade recommendations given to Racing and Wagering Western Australia by the University of Technology Sydney were carried out;

(b) which of the above recommendations in (a) were not carried out;

(c) were any other upgrades made that were not recommended, or did not involve greyhound welfare;

(d) if yes to (c), what were these upgrades;

(e) what was the total budgeted cost of carrying out all of the above recommendations from the University of Technology Sydney;

(f) what was the final cost of the upgrades; and

(g) what portion of the final cost in (f) was paid for by Racing and Wagering Western Australia and the State Government, respectively?

Hon Stephen Dawson replied:

Racing and Wagering Western Australia advise:

(a) Track Survey, establishment of inside and outside plinths, establish design levels of 5.5 per cent on straights and 8.5 per cent for turns.

(b) Nil.

(c) Yes.

(d) Additional safety rail above the lure rail, refencing the outside of the track including padding removal of the 588m start, and box and safe chase lure.

(e) $266K.

(f) $266K.

(g) 100 per cent funded by Racing and Wagering Western Australia.

GREYHOUND RACING — MANDURAH

2088. Hon Dr Brad Pettitt to the minister representing the Minister for Racing and Gaming:

I refer to upgrades at the Mandurah greyhound racing track undertaken in 2023, and I ask:

(a) which of the upgrade recommendations given to Racing and Wagering Western Australia by the University of Technology Sydney were carried out;

(b) which of the above recommendations were not carried out;

(c) were any other upgrades made that were not recommended, or that did not involve greyhound welfare;

(d) if yes to (c), what were they;

(e) what was the total budget of the above recommendations;

(f) what was the total budgeted cost of carrying out all of the above recommendations from the University of Technology Sydney; and

(g) what portion of the final cost in (f) was paid for by Racing and Wagering Western Australia and the State Government, respectively?

Hon Stephen Dawson replied:

Racing and Wagering Western Australia advise:

(a) Track Survey, cross-fall of 5.3 per cent for straights and a constant cross-fall of 7 per cent for turns. UTS also recommend connecting these with transitions of at least 50m in length, installation of clothoid transitions at each of the four bends, catching pen entrance to be widened and increased the length. All of the mentioned recommendations were adopted as part of the new track design.

(b) Catching pen relocation was not carried out. It was agreed that lengthening and widening the pen closer to the southern end of the track would be sufficient to facilitate a smooth transition for greyhounds entering the pen post-race.

(c) Yes.

(d) New starting boxes, track widened to 7m, safe chase lure installed, additional safety rail above the lure rail installed and outside of the track re-fenced to include padding.

(e) $8.5M.

(f) $8.5M.

(g) 100 per cent funded by Racing and Wagering Western Australia.

GREYHOUND RACING — CANNINGTON

2089. Hon Dr Brad Pettitt to the minister representing the Minister for Racing and Gaming:

I refer to upgrades at the Cannington greyhound racing track being undertaken currently, and I ask:

(a) which of the upgrade recommendations given to Racing and Wagering Western Australia by the University of Technology Sydney are being carried out;

(b) which of the above recommendations in (a) are not;

(c) are any other upgrades being made that were not recommended or do not involve greyhound welfare;

(d) if yes to (c), what are they;

(e) what is the total budgeted cost of carrying out all of the above recommendations from the University of Technology Sydney;

(f) what is the budgeted cost for the upgrades that are currently being undertaken; and

(g) how much of the cost in (f) is being paid for by racing and Wagering Western Australia and the State Government, respectively?

Hon Stephen Dawson replied:

Racing and Wagering Western Australia advise:

(a) Reconstruct inside and outside plinths to establish recommended design levels and improve dimensions of catching pen.

(b) Nil.

(c) Yes.

(d) Resurfacing track, installation of new lure rail and safety rail, new outside fencing with padding, new track reticulation system and new starting boxes and start configuration.

(e) $3M.

(f) $3M.

(g) 100 per cent funded by Racing and Wagering Western Australia.

COMMERCE — RESIDENTIAL PROPERTIES — TRANSFER DUTY REVENUE

2090. Hon Steve Martin to the Minister for Finance; Commerce; Women's Interests:

I refer to transfer duty revenue from residential property transactions, and I ask:

(a) how many residential property transactions occurred in the 2023–24 financial year, per each of the following property price levels:

  (i) under $450,000;

  (ii) $450,000 to $499,999;

  (iii) $500,000 to $549,999;

  (iv) $550,000 to $599,999;

  (v) $600,000 to $649,999;

  (vi) $650,000 to $699,999;

  (vii) $700,000 to $749,999;

  (viii) $750,000 to $799,999;

  (ix) $800,000 to $849,999;

  (x) $850,000 to $899,999;

  (xi) $900,000 to $949,999;

  (xii) $950,000 to $999,999; and

  (xiii) $1,000,000 and over;

(b) how many residential property transactions occurred in the 2022–23 financial year, per each of the property price levels identified in (a);

(c) for each of the property price levels listed in (a), how much transfer duty was collected in the 2023–24 financial year;

(d) for each of the property price levels listen in (a), how much transfer duty was collected in the 2022–23 financial year;

(e) for each of the property price levels listed in (a), how much in transfer duty was discounted as a concession for first home buyers in the 2023–24 financial year:

(i) in reference to (e), for how many transactions; and

(f) for each of the property price levels listed in (a), how much in transfer duty was discounted as a concession for first home buyers in the 2022–23 financial year:

(i) in reference to (f), for how many transactions?

Hon Sue Ellery replied:

Please refer to Legislative Assembly Question on Notice 1244.

LANDGATE OFFICES — SALE

2092. Hon Neil Thomson to the Minister for Finance:

I refer to my question on notice 1395, Thursday 9 November 2023, concerning the sale of the Landgate building in Midland, and the answer indicating a value proposition of $12 million saving in net present value for the State, and I ask:

(a) did the $12 million value proposition include an amount for the costs associated with the two Department of Communities offices/buildings no longer required as a result of the eventual planned relocation of staff into the Landgate complex;

(b) if yes to (a), what was the estimated benefit associated with these building changes;

(c) was the cost of temporary leased accommodation (whilst the Landgate building was being refurbished) for Landgate staff included in the value proposition; and

(d) if yes to (c), what was the cost of temporary leased accommodation?

Hon Sue Ellery replied:

The Landgate building is an ageing asset. The sale arrangement was an open market process under a Market Led Proposal (MLP) Problem and Opportunity Statement. The process and assessment of financial outcomes was run by an independent committee and the outcome was subject to rigorous, independent assessment. When considering a range of factors – including necessary upgrade costs, ongoing maintenance, and the benefits of co-locating other State Government agencies – the lease option presents a superior financial outcome to taxpayers resulting in approximately $12 million in avoided costs.

