



# Parliamentary Debates

(HANSARD)

FORTY-FIRST PARLIAMENT  
FIRST SESSION  
2024

LEGISLATIVE COUNCIL

Thursday, 17 October 2024



# Legislative Council

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THE PRESIDENT (**Hon Alanna Clohesy**) took the chair at 10.00 am, read prayers and acknowledged country.

## EVIDENCE AMENDMENT BILL 2024

*Statement by Parliamentary Secretary*

**HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary)** [10.02 am]: I table an explanatory memorandum for the Evidence Amendment Bill 2024, which will replace the memorandum originally provided. The explanatory memorandum provided to the house alongside the Evidence Amendment Bill was inadvertently titled “draft”. The memorandum currently being tabled will rectify that title. To negate any confusion, I confirm there is no other difference from the text of the memorandum.

[See paper [3709](#).]

## EVIDENCE BILL 2024

*Statement by Parliamentary Secretary*

**HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary)** [10.03 am]: I also table an explanatory memorandum for the Evidence Bill 2024, which will replace the memorandum originally provided. On page 170, clause 386 involves restrictions on the use of audio evidence recorded under the former act. The explanation of clause 386 in this replacement memorandum states —

Subclauses (1) and (2) provide that a person must not make a copy of, or otherwise reproduce, and must not play, supply or offer to supply any copy or reproduction of any audio of a proceeding, or part of a proceeding, heard by means of audio link under subsection 106K(3)(a)(ii) of the former Act.

The word “not” in the words “a person must not make a copy of” had been unintentionally left out of the memorandum provided. To ensure that there is no ambiguity, I table an explanatory memorandum that corrects this.

[See paper [3710](#).]

## PAPERS TABLED

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

## DISALLOWANCE MOTIONS

*Notice of Motion*

1. Shire of Mt Marshall Bush Fire Brigades Local Law 2024.
2. Shire of Meekatharra Health Amendment Local Law 2024.

Notices of motion given by **Hon Lorna Harper**.

## JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION — TENTH REPORT — ANNUAL REPORT 2022–23

*Reinstatement of Order — Motion*

On motion without notice by **Hon Dr Brian Walker**, resolved —

That, pursuant to Standing Order 110(4), the tenth report of the Joint Standing Committee on the Corruption and Crime Commission, *Annual report 2022–23*, be reinstated to the notice paper.

## HOUSING AND HOMELESSNESS — GOVERNMENT PERFORMANCE

*Motion*

**HON NEIL THOMSON (Mining and Pastoral)** [10.06 am] — without notice: I move —

That the Legislative Council —

- (a) condemns the unmitigated mess of uncertainty, cost and failure of the Cook Labor government in the housing construction sector;
- (b) demands answers about what the government knew and did not know about the litany of failures, including, for example, Nicheliving, which are causing massive uncertainty and cost for young families who have been saving hard for the Australian dream;
- (c) holds the Cook Labor government to account for abject failures in portfolio areas such as Treasury, commerce, water, energy and housing, which have been out of touch

from the realities of the ever-increasing unaffordability crisis and the aspirations of homebuyers and renters who are facing an overheated housing market in Perth and in the regions; and

- (d) holds the Minister for Housing accountable for his miserable performance on the construction of new social housing, which is adding pressure to the more disadvantaged in our community and those sleeping rough on our streets.

**The PRESIDENT:** Members, Hon Neil Thomson has moved that motion and the question is that motion be agreed. Hon Neil Thomson.

**Hon Kyle McGinn:** Aye! No!

**Hon NEIL THOMSON:** Aye! I start my presentation with “aye” because this is a very serious motion on the current situation. If anyone has been paying any attention at all to the housing market in Western Australian, they would have to say that new homebuyers and renters are in one of the darkest positions in our history. There are challenges at the moment for anybody seeking a home, and I am sure we all have family who have been affected, or we all know someone who is trying to buy a home to put a roof over their head. When they go onto realestate.com or domain.com.au or one of those websites to look for a house in Perth, it is a very difficult situation. Also, when they go online, they find that houses that probably cost about \$450 000 only two years ago are now selling for about \$700 000, and, when they put in an offer, they find that someone else has already purchased the house for \$800 000. That shows that this market is very overheated.

It is because the government has completely failed to deal with the issue of housing supply and new construction builds in Western Australia. What is worse is that we have seen the various portfolios all play their part. I particularly point out the commerce portfolio, which has sat on its hands on matters around construction. We have seen policy settings not being conducive to a stable delivery of new housing in Western Australia. In fact, we have seen so many distortions and interventions by this Labor government that have completely failed to deliver a stable pipeline of works that the industry has been able to cope with in order to deliver new construction. This has led to massive uncertainty in Western Australia for young families who just want to put a roof over their head. I am sure that as parents and family members we all get asked to seek advice about what they should do from those who know people in the housing market. Should they consider buying a house and land package? The problem is that there is so much uncertainty because in recent times so many families have been burnt by the failure of building companies in Western Australia due, in large part, to the policy settings of the government. We have seen delays in so many portfolios. We hear stories even about things such as connectivity to Western Power and the time it takes to set up. There is such a long delay from the time when a deposit is paid to when a person can look forward to a house. The fundamental building block of the Western Australian housing market, the house and land package, has been destroyed. Confidence in our market has been destroyed by this government.

We see this in the data. Western Australia has had massive growth in immigration. We have had incredible growth, with new people coming into the state. It has caused a perfect storm, not unlike 2006 and 2007 when the Carpenter government was in power. We saw it then, but it is much worse than that. If we look at the current total number of approvals for dwellings to be built in Western Australia, we see that we are still at near historical lows. I point to members opposite who want to know the truth and want to know what is really happening, not the misinformation that this government keeps putting out about its success in the housing portfolio. Go to the time series workbook on the Australian Bureau of Statistics website and look at table 8731.0, “Building Approvals, Australia”. Take the time to look at the graph to see what has been going on over time. I am happy to table this graph. The graph shows that in 2013–14 there were something in the order of up to 3 000 building approvals a month in Western Australia. We saw that decline. We got down to historical lows in October 2019 under the McGowan government; it was sitting at about 1 000 a month. We saw a flurry of activity in response to the COVID stimulus, but it never hit its peak. In 2014, the Barnett government put in an incredible effort to redress the failures of the Carpenter government and allowed approvals to go through. It sorted out zoning issues and strategic planning, which this government has been hopeless at.

The planning portfolio has failed. There has been a lot of tinkering with the planning system but no real strategic planning for the delivery of new lots. A lot of announcements have been made about new land being delivered in the next 10 or 20 years, but that will not help the poor homebuyer who is seeking to buy a block of land and put a roof over their head for between \$400 000 and \$600 000, which has been the accepted market level. People cannot do that anymore. Have any members opposite bothered to search on realestate.com.au recently? I challenge them to go online and search for a four-by-two home up to \$600 000 using the filter. They cannot be bought in Western Australia at the moment. It is extremely difficult to find one. There are a few one-bedroom units, caravans and unusual properties out there, but that is not the Australian dream. The system is failing. If members look at this graph, they will see a little spike after the COVID stimulus, and of course the whole thing then collapsed in a heap to a new low in January 2023. It went below the thousands in Western Australia while we were right on the cusp of the biggest migration input into this state. We were starting to grow our population again and suddenly we had no housing left. This government has been asleep at the wheel. It is an unmitigated failure, with a miserable performance by the Minister for Housing on social housing. I am sure my colleagues will talk about this later with

a bit more detail, but I am just looking at the high-level settings. The industry is on its knees. It has had a litany of building company failures and is struggling to deliver, and the government does not know what to do. It has failed. Its legacy is that every young person who seeks to buy a home cannot buy a home because they cannot afford it. They are the ones who are couch surfing with their family in order to try to put a roof over their head.

At least the Prime Minister is out there sorting out the housing crisis one house at a time—looking forward to his own retirement, buying that expensive \$4.3 million mansion, I believe, overlooking the sea. This is a Prime Minister who is looking at heading out the door. It is what the Labor Party does; it looks after itself, feathers its own nest and sorts out its own housing crisis. That is what the Labor Party does and that is what this Labor government is doing. The Prime Minister is a joke. For the people of Western Australia to have a Prime Minister like that, whose only consideration is his own retirement and setting up a home overlooking the coast, across the Tasman Sea, is a joke. It is an embarrassment to Australia and Western Australia and I hope that at the coming federal election Prime Minister Albanese is given a heave-ho out the door, because it is so insensitive while people are seeking answers. It is an absolute abject failure.

There is another table that I would like members to look at. This is the other issue; it is not just approvals that are falling through the floor in Western Australia, but also completions and building activity. When I raised a very genuine issue of concern yesterday, I was accused that I was somehow peddling misinformation. We have a Prime Minister who wants to outlaw information and government members who want to silence the opposition. They want to silence us, keep us quiet, and will not tell us the truth because they hate the truth. They do not want to look at their own legacy. Look at the government's legacy on table 8752.0, "Building Activity, Australia", and the number of dwelling units completed by sector, states and territories. The ABS—I was going to say that the ABC is not misinformation. I am sorry, I would have to change that. The ABC is definitely an agency that likes to peddle misinformation at times, but I can say that the ABS does not peddle misinformation, and the ABS damns the Labor government because the damning graph of number of completions shows the concentration of that problem, because we are seeing delays in construction. The few people who are getting approvals to get started, who have the confidence to go into the market and take the massive risk of building something, have the challenge of this building type. There was a flatlining of completions in 2023–24—again, take the time to look at the data. We are not completing enough houses. We are simply not meeting demand in Western Australia. Anyone with the slightest clue about economics would know that when we do not have enough supply to meet demand, the price will go up. That is a simple law of economics. Government ministers are living in a parallel universe, in the portfolios of housing, planning, commerce and Treasury. They live in an alternative universe in respect of supply and demand.