(a)–(b) Yes. Approximately $8 million.

(c)–(d) Yes. Approximately $12 million.

LANDGATE OFFICES — SALE

2093. Hon Neil Thomson to the Minister for Finance:

I refer to my question on notice 1395, Thursday 9 November 2023, in relation to the sale of the Landgate building in Midland, and the answer indicating that a value proposition estimate showed a $12 million net present value saved, and the avoidance of fit-out, maintenance and upgrade costs as a result, and I ask:

(a) under the value proposition, what was the estimated refurbishment costs of the Landgate building being saved;

(b) what was the estimated annual maintenance costs being saved in the value proposition; and

(c) what was the estimated cost of fit-out or upgrades being saved under the value proposition?

Hon Sue Ellery replied:

The Landgate building is an ageing asset. The sale arrangement was an open market process under a Market Led Proposal (MLP) Problem and Opportunity Statement. The process and assessment of financial outcomes was run by an independent committee and the outcome was subject to rigorous, independent assessment. When considering a range of factors – including necessary upgrade costs, ongoing maintenance, and the benefits of co-locating other State Government agencies – the lease option presents a superior financial outcome to taxpayers resulting in approximately $12 million in avoided costs.

(a) Approximately $43.5 million over 15 years.

(b) Approximately $16.1 million over 15 years.

(c) Approximately $7.9 million.

EDUCATION — REGIONAL ATTRACTION AND RETENTION INCENTIVE

2094. Hon Neil Thomson to the Leader of the House representing the Minister for Education:

I refer to the Education and Training (Department of) 2024–25 Budget Paper No 2 Volume 1, 'Spending Changes' on pages 353–354, and Note 3 on page 354 in regard to the 'Temporary Regional Incentives for Teachers' ($11.6 million), and I ask:

(a) how is it intended that this program will be administered;

(b) what rules will apply to entitlement over what timeframes;

(c) what additional salary, financial incentives or support will a teacher receive if entitled; and

(d) in reference to (c), please provide examples for Kimberley, Pilbara and Goldfields teachers?

Hon Sue Ellery replied:

(a) The Temporary Regional Incentive is paid to eligible teachers and school administrators in 2 instalments:

(i) a 25% attraction payment at the start of the school year or upon their commencement at the eligible school; and

(ii) a 75% retention payment at the end of the school year.

Eligible teachers and school administrators receive the instalment through the payroll system.

(b) The Temporary Regional Incentive was approved under *Commissioners Instruction 38 — Temporary Regional Attraction and Retention Incentives* for 48 schools in the 2023 school year and 68 schools in the 2024 school year. It does not form an ongoing entitlement.

The Department identified regional and remote schools with acute teacher recruitment and retention challenges for inclusion. Identified schools are distributed amongst 4 tiers, with tier one attracting the highest financial incentive.

(c)–(d) Eligible teachers and school administrators receive a financial payment of between $5000 and $17,000 depending on the tier of their location, e.g.:

Kimberley	East Kimberley College – $17,000
	Derby District High School – $10,000
Pilbara	Newman SHS – $17,000
	Karratha SHS – $10,000
	Nullagine PS – $5,000
Goldfields	Norseman DHS – $17,000
	Leinster Community School – $10,000

EDUCATION — BUDGET ESTIMATES

2095. Hon Neil Thomson to the Leader of the House representing the Minister for Education:

I refer to the Education and Training 2024–25 Budget Paper No 2 Volume 1, 'Spending Changes, Ongoing Initiatives' on page 354, in particular 'Revisions to Student Enrolment and Cost Growth Forecast', which show a budget increase from $46 million in 2023–24 to $81 million for the 2024–25 budget year, and I ask:

(a) what is the underlying data set that leads to this $81 million estimate;

(b) what is the calculated increase in cost per student enrolment this year, as opposed to the previous budget years:

(i) 2021–22; and

(ii) 2022–23; and

(c) with the Budget showing outyear cost increases, what data supports these future growth forecasts and estimates?

Hon Sue Ellery replied:

(a) and (c) This increase relates to the annual update of public school student enrolment data (including student characteristics) following the Semester 1 census and a revised student population forecast based on the projected Western Australian student age population growth from the Department of Treasury.

(b) The increases in the 'Cost per student full-time equivalents' for primary and secondary students for 2024–25, compared to the respective budget papers were:

(i) 2021–22 Budget: $3,096 (19%) per primary student

2021–22 Budget: $3,294 (17%) per secondary student

(ii) 2022–23 Budget: $2,285 (13%) per primary student

2022–23 Budget: $2,614 (13%) per secondary student

FINANCE — ASSET INVESTMENT PROGRAM

2097. Hon Neil Thomson to the Minister for Finance:

I refer to Finance 2024–25 Budget Paper No 2 Volume 1, Note 1 on page 162, and the whole-of-government and Department activity to increase the State's market capacity to support the Asset Investment Program, and I ask:

(a) since the inception of this activity, what specific expenditure and actions/activities have/has the Department of Finance used to attract Tier 2 construction operators into Western Australia (WA);

(b) can the Department name Tier 2 operators that have established operations in WA as a result; and

(c) what percentage of the $1.5 billion annual pipeline of capital works available in WA have these new operators been able to secure in contracts?

Hon Sue Ellery replied:

(a) The Department of Finance has proactively engaged with local and interstate Tier 1 and Tier 2 contractors, as well as the Master Builders Association and the Australian Construction Association, to discuss matters that impact industry's ability to increase their capacity in Western Australia.

Initiatives are now being developed for consideration by Government and will be announced in due course.

(b) Multiple Tier 1 and 2 contractors have shown interest in upcoming projects, including responding to recent procurement processes. To maintain the highest levels of probity, information relating to live procurement processes are not publicly released.

(c) This question appears to refer to the following statements from the budget papers:

'With the Government investing in record levels of infrastructure, the Department has significantly increased its annual program of work by over 40% in recent years. Since mid-2021, $1.5 billion worth of non-residential infrastructure projects have been delivered, including election commitments and significant upgrades to community infrastructure that deliver on the Government's objectives and support positive health, education and community outcomes. While market conditions have been challenging, with labour shortages and supply chain disruptions impacting projects, the 2023–24 period is showing signs of improvements within the supply chain and market pricing.'

That statement referred to projects already delivered since 2021 which are prior to the market capacity initiatives commencing.

ELECTRIC VEHICLE STRATEGY — EMISSION REDUCTION

2098. Hon Neil Thomson to the Minister for Finance:

I refer to the Finance 2024–25 Budget Paper No 2 Volume 1, and Note 4 on page 162, relating to changes in the Electric Vehicle (EV) target to 50% under the Emission Reduction Strategy, and the table on page 168, 'Vehicle Acquisitions', and I ask:

(a) of the planned vehicle acquisition in 2024–25 ($96.4 million) how much of the expenditure applies to EVs; and

(b) how many EVs are estimated to be purchased?

Hon Sue Ellery replied:

(a) $2.86 million

(b) 68

FINANCE — OFFICE FIT-OUTS — MIDLAND AND KUNUNURRA

2099. Hon Neil Thomson to the Minister for Finance:

I refer to Finance Budget 2024–25, Budget Paper 2 Volume 1, Note 1.1 on page 167 and the table on page 168, indicating that $12.7 million is to be expended on the Midland and Kununurra Office fitouts, and I ask:

(a) what portion of the $12.7 million applied to the Midland Landgate office;

(b) was this amount, or a similar provision, included in the value proposition originally undertaken in assessing the market-led proposal for the Landgate building;

(c) was the expenditure under the 'Completed Works' (in the same table on page 168) heading, 'Lease Incentive Funded - Office Fit-Outs', for $162 million also, in whole or in part, for the Landgate building; and

(d) if yes to (c), how much applied to the Landgate building?

Hon Sue Ellery replied:

(a) Note 1.1 on page 167 of Finance budget 2024–25, Budget Paper 2, Volume 1 notes that both 1 Midland Square and Kununurra fit-outs have been allocated funding. It is clear from the table on page 168 that the $12.7 million is to be expended on the 1 Midland Square fit-out, with the Kununurra office fit-out shown the line under with $8.5 million funding.

(b) Yes.

(c) No.

(d) Not applicable.

COMMERCE — HOME INDEMNITY INSURANCE

2103. Hon Steve Martin to the Minister for Finance; Commerce; Women's Interests:

I refer to Home Indemnity Insurance (HII), and I ask:

(a) has the Government assessed whether each of the 230 or so unfinished Nicheliving homes will be able to be finished using the maximum $200,000 HII payout;

(b) was Nicheliving eligible for support under the Builders Support Facility;

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

(d) if yes to (a), what were the results;

(e) if no to (a), what is the Government's plan to get these homes finished;

(f) how many HII policies have been issued in the following years:

  (i) 2023–24; and

  (ii) 2024–25 (to date);

(g) for each of the years in (f):

  (i) how many HII payout applications were received;

  (ii) how many payout applications were approved; and

  (iii) at what total cost per year;

(h) what is the assessed future claims liability for the HII fund currently;

(i) what is the balance of the HII fund currently; and

(j) how many builders who have applied for support under the Builders Support Facility have:

  (i) had their applications declined; and

  (ii) have had their applications neither approved nor declined as of 12 August 2024?

Hon Sue Ellery replied:

(a) Home Indemnity Insurance (HII) claims are made to and are assessed by QBE Insurance (Australia) Ltd (QBE). The State Government does not hold this information.

(b)–(d) This question should be referred to the Treasurer.

(e) On 30 July 2024, the Building Services Board (Board) refused Projex Management and Construction Pty Ltd's (Nicheliving) application to renew its registration and a building contractor. The Board was not, amongst other things, satisfied that Nicheliving met the financial requirements for registration.

Nicheliving applied to the State Administrative Tribunal (SAT) for a review of the Board's decision and to stay the effect the Borad's decision while the review was underway.

The State Government and the Board opposed the stay application in the SAT and will continue to oppose Nicheliving's appeal against its deregistration. The State Government is disappointed the appeal won't be heard until November, despite government lawyers requesting an earlier hearing.

In the interim, the Government is looking at what options might be available to support customers and progressed stalled home builds.

The State Government will continue to support the Board through the review process and seek to have the matters brought to a conclusion as soon as reasonably possible so that homeowners have certainty with regard to their HII claims and / or in deciding to take any other action in relation to their contracts.

(f) QBE has advised:

  (i) For the 2023–24 financial year, 18,517

  (ii) For the 2024–25 financial year to 22 August 2024, 3,174.

(g) QBE has advised:

	2023–24	**2024–25 (to 22 August 2024)**
(i)	566	235
(ii)	419	27
(iii)	$40,876,568	$362,728

(h) $83.9 million (as at 31 May 2024).

(i) $38.1 million (as at 26 August 2024).

(j) (i)–(ii) This question should be referred to the Treasurer.

BUILDING COMMISSION — LOT 10 (213) PATMORE ROAD, WARNER GLEN

2104. Hon Dr Steve Thomas to the Minister for Commerce:

I refer to building issues at Lot 10 (213) Patmore Road, Warner Glen 6168, and I ask:

(a) has the Building Commission been made aware of complaints about the construction of buildings at this address; and

(b) if yes to (a):

(i) what actions has the Building Commission taken in relation to the matter;

(ii) has the Building Commission assessed the standard of work at this address;

(iii) if yes to (ii), what was the result of that assessment;

(iv) does the Building Commission consider that the construction at this address meets all standards and compliances required, including those of both local and state government;

(v) if no to (iv), what shortfalls has the Building Commission identified;

(vi) in reference to (v), what actions will the Building Commission take to ensure the problems are rectified;

(vii) has the Building Commission seen or considered the report on the property from consultant and Chartered Building Professional, Mr Graham Teede;

(viii) if yes to (vii), what action has been the result of receiving that report; and

(ix) if no to (vii), will the Building Commission examine the report if provided?

Hon Sue Ellery replied:

(a) Yes. I note that I also received a letter regarding this matter on 2 September 2024.

(b) (i) A building service complaint about works at 213 Patmore Road, Warner Glen was referred by the Building Commissioner's delegate to the State Administrative Tribunal under section 11(1)(d) of the *Building Services (Complaint Resolution and Administration) Act 2011* (WA) on 4 September 2023.

(ii)–(ix) A disciplinary complaint concerning the same works and the conduct of the registered builder is under investigation by the Department of Energy, Mines, Industry Regulation and Safety – Building and Energy Division.

The building service complaint was referred to the State Administrative Tribunal on 4 September 2023 and is a matter for the Tribunal to consider. The disciplinary complaint remains under investigation by the Building Commissioner and no further comments can be made at this stage.

METROPOLITAN REDEVELOPMENT AUTHORITY —
AFFORDABLE AND DIVERSE HOUSING POLICY — CONSTRUCTION COSTS

2105. Hon Steve Martin to the minister representing the Minister for Housing:

I refer to the Metropolitan Redevelopment Authority Development Policy 9, Affordable and Diverse Housing, and the sale of homes to government and community housing organisations at construction cost pricing, and I ask:

(a) how is this construction cost currently assessed; and

(b) is this assessment fit for purpose considering recent years of construction cost growth?