Members opposite may not like what they hear from me at times.

**Hon Darren West:** At times?

**Hon NEIL THOMSON:** Yes, the member can have his little crack in relation to misinformation, and think he is funny about that, just like yesterday. Members may not like it, but we come in here every day and contemplate that first prayer about the good order of society. I like that first little prayer when we talk about that, because it makes me think about the need for the good order of society, the job that we do and what is required of us as members of Parliament. I just ask members to contemplate that and reflect on their own legacy as we get closer to 8 March 2025, particularly those who will not be coming back to this place. Is this a legacy about which they can say, hand on heart, they are proud? Can they say that they can take this legacy into their retirement? It is just like what the Prime Minister will take into his retirement after the next federal election, when he goes and has his latte or whatever, looking at the beautiful scenery across the Tasman Sea, enjoying the view up on the cliff, well out of reach of any climate change-induced rising sea levels. He will be enjoying the beautiful home he has acquired, and I wish him luck. As the alternative Prime Minister Peter Dutton has said, we wish him the best; we do. We wish him the best, because we believe that the personal reflections of people are just fantastic. We wish him the best, and the sooner the better, as he takes on that alternative career. It will be the sooner the better for the people of Western Australia.

However, I tell those members opposite who will be retiring and not coming back to this place that they have a bit of time. They have a pile of cash in the bank. They have a motza. I keep asking questions, as shadow Treasurer, and I get told to wait for the midyear review. No-one wants to tell me anything; I cannot get any information about where we are going in relation to the budget. The point is that the government has a pile of cash. It still has money coming in and it keeps making announcements about all its massive infrastructure projects. There was nearly \$4 million on advertising for Building for Tomorrow; we do not know how much has been spent on advertising in other areas because the opposition has been told to trawl through 100 or so annual reports to try to get some idea. The government has complete contempt for the questions I ask, seeking transparency on what the government is doing and how it is spending. We are seeing an absolute advertising assault on our TVs and in YouTube feeds, with the government crowing about what it is doing and what it has achieved. Meanwhile, we have potential homebuyers, including young couples, young families and maybe the woman who is heading to retirement and living on her own due to circumstances not of her choosing, or whoever else might suddenly find themselves in that situation, particularly families who are facing the challenges of separation. Members all have families and we know people going through difficult times. They have worked hard and built a house, but then they have to get another home and suddenly they cannot afford to. It is an absolute travesty that this state is in that situation.

I ask members opposite to please reflect on that, because they still have time. They still have a tiny amount of time to do something for the people of Western Australia, and do members know what? I would be the first to congratulate them if they were to avert their gaze from all the vanity projects that the government is pushing out before the election. It has completely overheated the construction sector because it has spent so much on gold plating our public realm at the expense of the private realm—people’s homes. There was a headline the other day to the effect that there are families who have to live in hard circumstances because the government just wants to show off. That is what the Treasurer, Hon Rita Saffioti, has done because she just wants to show off. Here we go. On top of that, the government has introduced things like the WA best practice industry conditions program, through which it requires head contractors to consult with unions 28 days before contracts can be let. Whoever heard of this sort of rubbish?

I have been asking questions, and maybe the wording of my questions has not been quite right, because I finally get a copy but there is no cooperation from the other side—not a single bit of cooperation in respect of the opposition’s questions. There is not a single bit of collaboration in this place, because the government wants to hide behind its own fake news and misinformation about its success when it has been a complete and utter failure, according to the Australian Bureau of Statistics. Members have only to go to the ABS and look at the data. The government has failed. Members opposite will take that into their retirement. The Minister for Commerce will take her failure in the commerce sector into her retirement, after years of not looking at what is going on and not moving quickly enough when problems began to arise.

We will prosecute this, by the way. We will prosecute it more and more, because in the lead-up to the election, the government cannot hide from failure. That is its legacy. As I said, members opposite have a moment in time left to deal with this, but instead they just want to line the pockets of their mates in the CFMEU so they can take a commission on their way out. That is what they are doing. The Prime Minister is looking only at his own retirement plans and his \$4.3 million mansion. That is the DNA of the Labor Party. It has failed the average person, who now faces the most unaffordable housing in the history of Western Australia.

**HON STEVE MARTIN (Agricultural)** [10.28 pm]: I rise to make a contribution to this excellent motion moved by my colleague Hon Neil Thomson. It is a timely motion, for a number of reasons, and I will start with one that may have escaped members opposite. Today is the first birthday of the housing supply unit, and I would like to wish the unit all the very best. Sadly for the people of Western Australia, we have not seen much output from the housing supply unit, which was announced on 17 October 2023 by, interestingly, the Treasurer—not the Minister for Housing. I am sure the Minister for Housing was at the last minute brought into negotiations on the establishment of the housing supply unit, but it was announced by the Treasurer one year ago today. I will quote some of that media release. It states —

The new Unit will report to the Residential Lands and Housing Delivery Ministerial Oversight Committee and be responsible for —

A number of things —

... including measures to boost supply and improve choice and affordability.

Sadly, it has been a very quiet year for the housing supply unit, at least on the measures that were enunciated by the Treasurer at the time. The Minister for Housing rolled out his favourite quotes —

“Our Government is using every lever we can to accelerate the delivery of housing throughout Western Australia.

“My laser focus is doing everything we can to boost housing supply.

One of the first tasks of the housing supply unit was to find accommodation for itself, which was interesting. The Treasurer announced at the time that the housing supply unit, which she announced in October, would not crank up until January. One of the reasons for the delay was —

The January 2024 start date reflects the time it will take to recruit staff and acquire the necessary office accommodation.

The first thing the unit had to do was find some housing for itself. It has leapt into action. A follow-up question was asked in this place some months later just to check on how it was going. The answer given on 27 February 2024, almost a full five months since the announcement, states —

The new housing supply unit has been established and is working to boost housing supply and affordability in Western Australia. The director of the new team has been appointed and recruitment of remaining positions is close to completion.

Obviously, it was not an enormous priority of the Cook Labor government to get its crack unit up and running in a timely manner.

Turning to the recent announcements made over the weekend by the Minister for Commerce about Nicheliving, to say that my phone was ringing hot on that particular morning would be an understatement, and I am sure hers

was too after she had made her media statement. This was a shock decision and, according to some commentators, unprecedented. The first bit of good news was that the 200-odd people whose homes had taken many years to complete got some—I will not say “resolution” because there is some time to go with this—light at the end of the tunnel. They might get their housing indemnity insurance, which is \$200 000 for those in a certain category. I assume that there might be one or two with the old \$100 000 figure, but I am sure the minister will let us know about that; there would not be many. The feedback from the building sector was that it was shocked at the way that Nicheliving had been treated. The penalty—if that is the right word—is that its building registration has been removed for 10 years, but it has walked away with everything it has. According to one person involved with Nicheliving, that is \$100 million. Whether we take that with a large grain of salt, it would be nice to test that number. Now that the process has been cut short, whatever it has—it is somewhere between zero and \$100 million apparently—it will walk away with. In fact, it was so keen to let us know how financial it was that it issued a media statement on the very same day that the minister made her media presentation. The statement titled “Nicheliving Construction Agreement with the State Government” refers to a number of things in the agreement. It states —

Going forward, the company has decided to focus on its core development business and pipeline of over 409 property titles in the coming 2–3 years to help address the WA housing crises.

Nicheliving exists, in whatever form it is in. It is quite clear that this is from Nicheliving. It survives, while dozens of other builders have not been able to in the desperate housing crisis that the building sector is confronting.

I would like to read into *Hansard* an email from one builder who did not survive. I will not mention the builder for obvious reasons, but I will read some of the email I received on that Saturday —

... I was forced to sell my family home and access my superannuation to try to trade out of this situation. After a period of 6 months the situation was not improving so I met with my clients and informed them I was filing for bankruptcy so my Indemnity Insurance could be triggered, enabling them to complete their homes, which they all were able to do.

My question to you, and one I hope you would ask ... is, if I was forced into selling my assets, why are the Directors of Niche not being forced to do the same?

I am now 67 years old with no assets to my name, working FIFO, 84 hours a week and I accept this. What I will NOT accept is this precedent this Govt is about to set.

The builder then goes into an issue that is now confronting the owners and those home builders —

... where are the builders who are going to take these disastrous builds on? I would envisage a large majority of these builds will need to be demolished and started again.

Who is going to have their warranty put on the homes that have been sitting for 4 years?

There are so many questions.

That was the general reaction from people still in the building industry and those who have been forced to exit because of their financial circumstances—good builders and small builders who have put their house and car and everything they have under mortgage to try to keep going and build homes and honour the agreement with their clients. They assume that one of the outcomes of this will be a rise in insurance premiums in the building sector, which, again, will be forced onto home owners.

The outcome of this is that Nicheliving will not have to put its hand in its pocket to make this contribution of up to \$40 million; the home owners will. I note that the Minister for Commerce suggested in her media statement that morning that she could not rule out having to top up the indemnity scheme with taxpayers’ money because of the uncertainty in the industry now and, sadly, the number of builders that are continuing to go under. This Nicheliving situation still has some time to play out. The homes have been under construction or parked for many years, and it would be an interesting situation for a new builder to say that they are willing to take it on and start from scratch, despite knowing that Nicheliving had been going through the process for years. I wish all those home owners the best. I hope they find a builder. I hope they get a quick insurance payout and it goes some way to covering the cost of what is confronting them.