Hon Jackie Jarvis replied:

(a) Where social and affordable housing contributions are provided on site in applicable Redevelopment Areas, Development Policy 9 requires 12% of total dwellings to be provided to the Department of Communities or an approved Community Housing Provider. Due to escalating construction costs it is currently agreed between the parties.

(b) Yes.

HOUSING — DIVERSITY PIPELINE

2106. Hon Steve Martin to the minister representing the Minister for Housing:

I refer to the Housing Diversity Pipeline, and I ask:

(a) what is the status of the Brown Street site;

(b) of the original 12 sites, how many are still progressing; and

(c) what will be done with some of the unsuccessful sites, such as:

(i) Albany Highway;

(ii) Redcliffe;

(iii) Cannington;

(iv) South Perth;

(v) Kelmscott; and

(vi) West Perth?

Hon Jackie Jarvis replied:

(a)–(c) The housing diversity pipeline is a rolling program with sites added and announcements made as projects are contracted. The housing diversity pipeline aims to unlock "lazy" land to deliver additional housing supply.

Not all sites are currently developable given market constraints, but they will continue to be considered for redevelopment into the future including via the recent expansion of the housing diversity pipeline.

Further announcements regarding Brown Street will be made in due course.

HOUSING — COMMUNITY HOUSING AGREEMENT — LOAN-TO-VALUE RATIO CAP

2107. Hon Steve Martin to the minister representing the Minister for Housing:

I refer to the McGowan Government increasing the loan-to-value ratio (LVR) cap for providers operating under a Community Housing Agreement with the Department of Communities, and I ask:

(a) does the State Government keep a record of community housing provider loans in order to verify compliance with the LVR cap;

(b) if no to (a), how is this otherwise achieved;

(c) why is an LVR cap required;

(d) how did the Department investigate whether it could be safely increased from 30 to 50 per cent;

(e) what approximate potential dollar value does the 30 to 50 per cent change represent in terms of potential borrowing capacity;

(f) if (e) cannot be answered, how did the Department estimate the impact of the 30 to 50 per cent change; and

(g) why can the LVR cap not be increased further?

Hon Jackie Jarvis replied:

The State Government was asked by the sector to look at loan to value ratio (LVR) to unlock capacity and building capability in the community housing sector to increase the supply of social and affordable housing.

(a) Yes.

(b) Not applicable.

(c) Community housing is a critical component of the social housing system and provides critical support to people on the public housing waitlist. A cap on LVR assists in managing risk and ensures that lending secured against social housing is prudent and sustainable and supports the delivery of additional housing to people in need.

(d) The Department of Communities (Communities) consulted with the WA Treasury Corporation (WATC) and the sector.

(e)–(f) The borrowing capacity is dependent on each community housing organisation, their individual circumstances, willingness to lend, and the terms of their loan(s). The 50% LVR cap provides greater flexibility for the community housing sector, with an appropriate balance between risk and the sustainability of the sector. There have been no adverse events experienced by loan providers that have lifted their LVR.

(g) From advice of the WATC, Communities determined that an increase in the LVR cap to 50% was appropriate.

COMMUNITY HOUSING — STOCK

2108. Hon Steve Martin to the minister representing the Minister for Housing:

I refer to community housing, and I ask:

(a) what is the Government doing to grow the stock of community housing;

(b) how many community homes were in stock on:

(i) 30 June 2017;

(ii) 30 June 2018;

(iii) 30 June 2019;

(iv) 30 June 2020;

(v) 30 June 2021;

(vi) 30 June 2022;

(vii) 30 June 2023; and

(viii) 30 June 2024;

(c) how many community homes are there counted in the social housing stock, per each community housing provider; and

(d) for the 2023–24 year, what was the cost to the state budget per home to deliver new:

(i) public homes; and

(ii) community homes?

Hon Jackie Jarvis replied:

(a) The State Government takes seriously the need to provide housing for the most vulnerable members of our community seriously and is using every measure to boost housing across Western Australia.

As part of the 2024–2025 Budget, the State Government is delivering $1.1 billion for housing and homelessness, bringing total new investment since 2021–22 to $3.2 billion to improve the quality and accessibility of social housing and homelessness services.

The State Government recognises the value of partnering with the community housing sector to provide new housing for Western Australians in need. Three major projects have been released for partnership opportunities with the community housing sector including the Smith Street Build to Rent, Pier Street and Court Place Subiaco to deliver hundreds of new dwellings and assist in the growth of the community housing sector. Further the State Government has invested more than $150 million in community housing grants across the State for new builds, maintenance and refurbishments.

The State Government has also released the Calls for Submissions for Community Housing Providers to encourage the sector to bring forward projects. Additionally, the Government has released the Community Housing Provider Pre-Qualification Scheme to reduce the red tape and procurement burden for the sector and to facilitate a faster pathway to growth.

(b) (i)–(vii) System changes to improve social housing counting consistency within Communities were undertaken in 2018. As such, data on social housing prior to June 2018 is unable to be provided and is not comparable to current figures.

	Date	**Number of Community Housing properties state-wide**
(ii)	As at 30 June 2018	7,276
(iii)	As at 30 June 2019	7,318
(iv)	As at 30 June 2020	7,319
(v)	As at 30 June 2021	7,382
(vi)	As at 30 June 2022	7,421
(vii)	As at 30 June 2023	7,412
(viii)	As at 30 June 2024	7,415

(c) List of Community Housing providers state-wide as at 30 June 2024:

Community Housing Provider	**Community Housing Provider**
55 Central Incorporated	Orana House Incorporated
Ability Centre Australasia Limited	Our Lady Of Good Counsel Parish
Aboriginal Hostels Limited	Our Lady Of Mount Carmel Parish
Accordwest	Ovis Community Services
Activ Foundation Incorporated	Parkerville Children & Youth Care (Inc)
Advance Housing Ltd	Pathways Southwest Inc
Albany Youth Support Association Incorporated	Patricia Giles Centre
Alliance Housing	Perth Asian Community Centre Incorporated
Amana Living Inc	Pinakarri Community Incorporated
Amaroo Care Services Incorporated	Pingelly Somerset Alliance Incorporated
Anglicare WA	Plantagenet Village Homes Incorporated
Autism Association Of WA Inc	Recherche Aged Welfare Committee Inc
Avon Youth Services Incorporated	Retirees WA Inc
Baptistcare Inc	Richmond Wellbeing Incorporated
Bedingfeld Park – Pinjarra	Rise Network
Bethanie Housing Ltd	Rocky Bay Limited
Broome Community Housing Group (Inc)	Ruah Community Services
Butterly Cottages Association Incorporated	Salvation Army Housing Limited – WA
Calvary Youth Services Mandurah Incorporated	Share & Care Community Services Group Incorporated
Carnarvon Family Support Service Incorporated	Shire Of Ashburton
City Of Bayswater	Shire Of Boyup Brook
City Of Belmont	Shire Of Brookton
City Of Busselton	Shire Of Bruce Rock
City Of Canning	Shire Of Carnamah
City Of Kwinana	Shire Of Chittering
City Of Swan	Shire Of Coolgardie
Communicare Incorporated	Shire Of Coorow
Community Housing Limited	Shire Of Corrigin
Connect Victoria Park Incorporated	Shire Of Cunderdin
Coolabaroo Housing Service	Shire Of Dalwallinu
Co-Operation Housing	Shire Of Donnybrook
Coptic Orthodox Church Of WA	Shire Of Dowerin
Corrigin Senior Citizens Centre	Shire Of Dumbleyung
Crowea Village Incorporated	Shire Of Gingin
Desert Blue Connect Inc	Shire Of Goomalling
Disability Services Commission	Shire Of Harvey
Dunreath Cottages Incorporated	Shire Of Irwin
Ebenezer Home Incorporated	Shire Of Jerramungup
Emama Nguda Aboriginal Corporation	Shire Of Kent

Esperance Crisis Accommodation Service Incorporated	Shire Of Kojonup
Foundation Housing Limited	Shire Of Koorda
Freo-Fringe Housing Collective Incorporated	Shire Of Kulin
Fusion Australia Limited	Shire Of Lake Grace
Gascoyne Memorial Foundation Incorporated	Shire Of Merredin
Gawooleng Yawoodeng Aboriginal Corporation	Shire Of Mingenew
Geegeelup Village Incorporated	Shire Of Morawa
Geraldton Streetwork Aboriginal Corporation	Shire Of Mount Magnet
Gnowangerup Homes For The Aged	Shire Of Mount Marshall
Goldfields Indigenous Housing Organisation Inc	Shire Of Mukinbudin
Goldfields Masonic Homes Incorporated	Shire Of Murchison
Goldfields Women's Refuge Association Incorporated	Shire Of Narembeen
Harold Hawthorne Community Centre	Shire Of Northam
Hedland Womens Refuge	Shire Of Nungarin
Hope Community Services Ltd	Shire Of Perenjori
Hopetoun Progress Association Incorporated	Shire Of Quairading
Housing Choices WA	Shire Of Ravensthorpe
Hyden Progress Association	Shire Of Sandstone
Identity WA	Shire Of Shark Bay
Inannas House Incorporated	Shire Of Tammin
Indigo Junction	Shire Of Three Springs
Juniper Uniting Church Homes	Shire Of Trayning
Kondinin Progress Association	Shire Of Victoria Plains
Kulin Retirement Homes Inc	Shire Of West Arthur
Leeuwin Aged Units	Shire Of Westonia
Life Without Barriers	Shire Of Wickepin
Lions Club Of Cowaramup	Shire Of Williams
Lions Club Of Hyden Incorporated	Shire Of Wongan – Ballidu
Lucy Saw Centre Association Incorporated	Shire Of Wyalkatchem
Mandjah Boodjah Aboriginal Corporation	Shire Of York
Mandurah Retirement Village Incorporated	Short Term Accommodation For Youth
Marnin Bowa Dumbara Aboriginal Corporation	Sister Kate's Children 1934 To 1953 Aboriginal Corporation
Marninwarntikura Fitzroy Womens Shelter	South West Refuge Incorporated
Marnja Jarndu Womens Domestic Violence Service	Southern Aboriginal Corporation
Masonic Care WA	Southern Cross Housing Ltd
Mawarnkarra Health Service	St Bartholomews House Inc
Menora Charity Fund Incorporated	St Gerard Majella Parish
Mercy Community Services Limited	St John Of God Foundation Incorporated
Mercy Health	St Patricks Community Support Centre Inc

Mia Mia Housing Collective Incorporated	St Vincent De Paul Society
Midway Community Care	Starick Services Incorporated
Midwest Community Living Association	Stellar Living Limited
Milligan Units Inc	The Salvation Army (WA) Property Trust
Mission Australia	Totally & Partially Disabled Veterans Of WA (Inc)
Moora Homes For The Aged	Uniting WA
Mosaic Community Care Inc	Victoria Park Youth Accommodation Incorporated
Mullewa Senior Citizens Homes Incorporated	WA Council On Addictions (Cyrenian House)
Multicultural Services Centre Of WA Incorporated	Wagin Cottage Homes Inc
Multiple Sclerosis Society Of WA Incorporated	West Court Retirement Village Incorporated
Murchison Region Aboriginal Corporation	Westcare Incorporated
Nardine Wimmin's Refuge	Wongan Ballidu Aged Persons Homes Incorporated
Narembeen Homes For The Aged	Wungening Aboriginal Corporation
Narrogin Cottage Homes Incorporated	Yaandina Community Services Limited
Newman Womens Shelter Incorporated	Youth Futures WA Inc
Ngaringga Ngurra Aboriginal Corporation	Youth Involvement Council
Ngnowar Aerwah Aboriginal Corporation	Zonta House Refuge Association Incorporated
Noongar Mia Mia Pty Ltd	Nulsen Group Inc.

(d) The cost to build a dwelling is highly dependent on several factors including the location, build type, specifications and labour supply constraints, therefore it is difficult to provide an accurate representation of an average cost.

PUBLIC HOUSING — WAITLIST

2110. Hon Steve Martin to the minister representing the Minister for Housing:

I refer to the public housing waitlist, and I ask:

(a) how many applications were removed from the public housing waitlist, for any other reason than being provided with a public or social home, in the following years:

(i) 2021–22;

(ii) 2022–23;

(iii) 2023–24; and

(iv) 2024–25 (to date);

(b) in the year 2023–24, did the Department of Communities at any point initiate a waitlist removal process; and

(c) if yes to (b), how was this undertaken?

Hon Jackie Jarvis replied:

(a)–(c) The Department of Communities (Communities) provides multiple pathways, including public rental housing, bond assistance loans, and other supports to those unable to obtain housing through the private sector. It should be noted that the majority of applicants for public housing have access to some form of accommodation while awaiting allocation.