I want to move on quickly to the last part of the motion, which refers to the performance of the housing minister. We get regular updates on how the minister is performing. We got another one yesterday, 16 October: “Cook Government delivers 2,500 social homes since 2021–22”. We get an update almost weekly on how the minister is travelling. Of course, yesterday Hon Dr Steve Thomas mentioned the lies, damned lies and statistics. This is a classic example of that, and the minister gets away with it in media release after media release. In response to questions asked in this place about the actual numbers, we were told that in March, they were up by 14. In the seven years of the McGowan–Cook government, 114 homes have been added to the social housing stock in this state. We asked the question again and as at 31 July 2024, there had been a net improvement of 384 homes. If we look back, we can see why. In the McGowan government’s first four years, there have been 212 social housing new build completions and 1 829 property disposals. Of the net improvement of 380 homes as at the end of July, a significant amount was from spot purchasing, which means that homes have been taken out of the private market and put into the social

market, but nothing has been done to build housing stock in Western Australia. Yesterday's media release said that the government is boosting the spot purchasing program, so we will not see homes built because this government has failed to deliver on social housing.

*Visitors — Shenton College*

**The PRESIDENT:** I would like to welcome to the Legislative Council public gallery students from Shenton College.

*Debate Resumed*

**HON SUE ELLERY (South Metropolitan — Minister for Commerce)** [10.37 am]: Welcome, students from Shenton College.

Building a new home is stressful at the very best of times and, in the post-COVID pandemic economy, there have been additional pressures. Those pressures have been magnified, and there are customers in the home building space who have gone through very difficult times. We certainly understand and appreciate those kinds of pressures. It is important to note, though, that despite those pressures and the change in the construction market post-COVID, most home owners are getting their homes built without fault and most builders are doing the right thing by their customers.

Before I go on to provide the government's response, I need to invite Hon Neil Thomson to perhaps check *Hansard* when it comes out. In his last few comments, I heard him refer to me and make a comment along the lines of, "And she will take a commission from her mates on the way out." I ask Hon Neil Thomson to reflect on that and check *Hansard*. If that is correct, I ask through you, President —

**Hon Neil Thomson** interjected.

**The PRESIDENT:** Order! The Leader of the House is trying to make a point and I am trying to listen.

**Hon SUE ELLERY:** Thank you, President. I ask Hon Neil Thomson to reflect on those comments. If that is indeed what he said, I ask him to withdraw that at some stage today and apologise because nothing could be further from the truth and I certainly take offence if that is the suggestion.

The important note to take out of the contribution by Hon Steve Martin was towards the end when he said that he wished Nicheliving customers all the best. Of course, the important part of that is that he offered them no solution. He wished them the best, but offered them no solution. What the National Party and the Leader of the Opposition, Shane Love, offered was a grant to those customers of Nicheliving to assist them with their costs, but nothing to get the homes built. I will come back and touch on Nicheliving, but I will first address more broadly the issues in the motion before us.

It is important to ask ourselves why people from the eastern states are moving to Western Australia at record rates. The reason is simple: housing costs here are far cheaper than they are on the east coast. I am not suggesting that housing costs have not gone up for people living in Western Australia and that there are consequences of people moving here, but we need to ask ourselves why they are moving here. It is because our costs are significantly lower. The Cook government has introduced significant support for the building industry, consumers and those impacted by the difficulties in the housing market. For example, support for small builders through the builders support facility has already seen over 50 delayed builds completed. That addressed the builders that had cashflows as a consequence of the post-COVID construction market and were doing the right thing; it was to break the circuit.

The government has introduced increased protection for home owners by increasing their home indemnity insurance cover to \$200 000 and invested in a range of measures to attract skilled workers to WA as well as to build our skilled local workforce and construction industry. After consultation with the Master Builders Association and the Housing Industry Association, the government made the decision to delay the implementation of volume 2 of the National Construction Code 2022 and defer the gazettal of the medium density code to keep the cost of delivering affordable housing down due to continuing challenges in the housing construction market.

We have delivered a raft of tax reforms to drive investment in housing and provide relief for those building new homes, including simplified transfer of duty concessions for buyers of off-the-plan residential apartments in multistorey developments and a 50 per cent land tax exemption for up to 20 years for eligible build-to-rent developments to encourage greater investment in the build-to-rent market. We have introduced a residential construction land tax exemption for home builders who have been affected by construction delays and increased the exemption and concession thresholds for first home owner rates of duty. I note that at long last, Hon Steve Martin actually announced a policy on the weekend—congratulations to him! It is good that he copied one of ours. He did nothing to address supply, so I look forward to that, because he cannot put just one policy in place and think that will address the complexities of the issues facing the construction market.

The government has announced the most significant reforms to the construction industry in over a decade through the Building Better reform package and has introduced security of payment laws, strengthening protections for subcontractors, suppliers and builders through our security of payment legislation. What happened when those opposite were in government last? What happened to tradies seeking protection for what was owed to them?

**Hon Kate Doust:** They didn't get it.



**Hon SUE ELLERY:** I will tell members what happened—nothing. The opposition did nothing when it was in government.

The government introduced a \$30 million financial relief scheme to assist head contractors with rising costs on government projects facing unforeseen supply chain impacts. Rise and fall provisions will be included in future government contracts, where appropriate, to reduce the risk for tendering builders. The rent relief program has helped 1 448 families stay in their homes. The government has introduced the short-term rental incentive scheme that has seen an additional 308 properties added to the long-term rental market. The vacant property incentive has seen some 200 properties added to the market. An amount of \$3.2 billion has been made available for social housing and homelessness services and \$400 million additional funding for the expanded social and affordable housing investment fund, bringing the total number of new social homes to almost 5 000, with more than 2 500 already delivered and another 1 000 currently under contract to build or purchase.

Let me compare and contrast that. What have we heard from the other side? Nationals WA members did say they would give Nicheliving customers a grant of \$10 000. Good on them. It would have helped people, but it would not have got the houses built. What did the Liberal Party say it would do for Nicheliving customers? Not one damn thing. They cannot agree between them on stamp duty. If they are elected, which stamp duty policy will they implement? They need to make that pretty clear to Western Australians.

In the time I have I want to talk a little about Nicheliving because Hon Steve Martin certainly talked about that. It needs to be made abundantly clear that the proposal I announced last Friday had essentially three elements to it. First, it would have avoided long delays in the event that the matters before the State Administrative Tribunal were delayed if SAT had reserved its decision, for example, or if its decision had been appealed. We need to remember what was being disputed in SAT. What was being disputed was whether Nicheliving could demonstrate it had the financial wherewithal to meet its obligations. That was the heart of the dispute. The Building and Energy division and the Building Services Board reached the conclusion that Nicheliving could not. Of course, Nicheliving was saying that it could, but the investigation by Building and Energy and accepted by the Building Services Board was that it did not have the wherewithal to meet its financial obligations. That was the heart of the dispute. Hon Steve Martin stands up and claims that Nicheliving had X hundred million dollars of assets, but that was the heart of the dispute. That is why its registration was withdrawn. Second, if QBE Insurance were to pursue the money from the directors of Nicheliving, QBE experiences low recovery rates in any event and government most likely would have to step in if that were the case. Third, the agreement captures a much wider group of individuals and companies, and potential companies, than was covered by the original decision not to support the reregistration of that company.

In all the circumstances, what we needed to achieve was to get those homes built. Not one idea came from the other side about how we might do that. Yes, the steps taken by government were extraordinary, but we were in an extraordinary set of circumstances and we needed to get the homes built. It is worth noting that since the middle of last year, Building and Energy had been monitoring the financial position of Nicheliving. It is also worth noting that throughout the process leading up to the decision not to re-register the company, Nicheliving was requested time and again to provide the regulatory authority with information. Time after time it failed to meet deadlines. It failed to provide the kind of information that was required. While that is incredibly frustrating for customers—I understand that—due process is that the company needed to be given time to provide that information. In the end, Nicheliving failed to meet its obligations to provide that information. It failed to look after its customers. Ultimately, the question to be answered was: how can we ensure those homes are built? That is the decision we made.

Hon Steve Martin made the point that he expected my phone was running hot after the decision. No, it was not, but the emails were running hot from customers saying, “Thank you very much for the steps you have taken.”

**Hon Steve Martin:** What about everyone else getting homes who are not Nicheliving customers?

**Hon SUE ELLERY:** The honourable member had his opportunity; he offered no solutions. What was the alternative? You tell me. If the member were me, what would he have done?

**Hon Steve Martin:** Why just Nicheliving customers?

**Hon SUE ELLERY:** What would the member have done to assist Niche? What would he have done? How would he have intervened in the construction market to fix the problems that he has identified? He has not one idea—not one!

**Hon Steve Martin:** Why just Niche?

**Hon SUE ELLERY:** Not one! Complain, complain, complain. He put up a policy that copies ours, then offered nothing.

**Hon Steve Martin:** Why just Niche, by the way?

**Hon SUE ELLERY:** The honourable member needs to follow the process. I know it is hard because he is a new member and he does not necessarily understand the processes.

**Hon Steve Martin:** All the builders that have gone broke —

**Hon SUE ELLERY:** No, honourable member. When other building companies are seeking registration, or re-registration, and they are required to provide financial information, they provide it. They provide it and have provided it. If they do not, they are dealt with accordingly.

I reflect on the commentary that has been made about what we have done to assist the market with the pressures of COVID-19. I remember comments made by Libby Mettam in June 2020. She said, “Infrastructure spending is an obvious and necessary stimulus area.” In 2020, she said “Western Australia has record unemployment. What we need is local jobs right now”. In May 2020, she called for urgent stimulus for the building industry. That is what the Liberal Party called for. Of course, that was also what the Master Builders Association, the Housing Industry Association and individual builders were calling for. The government responded to that.

Most builders, and the member would know them, did the right thing and did not take on more work than they had the capacity to deliver. Most builders did the right thing and managed their businesses accordingly. Some did not. Some tried to do the right thing and then got caught with cash flow problems. For those builders, we put the home builders support facility in place to assist them. Then there were builders like Niche that took on far more than it had the capacity to deliver and we saw what happened as a consequence of that.

According to the Master Builders Association, Western Australia has seen an earlier recovery in the residential building market compared with our eastern counterparts. The former CEO of the Property Council of Western Australia, Sandra Brewer, said —

More apartment projects coming online will protect WA’s enviable housing affordability and is essential to WA’s ongoing success as an economic powerhouse.

Michael McGowan of the Housing Industry Association said —

The rest of the country is yet to see a pick-up in home building, but the recovery has been underway in Western Australia for the past year.

He added —

Melbourne and Sydney are struggling but in WA it’s a very different story. Housing demand remains high and we have had our 5<sup>th</sup> month in a row above 1 500 dwelling approvals with 1 742 in June.

If we maintain this momentum, we are on track for 20 000 approvals in calendar year 2024.

A healthy home building industry is critical to the state’s growth aspirations.

The Master Builders Association welcomed the \$750 million injection to boost housing supply, stating —

New industry forecasts released by Master Builders Australia show Western Australia has inched closer to meeting its Housing Accord target.

Five months after the first forecasts covering the full five-year Accord period, WA is projected to decrease its housing shortfall ...

There is no question that it is difficult, but we are making progress.

**HON MARTIN ALDRIDGE (Agricultural)** [10.53 am]: I rise to support the motion that has been moved by Hon Neil Thomson about housing and related matters. I want to add a different perspective to this debate. The member touched on the issue of land assembly. It has been a longstanding issue in a state as large as Western Australia. We have not yet got to the point of assembling land and addressing the headworks issues. I am not only talking about the sprawling suburbs of Perth; I am talking about regional centres and small towns where the land assembly is often uncommercial and unviable. We have a long way to go to ensure that this government and governments that follow it invest consistently and ahead of time in the headworks that are required to ensure we can commercially release affordable land, no matter where people seek to build a home in Western Australia. I am sure members have plenty of examples. I have anecdotal examples as I drive around. There is a growing number of commercial premises, in particular, that are running 24/7 on generator supply because they are waiting for electrical connections.

If we look at those individual cases, there may be some blame on the proponent in terms of their timelines and requests for electrical connection. I think that the number of commercial customers in particular that are relying on generators to supply energy to their newly constructed premises while they wait for a connection from Western Power and perhaps Horizon Power suggests that there are continuing delays and issues with our ability to connect new customers to the network, let alone the cost. There is one very large service station that I drive past quite regularly that I think has been operating for six months on a very large diesel generator. It is not alone. There are many other businesses in a similar situation. There may be metropolitan examples, but imagine if this service station was in a metropolitan suburb running on a 150-kilovolt ampere unit diesel generator day and night. Imagine the cost and the carbon emissions associated with running a generator that size to service the business. The reality is that it would not happen, but that is a situation that people face with headworks and electrical connection timeframes, which continue to be a problem.

I reiterate the impact of water and sewerage connections on land assembly. Outside Perth, there are a lot of communities and towns that do not have sewer connections. There was a program to address a number of those communities and

to deep sewer the communities. Bindoon is one of those. There was an aged-care development in Bindoon that relied entirely on the sewer being delivered to that community. There was a change of government, and the incoming government scrapped it. Bindoon was not the only community. There were many other communities that were ready to go to tender to move from septic systems to sewerage systems. It would have allowed that aged-care development to occur and would have allowed smaller lot sizes. That is important for age-friendly communities. As people reach their older years, they no longer want quarter-acre blocks. Unfortunately, that is the minimum lot size without sewerage in many instances under our health regulations in Western Australia. Sewerage plays an important role in enabling housing, particularly age-appropriate housing, but also smaller lot sizes. It also allows better environmental outcomes that come from communities that are close to waterways and wet areas when from moving from septic systems to deep sewerage.

I want to talk about how the state government can make a difference. I have said in previous debates that the issues we face with housing supply affordability are not necessarily all able to be solved by the state government alone. There are many other players that have a role to play. This is an area in which the state government can make a difference. It is with respect to Government Regional Officers' Housing. We see an increasing lack of appetite by the state government to invest in GROH stock. We want a very high standard of house for Government Regional Officers' Housing. Houses are meant to be within 10 years of age. I doubt much of them are. They are meant to be secure. GROH stock have a range of requirements.

When a person says that they are interested in investing in the construction of Government Regional Officers' Housing, they are given a long list of demands. It would be interesting to know how much of the existing housing stock meets the expectations of the GROH policy. I think the state has an opportunity to partner with willing local governments to deliver better housing supply in our regions, particularly government housing. Rather than saying to local governments that if they want police officers in their town, they have to build the houses, the government should actually partner with them. Unlike the state government currently, local governments have a limited supply of cash and limited ability. By the time a person has paid for the headworks, land assembly costs, found a builder and constructed a new home in a country town, in more instances than not, the cost of construction is higher than the market value of the home. That has been the case in communities in which local governments have said, "In the interests of our ratepayers, we're going to build houses for police. It's going to come at a cost to our ratepayers in the short and long term, but our community expects police in their towns, so we will do it."

The problem is that it is not just housing for police. It is housing for teachers and, increasingly, staff of the Department of Biodiversity, Conservation and Attractions as more people are posted to the regions to manage, particularly, the south coast marine park. Members can have a conversation about that with some of the local governments on the south coast. Housing is also required for Main Roads WA staff, as it is bringing a lot of maintenance work back in-house. I have examples of—I am sure the Auditor General is listening; she is a fine Auditor General—Main Roads buying housing stock off market and basically saying, "Name your price?" It is the same for agencies that cannot necessarily buy housing and need to rent housing; it is the same attitude, "Name your price?" It might be okay for the state government to take that approach—that is, "We'll pay whatever it takes"—but what does that do to the rest of the housing market in those communities? I think a far better approach would be for the state government and its agencies to actually have some skin in the game rather than distorting the market and pushing people out as others chase higher prices for a sale or in rent.

Members might not think this example is related to housing, but it is. In 2019, the government committed to funding a \$37 million hospital blitz. Amongst many things, there was \$1 million to refurbish the Collie nursing quarters. The government, as we know because I have spoken about this before, never delivered a \$1 million refurbishment of the Collie nursing quarters. It is interesting, because according to this government, I thought what Collie asks for, Collie gets. But the government did not deliver the \$1 million for the nursing quarters and said that it had re-prioritise the funding. To what—who knows? As a result of that decision, 18 health professionals in Collie are living in hotels and motels. I have two issues with that. Firstly, I do not think saying "The best we can do is put you in a hotel or a motel" does anything for the long-term retention of the health and education professionals, police officers and public servants we expect to serve in regional communities. Secondly, the government has tried to spin this as a win for small business, but it is now occupying beds that otherwise would be available to contractors, visitors, tourists and others. I think this is where the government can make a difference. It likes to talk about all the things that it cannot do; those are some of the things it can address.

**HON DAN CADDY (North Metropolitan)** [11.03 am]: It is another Thursday and we have another tired, old motion. It is a reworded motion from a previous week. As the Leader of the House said, there were no new ideas, no ideas or policies at all except those that they had copied from us. We heard opposition members speak for nearly 40 minutes, but we did not hear about a single policy or new idea.

I want to speak specifically to limb (d) of this motion, which talks about the housing minister. I want to outline the fantastic work that Hon John Carey has been doing. I think the Leader of the House mentioned the investment of \$3.2 billion in housing and homelessness since 2021–22 that has already delivered over 2 000 social homes, with more than a thousand under contract for construction.

**Hon Steve Martin** interjected.

**Hon DAN CADDY:** There are 2 100 social homes that are being delivered.

**Hon Steve Martin** interjected.

**Hon DAN CADDY:** The member had an opportunity to speak. I get only 10 minutes—give it a break!

We have accelerated the supply of social and affordable housing by investing \$144 million in grants for community housing across the state, including initiatives like Subi East and the Smith Street housing development. We are supporting regional housing with the \$80 million infrastructure development fund, the remote communities fund and by unlocking lazy land. We have introduced major planning reform to cut red tape and boost housing supply, and we are subsidising apprenticeships and supporting businesses to bring in skilled workers to boost our construction workforce and get more homes built. Government members have spoken in this house before about what the previous Liberal–National government did to TAFE that resulted in the lack of skilled trades we need. The Leader of the House resurrected TAFE when she was the responsible minister. She made a lot of courses either free or low fee.

Members opposite do not have to listen to me or the government; I am going to take a leaf out of the Leader of the House's book and look at what some of the leaders in the sector are saying. The confected rage that members opposite have in lieu of any policy ideas at all or policy agenda is all they have to talk about in this chamber. The Leader of the House used a couple of quotes from the Housing Industry Association, or it might have been the Master Builders Association. Here we go with some recent feedback from the sector. HIA executive director Mr Michael McGowan stated —

HIA welcomes the Cook Government's announcement this morning to invest \$840 million into the housing industry with a focus on social and affordable housing.