Communities undertakes regular review of applicants on the public housing waitlist on an annual basis. Applications may be withdrawn for a range of reasons including where people exceed income and/or asset eligibility limits, find alternative housing arrangements, have moved inter-state or overseas, or at the request of the client. The data below includes instances where 'wait turn' applications were withdrawn as well as applications where inadequate or incomplete information was provided.

Public Housing State-wide Applications Withdrawn by Financial Year

Financial Year	Applications Withdrawn
2017–18	6,559
2018–19	5,064
2019–20	4,895
2020–21	4,398
2021–22	3,487
2022–23	4,615
2023–24	4,730
2024–2025 (as at 31 July 2024)	623

ENERGY — COSTS

2111. Hon Steve Martin to the Parliamentary Secretary to the Minister for Energy:

I refer to energy costs, and I ask:

(a) for the 2023–24 year, how many Synergy customers:

(i) were issued with a disconnection notice; and

(ii) were one month or more in arrears at any point;

(b) over the 2023–24 year, how many Horizon Power customers:

(i) were issued with a disconnection notice; and

(ii) were one month or more in arrears at any point;

(c) as of 30 June 2024, how many households were in arrears for:

(i) Synergy; and

(ii) Horizon Power;

(d) as of 30 June 2024, what was the total value of household arrears for:

(i) Synergy; and

(ii) Horizon Power;

(e) as of 30 June 2024, what was the average amount of debt per household in arrears for:

(i) Synergy; and

(ii) Horizon Power; and

(f) what was the total revenue to Synergy from residential customer transactions in:

(i) 2021–22;

(ii) 2022–23; and

(iii) 2023–24?

Hon Darren West replied:

(a) (i)–(ii) Over the 2023–24 financial year, 46,337 Synergy customer accounts were issued a disconnection notice, and 279,611 customer accounts were in arrears for one month or more. Please note that not all customers who receive disconnection notices have their power disconnected.

(b) (i) Over the 2023–24 financial year, 14,693 Horizon Power customer accounts were issued a disconnection notice, and 7,881 customer accounts were in arrears for one month or more. Please note that not all customers who receive disconnection notices have their power disconnected.

(c) (i) As of 30 June 2024, 188,849 Synergy residential customer accounts were in arrears

(ii) As of 30 June 2024, 6,459 Horizon Power residential customer accounts were in arrears.

(d) (i) As of 30 June 2024, the total value of household arrears for Synergy residential customer accounts was $99,761,620.

(ii) As of 30 June 2024, the total value of household arrears for Horizon residential customer accounts was $6,716,688.30.

(e) (i) As of 30 June 2024, the average amount of debt for Synergy residential customer accounts in arrears was $528.

(ii) As of 30 June 2024, the average amount of debt for Horizon Power residential customer accounts in arrears was $1,040.05.

(f) The total revenue to Synergy from residential customer transactions was:

(i) 2021–22 – $1,799.8 million

(ii) 2022–23 – $1,764.0 million

(iii) 2023–24 – $1,888.7 million

HEALTH — CONTIGUOUS LOCAL AUTHORITIES GROUPS

2112. Hon Dr Steve Thomas to the Parliamentary Secretary to the Minister for Health:

I refer to the Contiguous Local Authorities Groups (CLAG) program, and I ask:

(a) what funding has the Government made available to CLAGs in 2024–25;

(b) please provide a breakdown of funding for existing CLAGs for the 2024–25 financial year;

(c) what new CLAGs are proposed in Western Australia in the future;

(d) where is CLAG funding coming from; and

(e) in reference to (d), where can it be found in the budget?

Hon Pierre Yang replied:

(a) $400,000 has been made available to support the CLAG mosquito management program in 2024–25.

(b) Submissions for the 2024–25 CLAG mosquito management program closed on 26 July 2024. Submissions are currently being assessed by the Mosquito Control Advisory Committee.

(c) No new CLAGs have been proposed.

(d) CLAG mosquito management program funding comes from the operational budget of the Department of Health.

(e) Budget Statement Part 5 WA Health, Service 6 – Public and Community Health Services.

CLIMATE CHANGE — WETLANDS — FOX PREDATION

2113. Hon Dr Brad Pettitt to the Parliamentary Secretary to the Minister for Energy; Environment; Climate Action:

(1) Is the Minister aware that climate change is causing our wetlands to dry out earlier than in the past and that this is exposing aestivating turtles to fox predation?

(2) Is the Minister aware that more than 120 aestivating turtles were discovered to have been excavated and devoured by foxes at Bibra Lake in the autumn of 2024?

(3) Is the Minister aware that the snake-necked turtles are apex predators and they play a vital role in maintaining the health of our wetlands?

(4) What is the State Government doing to address this impact of climate change?

(5) Is the State Government assisting and improving coordination between landowners in their fox management strategies to meet their obligations under the Western Australian *Biosecurity and Agricultural Management Act 2007*?

(6) If yes to (5), in what ways is this occurring?

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

Hon Darren West replied:

(1)–(3) Yes.

(4) In July 2023 the State Government released Western Australia's first Climate Adaptation Strategy that sets out four key directions including producing credible climate information, building public sector capability and accountability, enhancing partnerships to coordinate action and supporting the climate resilience of Aboriginal people. The State Government is committed to action on climate change and has introduced legislation to Parliament this year to ensure WA contributes to national and global mitigation efforts. The Western Australian Climate Change Bill 2023 establishes the target of net zero emissions by 2050 and requires the setting of interim targets and emissions budgets at regular five-yearly intervals. The legislation also creates statutory requirements for adaptation planning, further ensuring the State's climate resilience into the future.

(5)–(6) The primary mechanism Government uses to support landholders to meet their obligations to control declared pests under the *Biosecurity and Agriculture Management Act 2007* is the provision of funding from the Declared Pest Account to Recognised Biosecurity Groups (RBGs). The Department of Primary Industries and Regional Development (DPIRD) supports and assists land managers by providing guidance and advice on best practice pest management through regulating access to registered pesticides and trapping permits where they are required. The Department of Biodiversity, Conservation and Attractions (DBCA) undertakes pest animal management, including fox control, on the lands it manages. DBCA liaises with neighbours to coordinate such programs where feasible and within available resources.

(7) Not applicable.

CLIMATE CHANGE — WASTEWATER DISPOSAL

2114. Hon Dr Brad Pettitt to the Parliamentary Secretary to the Minister for Water:

(1) What action is the State Government taking to end wastewater discharge to the ocean and to recycle this water for environmental uses?

(2) Is the Minister aware that the drying climate is placing extreme pressure on our wetlands and associated ecosystems?

(3) What, if any, plans does the Government have to redirect drainage water to wetlands on the Swan Coastal Plain?

(4) Has the Government committed to a target date to phase out all wastewater disposal to the ocean?

(5) If yes to (4), what is the date?

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

(7) Has the Government developed a comprehensive adaptation strategy to conserve wetlands and biodiversity in the South West Land Division in the face of climate change?

(8) If yes to (7), where is it available?

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

Hon Matthew Swinbourn replied:

(1) The Government has committed to increasing wastewater recycling from 21 per cent in 2022 to 30 per cent by 2030 as part of the *Kep Katitjin – Gabi Kaadadjan: Waterwise Perth Action Plan 2*, of which Water Corporation is a partner agency. Water Corporation's Ground Water Replenishment Scheme (GWRS), is the largest contributor to the State's recycling performance by treating wastewater to drinking water standards to recharge groundwater supplies. GWRS reduces wastewater discharges and reliance on groundwater abstraction and dam water for public water supply. Water Corporation was the first utility in Australia, and one of only three in the world, to recycle water in this way when the groundwater replenishment scheme was commissioned in 2017.

(2) Yes.

(3) Drainage water and wetlands are considerations across Government.

(4) No.

(5) Not applicable.

(6) Ocean discharges, managed in accordance with environmental conditions, are an environmentally sustainable method of treated wastewater disposal.

(7)–(9) This is a question for the Minister for Climate Change.

ROAD SAFETY — SPEED LIMITS — WILDLIFE

2115. Hon Dr Brad Pettitt to the minister representing the Minister for Transport:

I refer to the fact that there are 30 kilometres per hour (kph) and 40 kph speed limits throughout the metropolitan area to protect the lives of people and the extreme pressure on our wildlife from climate change and feral predators, and I ask:

(a) is the Minister aware that many species of waterbirds, quendas and snake-necked turtles are killed every year by motorists travelling at high speeds through conservation areas;

(b) is the Minister aware that the 40 kph speed limit in Kings Park has been effective in reducing roadkill and protecting the lives of visitors; and

(c) will the Minister reduce the speed limits to 40 kph on roads within bushland reserves and adjacent to wetlands?

Hon Stephen Dawson replied:

(a)–(c) Main Roads works closely with the Department of Biodiversity, Conservation and Attractions and installs fauna fencing and structures such as fauna overpasses, fauna underpasses and signage to protect fauna and ensure connectivity in areas with high environmental value.

ENVIRONMENT — PERTH AIR QUALITY MANAGEMENT PLAN

2117. Hon Dr Brad Pettitt to the Parliamentary Secretary to the Minister for Environment:

I refer to question on notice 1002, asked on 16 November 2022, and I ask:

(a) is the Minister aware that Perth's air quality is deteriorating due to climate change, urban sprawl, prescribed burning and vehicle emissions, and that tropospheric ozone and particulate levels are increasing at many sites;

(b) what action is the Government taking to address this situation;

(c) has the Minister received the draft of the updated *Perth Air Quality Management Plan* from the Air Quality Coordinating Committee (AQMP);

(d) if yes to (c), when was it received;

(e) if yes to (c), when will the Minister release it to the public;

(f) if no to (c), when does the Minister expect to receive it;

(g) why has the Minister failed to keep their commitment, in answer to question on notice 1002, that the Perth AQMP would be released in mid-2023;

(h) why has it taken more than 17 years since the review of the *Air Quality Management Plan* in 2007 recommended an update, and still no update has been published;

(i) does the Government still intend to update this 24-year-old AQMP before the next state election;

(j) if yes to (i), when will this occur;

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

(l) has the Government received the annual report of the Air Quality Coordinating Committee for 2021–22;

(m) if yes to (l), has it been tabled in Parliament; and

(n) if no to (l), why not?

Hon Darren West replied:

(a)–(b) The Department of Water and Environmental Regulation (DWER) undertakes air quality monitoring through the *National Environment Protection (Ambient Air Quality) Measure* (NEPM) at ten metropolitan sites and six regional sites around the State. Data is published annually in the *Western Australian Air Monitoring Report* on the Department's website. Perth air quality is healthy.

(c) Yes.

(d) 27 November 2023.

(e)–(k) The AQCC completed its review of the Perth AQMP in 2023. With data showing Perth's air quality remains healthy and we are continuing the implementation of the existing Perth AQMP which is publicly available on the DWER website.

(l) The AQCC reports annually to the Government through the Minister for Environment and provided the 2021–22 annual report in accordance with its Terms of Reference.

(m)–(n) The report is publicly available and was published on the AQCC web page.

ENVIRONMENT — STATE OF THE ENVIRONMENT REPORT

2118. Hon Dr Brad Pettitt to the Parliamentary Secretary to the Minister for Environment:

(1) When was the last State of the Environment report for Western Australia published?

(2) When was the Government's response to the report referenced in (1) published?

(3) Why have there been no further State of the Environment reports published in Western Australia since 2007?

(4) Is the Minister aware that every other State in Australia, and the Commonwealth Government, publishes regular State of the Environment Reports on 3–5-year cycles to ensure that decision makers and the public are fully aware of current environmental challenges and achievements?

(5) When will the next State of the Environment report for Western Australia be prepared?

(6) Will the Minister commit to a regular cycle of State of the Environment reporting on a 3–5-year timeframe?

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

Hon Darren West replied:

(1)–(2) 2007.

(3)–(7) The WA Government collects a range of environmental data which is provided to the Australian State of the Environment Report, published every 5 years. This will continue to be our focus.

MINISTER FOR PUBLIC SECTOR MANAGEMENT — PUBLIC SECTOR COMMISSIONER — CONTACT

2119. Hon Tjorn Sibma to the Leader of the House representing the Minister for Public Sector Management:

I refer to your interactions, and those of your office, with the Public Sector Commissioner, and I ask:

(a) on how many occasions has the Minister, or his staff, met with the Public Sector Commissioner in the last twelve months;

(b) in reference to (a), what were the dates of these meetings; and

(c) in reference to (a), what were the topics of discussion?

Hon Sue Ellery replied:

(a)–(b) In the twelve months to 14 August 2024, the Premier met with the Public Sector Commissioner on:

11 September 2023;

5 October 2023;

29 November 2023;

12 March 2024;

21 March 2024;

29 April 2024;

16 May 2024;

17 June 2024; and

31 July 2024.

This excludes interactions through other formalities, such as Budget Estimates or attendance at an event.

(c) The Premier meets with the Public Sector Commissioner regularly to discuss various matters regarding the work of the Public Sector Commission.