As the Leader of the House noted, the HIA also commented that the rest of the country is yet to see a pick-up in home building but recovery has been underway in WA for the past year. We all know that a healthy home building industry is critical to the state's growth and people's aspirations.

Moving on, the Master Builders Association stated that WA has seen an earlier recovery in the residential building market compared with our eastern states counterparts and at the same time we are seeing an influx of people from the eastern states. That is partly because we are seeing a quicker recovery and partly because comparative housing costs are lower in Western Australia. I know the Leader of the House mentioned Sandra Brewer; I will quote her. She said —

"More apartment projects coming online will protect WA's enviable housing affordability and is essential to WA's ongoing success as an economic powerhouse."

I will move on from what the Property Council of Australia has said to what the Urban Development Institute of Australia is saying as well. Sarah Macaulay, UDIA chief executive director for strategy and policy, has talked about the need for housing. She said —

"We are in a housing supply crisis and any positive reform measures that will facilitate more homes getting on the ground, faster, is good news for West Australians."

When members opposite bring on a motion like this one to have a shot at the government, they need to reflect what is being said in the industry and what leaders of the industry in Western Australia are saying. Maybe they should reflect on that. They are all singing from the same song sheet, saying that they are impressed with what this government is doing and have absolute confidence in this housing minister. Maybe members opposite should read the comments of and speak to members of the industry because they will hear just how impressed they are with this government.

I think it was this month that Minister Carey announced that 2 500 social homes have now been added to the public housing stock. As I said before, there is another 1 000 currently under contract to build or purchase. It is a priority of this state government to see as many Australians as possible in safe, secure and sustainable homes. We are investing \$400 million additional funding for the expanded social and affordable housing investment fund, and \$179 million is also being invested in maintenance for WA's 45 000 social homes, government worker housing and other assets. I generally get up and do a compare and contrast, and I am trying not to do it this time, but when we look at the way the previous government left the social housing stock to get more and more depleted—Hon Kate Doust has spoken about the issues in her electorate—we see that a significant proportion of the social housing stock we have been left with was just completely neglected by the previous government.

We are investing \$92 million for a critical services uplift to more than 120 homelessness service providers across Western Australia to help boost case management and online services support. We all know that homelessness is critical and crucially linked to social housing in this state.

Hon Martin Aldridge mentioned Government Regional Officers' Housing. This year, we have announced a \$50 million boost for Government Regional Officers' Housing for key government workers in regional WA for 2024–25.

We have recently lifted the Keystart home loan limit from \$560 000 to \$650 000 and reviewed many of the product settings for what Keystart offers. We should not underestimate the importance of Keystart to the housing sector in

this state. Before I was elected to this place, I spent some time working as a policy adviser in the housing area, and I can tell members that Keystart and the way we run it is the envy of many other states. It is an absolutely fantastic program. As I said, we introduced a new Keystart loan product to further support Western Australians looking to buy off-the-plan apartments with the advent of the Urban Connect Home Loan. Urban Connect Plus allows approved customers to access a loan to support developers' deposits for off-the-plan apartments, acknowledging that a deposit can be a major barrier for many people who are trying to get into the housing market. This state government has continued to work with industry to cut red tape, deliver reforms and assist Western Australians to get into that housing market. That is an absolutely critical thing for those people who are looking to get into the market. There are a range of tax reforms and incentives to boost housing and land supply and encourage urban infill and innovation in new housing types such as build to rent. I have spoken in this place about build to rent and its importance to the property sector on more than one occasion. This government is doing everything it can to bolster that.

**HON DR STEVE THOMAS (South West)** [11.13 am]: Thank you, President, for an opportunity to make a contribution on this rather long motion, but I am going to focus on a couple of particular points in it.

I have made a number of comments over the years on the issue of housing, particularly from an economic basis. One thing that I guess we realise over time is that when our opponents start to quote us in the media, it is probably time to make sure that our comments are being accurately reflected. I was kind of pleased but a little concerned last week when I was indirectly and inadvertently mistakenly quoted by the Premier of Western Australia, Hon Roger Cook, in relation to a debate on housing—this particular issue. I thought this was interesting. The record begs a little bit of correction. An article reported last week on Sunday, 13 October online in *The West Australian* says in relation to the release of opposition housing policy —

The Premier referenced remarks by Liberal MP Steve Thomas in parliament that the Government's raise to the threshold would not solve the housing crisis.

“He said —

This is the quote, apparently —

‘you’d be an idiot if you thought that that actually solved the problem’.

It might have behoved the Premier to work out what I actually said and the circumstances in which I said it, because one has to be very careful with what the government says. Even though I think that Premier Roger Cook is often a relatively decent fellow, I would say that his staff have misled him here a little bit. At the time, we were addressing, quite interestingly, a bill produced by the government. That bill was titled Duties Amendment (First Home Owner Concessions) Bill 2024 and was debated on 21 August this year, so only a couple of months ago. What did that bill do? It raised the thresholds of stamp duty for first home buyers. Other parties have reflected upon and had that policy, including members of the opposition, and Hon Steve Martin went out there and did exactly that in his policy, but he went further. Apart from the modest increase presented by the bill before the house that I was debating, Hon Steve Martin went further in his policy and gave a greater threshold expansion for first home buyers.

Members would think that we are all in rabid agreement on this—that reducing the tax impost upon people buying their first house was probably a pretty good idea. I would have thought it would have been a pretty sensible outcome, surely, because the government put a bill in place. The only difference between the government and the opposition's positions was the amount of threshold movement, and therefore the amount of tax not taken out of the pockets of first home buyers. But, as I said at the time and as I have maintained since, there is not one simple solution to the housing crisis. What I actually said on that day is this —

Turning to the greater debate around housing, this will not fix the price of housing or access to housing. This is not the solution to a housing crisis. Those solutions are far more difficult. Anybody who thinks they have an easy and simple solution to the housing crisis is probably an idiot. Do not listen to them and walk away as quickly as possible. It is a complex area of economic policy. But let us give something back to the people of Western Australia as best we can. I support the bill.

That is what I actually said—“I support the bill”; a bill to increase the thresholds of stamp duty. What did the government do at the time? It increased the threshold of stamp duty. What will the policy that was announced last week do? It will increase the threshold of stamp duty. I thought that we had all agreed with that. Hon Roger Cook perhaps should have read out the entire statement. He should have said that we are all in furious agreement that we need to increase the threshold of stamp duty for first home buyers and we are now arguing about how much that increase should be. Really—is that the level that we have now come down to in politics? I have no problem. I learnt very early on in politics—that has been a fair while now—to say what you believe and believe what you say. It is advice that I have given to everybody in the chamber before, and I do not change my opinion based on how my opponents try to misuse it. If the Premier of the day thought he was making a cheap political point either at my or the opposition's expense, he was kidding himself. I suggest that he get his minders and advisers, particularly his economic advisers, to actually sit down and read the speech in its entirety, because he might learn something. He might learn about economic policy, because what I have said repeatedly is that the crisis in housing is very

much around the massive expenditure in a number of circles. This state government took infrastructure spending from \$5 billion to \$10 billion to \$12 billion to make itself look good. It is about stimulus packages, state and federal, around residential housing, and it is about a mining sector that has been through a massive boom.

In 2020, the mining sector said that it would need 40 000 more jobs. It had to put them somewhere, of course. At the same time this state government was throwing money out of the money bin as quickly as it could, because it was embarrassed about how full the money bin was. It has had surpluses of \$6 billion a year and even from that, in most of those years it has hidden \$1 billion in retained earnings of government trading enterprises. It cannot get the money out of the money bin fast enough. It has to shovel this money out. And what has it done? It overcooked the market place for construction. When the government is spending, it has a lot of money, and so everything gets dragged to that end. When there is a mining sector boom, with iron ore at \$120 a tonne, and we are up to \$235 a tonne, no-one can compete. Of the three sectors of construction—mining, government and residential housing—guess what got shafted? Residential housing, because everybody is on a budget trying to build. It is pretty simple.

I would love the members opposite who have spoken to take the entire speech I made in August and give it to the Premier and his staffers so that they might understand exactly what is going on economically in the state of Western Australia. The billions of dollars it has reaped is making things worse and its expenditure on as much as possible, so that it can cut as many ribbons as possible between now and then, is making things worse. The government is part of the problem. That is what I was saying: if you are not a part of the solution, at least do not be a part of the problem. Stop being a part of the problem! Oh, my goodness! It is a simple economic theory. We could go back and talk about Keynes—not my favourite economist, but a good one—who said that when things are good, governments should step back and let the private sector go. When things are bad, governments step up. That is what is supposed to happen. When things are good, government pays down debt and lets the private sector go. I am a Friedman, not a Keynes man personally, but that is a simple economic policy that this government has got completely and utterly wrong. It is hurting the people of Western Australia who cannot buy a house and cannot get construction done. It is why at one point houses took nearly three years to build. It is still closer to two years. They used to put them together in 10 months. It is because the government has overcooked the market and because it is so desperate to turn economic benefit into political benefit, to cut a bunch of ribbons, whether it is Metronet or everything else. I expect a bunch of announcements between now and election day. Every time the community should be saying, “That is one more month on the construction of my house going forward.” That is where we have ended up. I wish Roger Cook would quote me more often. I am quite pleased with it, but I would not mind if he did it accurately, and I would not mind if he took a few lessons in economic theory and principle. I think he is a reasonably genuine nice guy; he just needs some education in this area. For those members who are interested, take that speech to him, give it to him and say, “You could learn a bit”. I am happy to give him some instruction in economic policy.

I do not have time to talk about the other parts of the motion —

Several members interjected.