WATER CORPORATION — FINANCES

2120. Hon Tjorn Sibma to the Parliamentary Secretary to the Minister for Water:

Regarding the Water Corporation's healthy profits, I ask:

(a) with respect to its residential customers, for the calendar year to date, how much revenue has the Water Corporation received from total Water Services Charges, including the following components:

(i) water; and

(ii) sewerage; and

(b) for the same time period in (a), what has been the cost to the Water Corporation for the provision of the following services:

(i) water; and

(ii) sewerage?

Hon Matthew Swinbourn replied:

Annual service charges are raised based on the availability of the service to the property, and may include charges for water, wastewater and drainage services. Charges help cover the costs of providing clean and safe drinking water in Western Australia; taking away wastewater and disposing of it in an environmentally appropriate way; and removing stormwater through drainage services. Drainage charges apply only to metropolitan customers in the Declared Drainage Areas serviced by Water Corporation. Drainage services provided by Water Corporation in regional areas are fully funded by the State Government.

Water Corporation's data is collated on a Financial Year basis, and therefore the following figures are provided for the 2022–2023 Financial Year.

As Water Corporation's service charge data is collated based on types of charges rather than property classification, the following answer provides approximate figures for residential water and sewerage charges. The expenses data is for residential and non-residential combined, as these costs are currently recorded in aggregate. Estimated percentages for water and wastewater have been provided.

(a) Revenue

For the financial year ending 30 June 2023, Water Corporation reported:

(A) Annual service charges of $1,464 million, of which approximately

(i) $270 million are from residential water service charges

(ii) $840 million are from residential wastewater service charges

(B) Volume charges of $833 million, of which approximately

(i) $507 million are from residential water volume charges

(b) Expenses

For the financial year ending 30 June 2023, Water Corporation reported:

(A) Operating expenses of $1,197 million, approximately

(i) 62% related to water services

(ii) 35% related to wastewater services

(B) Depreciation and amortisation of $559 million, approximately

(i) 67% related to water services

(ii) 28% related to wastewater services

In addition, Water Corporation incurred net finance costs of $187 million for the financial year ending 30 June 2023.

HEALTH — CODE YELLOW

2122. Hon Neil Thomson to the Parliamentary Secretary to the Minister for Health:

I refer to the practice of Western Australian hospitals declaring a code yellow when a hospital has either an infrastructure or other internal emergency, which will affect its service delivery, and I ask:

(a) how many code yellows have been called at hospitals or health campuses in Western Australia in the past 12 months; and

(b) which hospitals called a code yellow, and on what specific dates, in the last 12 months ending 30 June 2024?

Hon Pierre Yang replied:

The below information relates to Code Yellows between July 2023 and June 2024.

The term "code yellow" refers to an internal communication tool used in hospitals and is a trigger to activate a response. A Code Yellow can be called for a range of issues including infrastructure issues (including ICT issues related to patient care), chemical spills, environmental factors (i.e. severe weather, earthquake), capacity issues or missing patients. It is not a performance measure. A Code Yellow notification does not mean Emergency Departments are not able to accept additional patients.

WA Country Health Service does not use Code Yellow to denote bed or staff shortages, or patient demand.

I refer the Member to Question on Notice number 909 – which includes code yellows between July 2023 and September 2023.

I refer the Member to Question on Notice number 1065 – which includes code yellows between January 2024 and March 2024.

I refer the Member to Question on Notice number 1236 – which includes code yellows between April 2024 and July 2024.

Hospital	October-23	November-23	December-23
King Edward Memorial Hospital	3	6	6
Sir Charles Gairdner Hospital	4	10	6
Osborne Park Hospital	4	2	0
Joondalup Health Campus	0	1	0
Graylands Hospital	3	1	5
Frankland Centre	0	2	0
Selby Lodge	0	2	0
Fiona Stanley Hospital	1	6	2

Fremantle Hospital	0	1	0
Rockingham General Hospital	3	0	0
Royal Perth Hospital	14	18	17
Bentley Health Service	0	1	0
Armadale Health Service	2	7	1
Kalamunda Hospital	1	0	0
St John of God Midland Public Hospital	5	7	2
Perth Children's Hospital	3	5	3

BANNED DRINKERS REGISTER

2123. Hon Neil Thomson to the minister representing the Minister for Police:

How many incidents involving alcohol affected people, that resulted in reports being created, occurred during the following months of 2024:

(a) April 2024;

(b) May 2024;

(c) June 2024;

(d) July 2024; and

(e) of the individuals involved in these incidents, referenced in (a)–(d), how many have been added to the Banned Drinkers Register?

Hon Stephen Dawson replied:

The Western Australia Police Force advise:

(a) 2,162.

(b) 2,127.

(c) 2,006.

(d) 1,863.

(e) It is not possible to provide an answer as this would require intensive manual extraction to be undertaken and divert significant resources away from operational priorities.

PUBLIC HOUSING — FIXED-TERM TENANCIES

2125. Hon Steve Martin to the minister representing the Minister for Housing:

I refer to public housing, and I ask:

(a) how many fixed-term tenancies were in place for public housing tenants as at each of the following dates:

(i) 30 June 2017;

(ii) 30 June 2018;

(iii) 30 June 2019;

(iv) 30 June 2020;

(v) 30 June 2021;

(vi) 30 June 2022;

(vii) 30 June 2023; and

(viii) 30 June 2024;

(b) for what reasons might a public housing applicant be placed on a fixed-term tenancy;

(c) how many fixed-term tenancies concluded and were renewed, for the same occupants at the same house, in the following years:

(i) 2021–22;

(ii) 2022–23; and

(iii) 2023–24; and

(d) how many fixed-term tenancies concluded and were not renewed, for the same occupants at the same house, for the years in ?

Hon Jackie Jarvis replied:

(a) Fixed-Term Tenancies

Reporting Date	Fixed Term Tenancies
as at 30 June 2018	1,497
as at 30 June 2019	1,324
as at 30 June 2020	1,358
as at 30 June 2021	1,164
as at 30 June 2022	1,119
as at 30 June 2023	1,136
as at 30 June 2024	953

Comparative reporting is not available prior to 30 June 2018 due to Department of Communities system and reporting changes.

(b) Tenants may be asked to sign a fixed term tenancy agreement (FTT) for a range of reasons. This includes where FTT are used as an alternative to eviction, providing the tenants with an opportunity to address previous tenancy issues and transition back into a periodic tenancy; where FTT are used on compassionate grounds, for example, in cases where tenants require additional time to find alternative accommodation including after changes in family circumstances or income.

(c)–(d) The Department of Communities' reporting does not capture Fixed Term Tenancies in the format requested. Providing this data would require a manual review of individual case files and is not considered a reasonable use of government resources.

However, should the Honourable member have a more specific question, the Minister will endeavour to provide an answer.