**The ACTING PRESIDENT:** Order, members. Order! Do I have to rise? Hon Steve Martin—Hon Dr Steve Thomas.

**Hon Dr STEVE THOMAS:** We are twins and only a mother can tell us apart. We get confused all the time; it is quite dramatic. I take it as a compliment that people think I am that tall!

I do not have time to go through the failures in energy and all the government failure. Here is a simple thing: if you are not part of the solution, stop being a part of the problem. It is simple economy theory.

**HON LOUISE KINGSTON (South West) [11.23 am]:** Those opposite often ask for policy ideas from this side of the chamber. I am full of policy ideas. I am not sure what I am going to do with them, but I am full of them.

Several members interjected.

**Hon LOUISE KINGSTON:** Not yet!

Hon Dr Steve Thomas talked about the overheated market and government infrastructure—it is one of the things that I was going to raise—while it is in competition with an overcharged mining sector. All of us who operate businesses in regional Western Australia understand that we have had massive competition for a very long time in terms of matching the rates of pay for workers and being unable to do that. I think I have raised it before, but I was around 19 years old when the first ideas about centralisation were raised. I remember going to a meeting in Albany about the closure of the Telecom office and centralising it. I remember sitting there as a 19 year old, pretty fresh out of high school thinking, “How does this make any economic or rational sense?” in terms of a state of our size and from a strategic perspective in terms of security. The smaller regional areas offer so much opportunity. A lot of regional areas are screaming out for people and investment back into those communities. There are empty houses and empty shops. I look at a lot of the areas in some of the more regional places, particularly somewhere like Manjimup where I live, and think “there is so much opportunity”. During COVID, a lot of young people decided to leave the city. It was not secure and they moved back to regional areas. An enormous amount of work could be done around decentralisation, which is one of the major things I have always supported, but that would take the

government to recognise that those areas have value. We have seen over and over again that that is often not the case. I come back to the rapid closure of the timber industry, the lack of respect shown to those regional areas and the impact that that had on those people.

Hon Martin Aldridge talked about the headworks program and the cost of developing land in regional Western Australia. We have abundant land in the Manjimup area, which is repeated in a lot of those regional areas, but the cost of developing small lots is very difficult for some of those developers. We have a subdivision down there that a developer took on. It never got off the ground. Part of that was because of the enormous amount of regulation, compliance and costs associated with it. There are a couple of ideas I could give to the government on the other side in the short time that I have. I think valuing those areas and making sure that they are looked after is a lot different from developers developing lots in the city, so we need policy around that to make sure that that headworks program is brought back, with support for smaller developers so that they can meet some of those costs, and that compliance and regulation is reduced. Every time I get up I speak about the amount of impost on small businesses and even large businesses. It is absolutely unmanageable. I know that from running my business myself. Every day there is more and more cost and more requirements, and we need to address that.

Motion lapsed, pursuant to standing orders.

## ENVIRONMENTAL PROTECTION AMENDMENT BILL 2024

### *Committee*

Resumed from 16 October. The Deputy Chair of Committees (Hon Dr Brian Walker) in the chair; Hon Darren West (Parliamentary Secretary) in charge of the bill.

#### **Clause 1: Short title —**

Progress was reported after the clause had been partly considered.

**Hon NEIL THOMSON:** Just so we know where we are, yesterday we covered off on the specifics of the Vogel–McFerran review, and what was and was not within its scope. I think we have, to a large extent, covered off on that, so in the spirit of working with the government and making sure that we get this important piece of legislation through, I am going to put that to one side for now, at least in relation to the clause 1 debate. There are a number of other matters that I would like to raise under the clause 1 debate, in relation to the general purpose of this bill, the thinking that went on and the analysis that was done, given that we do not have the Vogel–McFerran review. That has been established; another review was carried out, and apparently it is cabinet-in-confidence. That has not been provided; only its recommendations have been provided. My colleague Hon Dr Brad Pettitt is on urgent parliamentary business at the moment, but he raised a number of issues. Oh, sorry—he is here! He is no longer on urgent parliamentary business.

He asked a number of questions that I thought were reasonable, in relation to understanding the broader purpose of the bill and making sure that there was proper scrutiny of it. My tack will be a little different, but the implied purpose of the legislation is to remove duplication and unnecessary red tape and to make sure we get approvals through without impacting negatively on the environment. I think those are the implied terms of reference, as paraphrased by me. Again, we did not get to see the terms of reference. For the sake of transparency, it might have been helpful for us to have the terms of reference of the review. Although I do not always agree with Hon Dr Brad Pettitt's angle, I can understand the anxiety of those who are more focused on limiting any kind of development.

I want to ask some questions around timeliness. In his second reading speech the parliamentary secretary representing the Minister for Environment referred to a couple of things that I thought were curious, but we will not go into that; it was more to do with promotion of the government's environmental record, without going into any real detail about the reforms. I quote a line from the second reading speech, which stated —

That is what this legislation aims to achieve—sensible and effective reforms that will ensure the approvals process runs smoother than before, while maintaining high environmental protection standards.

As I said, there is no serious preamble in the second reading speech about analysis of the timeliness factor; I would like to have seen more of that. However, we all know that a lot of things slow down approval processes. It is timely that the Department of Water and Environmental Regulation has presented its annual report and it is available to us. There is a matter on page 169 that is very pertinent to clause 1, under the heading “The EPA's satisfaction with the department's provision of environmental management services during the year”. This outlines the EPA's response to the department's provision of environmental management services. It is a very interesting KPI. Over the last few years, the number of approvals was at about 94 to 97 per cent. For the most recent year, it dropped to 73 per cent.

We do not get to see the science of how that was all worked out, but there is a comment in the report that is very pertinent. It states —

The department strives to ensure that all environmental management services provided to the EPA have a clear purpose, are as rigorous, readable, applicable, consistent ...

The report continues to refer to why the target was not met. It states —

However, this target was not met for the financial year due to the low number of items presented to the board resulting from significant change and loss of staff impacting the business operations.

To the extent possible, given that the member is the parliamentary secretary representing the Minister for Environment, I would like to know to what extent these legislative changes will lead to any real change, given that there seems to be a massive issue with staff availability in the agency?

**Hon DARREN WEST:** Member, we are here to answer questions about the bill. The question that the member has put is not really within the scope of the bill. However, there are recommendations in the Vogel–McFerran review, which the director general has taken on board, regarding the matters raised by the member, but we are not in a position to disclose any of the outcomes of those discussions and negotiations. Certainly, the points raised by the member have been well taken by the department, right up to the director general level. But really, that question is not within the scope of the bill.

**Hon NEIL THOMSON:** I am not surprised by the response. It just highlights, for the record, the fact that reforms are needed. We agree with the reforms and we want to see them go through. I think more could have been done. To echo some of Hon Dr Brad Pettitt’s comments on this matter, there probably has not been enough transparency around the performance of the agency that refers to the EPA, or transparency around the analysis that was done. The parliamentary secretary said that there are ongoing discussions and I note that there are a number of recommendations in the Vogel–McFerran review relating to staff. I encourage anyone who is watching from the industry who has been privy to material at various stages. The annual report provides an angle of questioning that might be of use at a future date in terms of performance. It is certainly something we would like to see going forward—a stronger focus on the delivery of timely advice to the EPA and proponents, particularly in relation to decision-making by the EPA.

I have one more question arising from the annual report, and the parliamentary secretary can choose whether to answer it. It is an important point. It relates to some of the matters that have just been raised. There is a downward trend in the total number of development proposals referred to the Environmental Protection Authority. There are two graphs. One has the total number of schemes and scheme amendments, but the other one shows in the given timeframe a trend of reduction in the number of development proposals referred to the EPA from a peak in 2021–22, with last year having the lowest number. To the extent that the parliamentary secretary can tell us, what is the current backlog within the agency in providing advice to the EPA on development proposals? Secondly, has there been any analysis on the impact that the enactment of this bill might have on the number of development proposals that are referred to the EPA in a given year?

**Hon DARREN WEST:** We need a bit more clarification of the question. Is the member talking about planning more broadly?

**Hon Neil Thomson:** No, all development proposals. I am happy to give you the document if you would like. It is the annual report.

**Hon DARREN WEST:** As I indicated earlier, this is more of an annual report question, but we are going to provide a response. The answer is yes. We had the highest number of EPA decisions on assessments last financial year when compared with the number in the last five years. If the member has more questions related to the Department of Water and Environmental Regulation, we will need to switch advisers. Does he have more questions on DWER or is he pretty much done with that line of questioning?

**Hon Neil Thomson:** I have a couple of questions about the number of proposals under consideration. If you can do that and the advisers are here, I think that would be useful.

**Hon DARREN WEST:** Deputy chair, we will need to switch advisers briefly.

**The DEPUTY CHAIR (Hon Dr Brian Walker):** During this short intermission, I would like to advise members of the presence of supplementary notice paper 181, which will come into play at clause 2.

**Hon NEIL THOMSON:** It is useful to have the advisers from the department. I would like to understand a little bit about the backlog that has been talked about. The Chamber of Commerce and Industry of Western Australia has talked about things in the development pipeline. Is there currently within DWER a backlog in the pipeline of development proposals referred to the EPA? How is that backlog measured?

**Hon DARREN WEST:** We got up to around 70 at one point, but that number is beginning to come down. We are throwing all the resources we can at reducing the backlog.

**Hon NEIL THOMSON:** I assume that all 70 would be part IV referrals and not part V referrals; that would be a separate number, would it not?

**Hon DARREN WEST:** The member is right; they are all part IV referrals.

**Hon NEIL THOMSON:** What is the current number of proposals that are sitting within the agency for consideration before being referred to the EPA under part IV?

**Hon DARREN WEST:** We do not have the exact number, but it is fewer than 30.



**Hon NEIL THOMSON:** It is good to see some progress. I also take this opportunity to congratulate Alistair Jones on his permanent appointment to that role. He is someone I am sure both sides of the house have a degree of respect for, along with all the staff, who are working hard. It is a big job.

Has there been any analysis of what these changes will do to the flow of work in a broad sense? The parliamentary secretary probably will not be able to tell me the exact number, but will this reduce the backlog? Is that achievable?

**Hon DARREN WEST:** I think we have been a bit generous on this line of questioning. It is not related to the bill; it is more to do with the annual report, and there are mechanisms for the member to ask those questions. In the interests of collaboration and working through the bill together, we have provided answers. It is fair to say that it is a focus of the agency to continue to reduce the number of referrals in the system, and all resources are being directed towards that. As the member can tell by those numbers, progress is being made.

**Hon NEIL THOMSON:** I appreciate that response. The other piece is part V, which I note has not been a consideration. Is it fair to say that nothing in the bill will address any of the part V approval processes and timelines? Is that a fair comment?

**Hon DARREN WEST:** No, that is not the case. The bill will allow parallel decision-making for part V assessments. That does not mean it will always happen, but it will allow for that.

**Hon WILSON TUCKER:** Following that line of inquiry—not specifically relating to the backlog, but the approval timeframes—is the parliamentary secretary able to give an average of how long the approvals will take?

**Hon DARREN WEST:** On average, assessment on referral will take 1.2 years and public environmental review will take 2.7 years.

**Hon WILSON TUCKER:** That is good to know. I understand that different projects have different levels of complexity, but will there be an average cost for a proponent—I may have the terminology wrong—who is going through the approval process to get an end result?

**Hon DARREN WEST:** It will very much be on a case-by-case basis. We do not really know the cost.

**Hon WILSON TUCKER:** If the parliamentary secretary cannot provide an average, does he have an approximation or a case at the higher end? Can he give an expectation of the spectrum of what it typically costs?

**Hon DARREN WEST:** We really cannot give the honourable member that information with any clarity. We would be speculating on the figure. As the member can appreciate, the cases are varied and different and each one has its own process, if you like, so we are unable to provide that information.

**Hon WILSON TUCKER:** Given that is the case, does the Environmental Protection Authority work on a cost recovery basis?

**Hon DARREN WEST:** The answer is yes to the staff, but no to the board itself, so there is a cost recovery component of DWER staff who work on assessments.

**Hon WILSON TUCKER:** For a proponent going through the approval process, is that process part of the cost recovery basis?

**Hon DARREN WEST:** The cost is related to the amount of work required and the complexity of the project. Each assessment is fit for purpose for that project. It is very difficult to give even a range because proponents will no doubt be aware of the complexity and size of their assessments and would have an indication of cost.

**Hon WILSON TUCKER:** The point I am trying to understand is that given that efficiency savings are expected with some of the parallel processing, and that is really the mechanics of the intention behind the bill—to cut out bureaucracy and speed up approvals—and the EPA, I believe, is working on a cost recovery basis for proponents who are going through the approvals process, is there likely to be a reduction in some of the fees as they navigate through?

**Hon DARREN WEST:** I am not trying to be evasive, but in terms of the cost, it is just too difficult to give the member accurate information as we are required to do. What I can say here is that I am not sure the changes this bill will bring will have a big impact on cost, but we are trying to improve efficiencies in processes across the board. I think it would be of greatest benefit to proponents in industry in terms of timeliness, and by running parallel processes we can certainly improve timeliness efficiency; however, the cost will still be the cost.

**Hon WILSON TUCKER:** If there are efficiencies within the agency and less effort to evaluate some of these approvals, surely that would trickle down and translate to a reduced cost back to the proponent? That is what I am trying to understand. I know we are talking in generalities for some of the specific numbers around cost, but if there is an incremental efficiency gain within the department and the EPA is not there to turn a profit, surely that would translate to a reduced cost for proponents?

**Hon DARREN WEST:** In some cases—maybe even many cases—that could be the case. There may be cases when there is no reduction in cost to the proponent. A lot of complexity goes into each and every project. If we are going to improve efficiency of processes across the board, there may well be reductions in costs for proponents at some point in the future, but it is too difficult to put a figure on that here today.

**Hon WILSON TUCKER:** What I am hearing is that if there are efficiency gains—let us say 10 per cent—the intention would be to reduce the cost to an applicable amount for those proponents.

**Hon DARREN WEST:** We are unable to say that. There may be a 10 per cent time reduction in the process, which the proponent may see as more valuable than a 10 per cent reduction in cost. Proponents can make these assessments now, but what we are hearing from industry is that it wants faster and more timely approvals—not necessarily cheaper approvals or less onerous approvals.

**Hon WILSON TUCKER:** I will leave that line of inquiry there for now. What is the approval rate percentage for applications going through the approval process?

**Hon DARREN WEST:** We need a bit more information. The Environmental Protection Authority does not provide approvals; it provides advice. There are ministerial approvals and other approvals. We need more information about what the member wants to find out.

**Hon WILSON TUCKER:** Is the parliamentary secretary in a position to provide that advice? Which department would I direct that question to?

**Hon DARREN WEST:** The EPA website would have that information. We can also look at ministerial statements. There are other sources of information; we do not have it here. The member is in a position to ask a question on notice.

**Hon Dr BRIAN WALKER:** I regret to say that I was absent on urgent parliamentary business yesterday, so I have been reading through yesterday's *Hansard* to see whether any of my questions would have been superfluous. Indeed, many of them are. I want to verify that we can receive a commitment from the government that the overall intent is to provide a body that gives good advice to the government, with which the minister can work. To that end, it would have been advisable to have as wide a body of consultation as possible. I would like to hear a verification from the parliamentary secretary that as much consultation as possible was undertaken.

**Hon DARREN WEST:** As I referred to yesterday, there was very broad consultation on developing the bill. We believe that that consultation could not have gone further. I agree with the member's assessment that the wider the source of expertise on the board, the better.

**Hon Dr BRIAN WALKER:** It was with a degree of surprise that I found that there was a large degree of concern from environmental bodies about inappropriate consultation. Of course, impressions can vary, points of view can be strongly felt and opinions can be held without much merit based on fact. Is it fair to say that the overall feedback that we have received on this side is that the majority of bodies most associated with environmental protection, those who are involved on a daily basis as a passion in their lives, feel that their advice has been ignored?

**Hon DARREN WEST:** We cannot comment or speculate on how organisations feel about the process; however, as outlined yesterday to the member's crossbench colleagues, there were two processes. Firstly, there was the Vogel–McFerran review, and from my understanding of yesterday's line of questioning, that is when the most aggrievement was felt during the process. When we were formulating the bill, a series of workshops were held on 17 June and 16 July. There were briefing sessions. Today we are here to debate the development of the bill and we feel there has been adequate consultation and we have done our best to engage stakeholders in the environmental space. Obviously, they are important in the formulation of the bill.

**Hon Dr BRIAN WALKER:** In my wideranging research, I am yet to find a single concern from industry bodies that their views were not adequately heard.

**Hon DARREN WEST:** I am not familiar with how industry feels. I am not familiar with how each individual stakeholder feels. All we can do is consult widely, take everyone's views onboard and formulate a bill that we think everybody will be happy with.

**Hon Dr BRIAN WALKER:** The independent mind would take a view that looking at all the information would be helpful, would it not? In the work that I have done to closely examine the precedents for this bill's construction, it has become clear to me and other impartial observers that advice on the one hand seems to have not been well received and advice from the other side seems to have been completely received. It has resulted in a bill that to the open mind might give rise to the conclusion that the Environmental Protection Authority had been de-fanged and that the interests of the industrialists are more adequately represented than those who are concerned with the environment. It is reasonable to expect that we should be able to examine whether this is a fair opinion or not. I am sure the parliamentary secretary would agree with that.

Why were the consultations kept cabinet-in-confidence and not made available for examination by those with an open mind?

**Hon DARREN WEST:** I covered this extensively yesterday and I do not intend to take too many more questions on this subject; there is a lot to get through. There are two processes here. The member is clearly referring to the cabinet-in-confidence of the Vogel–McFerran review. That was commissioned by Treasury. I went through that yesterday. It is not something we are able to comment on. The review is cabinet-in-confidence. The

37 recommendations have been made public. Of those recommendations, five are the basis of this bill. Once we got those five recommendations, we held the briefings and workshops that I discussed before with the list of stakeholders that I read out yesterday.

**Hon Dr BRIAN WALKER:** The intent of my question was to outline for posterity that this is an irreconcilable feature of this bill, which has unanimous opposition from those who are concerned with the environment and unanimous support from those who do not particularly care for the environment, but do care for their shareholders and profits. I anticipate that this will be looked at in the future with some degree of concern. I am not expecting a reply to my polemical statement, but I would like it to be documented and there for time immemorial.

**Hon DARREN WEST:** I do not agree with the member's premise. The Minister for Environment and I are concerned about our environment. This bill does not change the environmental approvals process. It changes efficiencies, administration and timeliness for stakeholders and applicants. That may include property developers and mining industries, as the member pointed out, but I think there is a growing number of renewable energy projects that would like to see more efficiency in the approvals process. I do not accept that because we support the bill we do not support the environment. That is not the case. We think that we have the balance right to have a more efficient system that retains the integrity of the environmental approvals process.

**Hon Dr BRAD PETTITT:** I follow up on that last comment because I know from the renewable energy sector that the government has tried to make out that the sector has asked for this. Can the parliamentary secretary name one organisation or individual in the renewable energy sector that has asked for a faster approvals process? They have gone on the public record to say this is not coming from them. If the parliamentary secretary has evidence to the contrary, can he please tell me?

**Hon DARREN WEST:** I cannot go into details, but as a general observation I do not think there would be anyone from any organisation seeking environmental approval who would not want it done in a timelier manner. In fact, we get complaints about how long it takes to get an environmental approval and the fact that applicants cannot run parallel processes when seeking an environmental approval. Whether that be from a land developer, a mining company or a renewable energy organisation, I think the member will find that the general thought is the same across all sectors.

**Hon Dr BRAD PETTITT:** I have to push back on that. Let us be really clear here, the renewable energy sector has said publicly, "Don't put this on us." The renewable energy sector is comfortable and happy with the approvals processes as they are. This government needs to stop pretending that this is about renewable energy and acknowledge that it is about whatever other industry interests it is choosing to pursue—be that land clearing for property development or mining and gas. Do not pretend that this is about the renewable energy sector because the government has no evidence of that. In fact, the sector has clearly said that it is not. I asked a question on notice about this yesterday. There are only seven projects waiting for approval. The average timeline is less than six months and up to three years. Do not pretend this is about renewable energy because it is not.

**Hon NEIL THOMSON:** I have one question and I apologise if it has been asked already. Is there any scope for the government to provide an update on progress against the recommendations of the Vogel–McFerran review? The parliamentary secretary might have to come back to me on that because he is representing the Minister for Environment. I am asking the question and if the minister could consider it, that would be awesome.

**Hon DARREN WEST:** That is a question for the minister and the member will need to ask it in the appropriate way, which he has the capacity to do.

I will just respond to Hon Dr Brad Pettitt's comments. I mean this in good faith. We are not pushing this bill onto anybody. It will make administrative processes more efficient for everybody. Whatever their requirements, this legislation will make the process more efficient.

**Clause put and passed.**

**Clause 2: Commencement —**

**Hon NEIL THOMSON:** How will this impact the practice within the organisation? Given some regulations might flow from this legislation, could the legislation be implemented immediately? When will it come into force? While the parliamentary secretary is at it, are there any parts of the legislation that might be delayed from coming into force?

**Hon DARREN WEST:** That is a good question, member. The answer is yes. Part 2 will provide capacity to expand the membership of the Environmental Protection Authority beyond five members. There are already five members so additional members will not need to be appointed immediately to ensure that the EPA can continue to operate. Part 3 will not impose a timeframe on the minister to issue a statement of expectation; it must simply be done with all convenient speed. Division 2 of part 4 will apply only when the minister issues a direction to the EPA under section 44(2)(c) of the act. Division 3 of part 4 will not require any immediate implementation or preparatory work to operate. The transitional provisions in part 5 will not require any implementation or preparatory work to operate. The validation provision in part 6 will not require any implementation or preparatory work to operate.

[Interruption from the gallery.]

**The DEPUTY CHAIR (Hon Steve Martin):** Members, we believe the noise is a phone somewhere upstairs. It is not an alarm, so be alert but not alarmed!

**Hon NEIL THOMSON:** I appreciate the answer. Is the parliamentary secretary basically saying that everything will come into effect on royal assent and nothing will hinder the implementation of the reforms at that point?

**Hon DARREN WEST:** That is correct aside from parallel approvals, which will begin once the bill has been proclaimed.

**Hon NEIL THOMSON:** Does the parliamentary secretary have an expected date of proclamation?

**Hon DARREN WEST:** The timeframe is the end of November.

**Hon Dr BRAD PETTITT:** I have an amendment on the supplementary notice paper. I will not speak to it now because it is a consequential amendment in relation to parallel decision-making and I will speak to the content of that more fully when we debate the clause. For consistency, I now move —

Page 2, lines 10 to 19 — To delete the lines.

**Hon DARREN WEST:** I thank the member for the amendment, but, unfortunately, the government will not be supporting this amendment. Clause 2(1)(c) is necessary because section 60 of the Environmental Protection Amendment Act 2020, which going forward I will refer to as the 2020 amendment act, is yet to commence and will insert new provisions into and amend existing provisions of the Environmental Protection Act 1986, which going forward I will refer to as the Environmental Protection Act, which this bill will also amend. For this reason, the bill must amend the provisions both as they currently exist and as they will be amended on the commencement of section 60 of the 2020 amendment act to provide for both the scenario of section 60 coming into operation before part 4, division 1, subdivision 2 and the scenario of section 60 coming into operation after part 4, division 1, subdivision 2. Section 60 will replace division 3 of part 5 to reform the regulation of emissions and discharges under the Environmental Protection Act. In particular, it will replace the prescribed premises regime with a prescribed activity regime. It is more appropriate and effective to relate emissions and discharges to an activity rather than a premises. It will also combine works approvals and industry licences into one instrument, or licences, that can authorise and regulate controlled works and activities. Given the changes presented in section 60 of the 2020 amendment act, the bill must amend both current provisions of the Environmental Protection Act and make changes for the 2020 amendment act to ensure that parallel decision-making is facilitated in both scenarios.

**Amendment put and negatived.**

**Hon Dr BRAD PETTITT:** My second amendment is at 2/2 on the supplementary notice paper. I move —

Page 2, lines 22 to 28 — To delete the lines.

**Hon DARREN WEST:** Again, I thank the member for the amendment but the government will not be supporting it. Clause 2(2) is required because clauses 20 to 24 of the bill will amend sections 54, 57, 59, 59B and 105 of the Environmental Protection Act. They will be amended or replaced by sections 60 and 87 of the 2020 amendment act. Clauses 20 to 24 concern works approvals and industry licences that section 60 of the 2020 amendment act will convert into one instrument—namely, licensees relating to prescribed activities instead of prescribed premises. This will mean that clauses 20 to 24 of the bill will be redundant if section 60 of the 2020 amendment act comes into operation first because works approvals and licences will no longer exist in that form. Instead, the issue will be addressed through this bill's amendments to the 2020 amendment act set out in part 4, division 1, subdivision 2.

**Amendment put and negatived.**

**Hon NEIL THOMSON:** I have one more question on the ministerial statement of expectation. Are we likely to see one of those being tabled in Parliament in this forty-first Parliament? Do we have a draft?

**Hon DARREN WEST:** The answer is yes, the minister will issue a statement of expectation. It will be available on the Environmental Protection Authority website. The timing will depend on whether it is in a Parliamentary sitting period, but it will be tabled within nine days.

**Clause put and passed.**

**Clause 3 put and passed.**

**Clause 4: Section 7 amended —**

**Hon Dr BRAD PETTITT:** I have a couple of questions on this clause before I move some amendments of which I have given notice. During the briefing on this, I asked what the quorum of the board will be. We were told in the briefing that it will be three. I just want to confirm that that is correct.

**Hon DARREN WEST:** The bill will not change the existing quorum requirements in the act.

**Hon Dr BRAD PETTITT:** I had better ask my question again. Will the quorum be three?

**Hon DARREN WEST:** Yes.

**Hon Dr BRAD PETTITT:** That is important, because this bill will enable up to nine people to be on the board with a quorum of three. That is pretty extraordinary for several reasons. We will come to this later, but there could be, for example, a whole range of interesting people on that board. I am going to pose a hypothetical here. Am I correct in understanding that three board members, all with only industry experience and no specific environmental expertise, could make a decision on this basis?

**Hon DARREN WEST:** No, that is not the case, because a requirement of being appointed to the board is they must have experience of, or interest in, the environment.

**Hon Dr BRAD PETTITT:** That is exactly correct; that is what it says. A member of the authority must have an interest in the environment. I can tell the parliamentary secretary that there are plenty of real estate agents out there who might have an interest in the environment; it does not mean that they have expertise. I will phrase my question again. One of the key things that this bill will change is it will take out the necessity for a member of the authority to have environmental expertise and replace it with an interest in the environment, along with a range of other key things that may or may not put them on that board. What assurance can Western Australians have that when a decision is made by the EPA, the people around that EPA board table will have environmental expertise? I emphasise the word “expertise” when I ask this question.

**Hon DARREN WEST:** The appointment parameters will not change as a result of this bill. The member may be right about real estate agents who have an interest in the environment, but they also need experience. They will need experience and an interest in the environment to be appointed to the EPA board.

**Hon Dr BRAD PETTITT:** I think that the parliamentary secretary probably needs to go back and have a read of the bill. Is the parliamentary secretary saying that there is still a requirement for expertise?

**Hon DARREN WEST:** The requirements are for experience and interest, and they will not change as a result of this bill.

**Hon Dr BRAD PETTITT:** But what will change as a result of this bill is that people will be put on the board with an interest in economic development and a whole range of other industry things that are not allowed under the current act, and the board will be increasing from five. A rational quorum for a board of five is three—I get that. But for a board of nine people, a quorum of three becomes deeply problematic in a situation whereby a range of people may excuse themselves and those remaining may have no environmental expertise.

**Hon DARREN WEST:** Again, we are broadening the base of the board. We accept that this bill will change that but the requirement to have experience of, and an interest in, the environment remains.

**Hon Dr BRAD PETTITT:** Perhaps I can further this by reading some recent comments from Nature Conservation Margaret River Region regional manager Drew McKenzie, who said that the importance of the EPA cannot be understated as environmental risk continues to grow. Mr McKenzie said —

“At a time when there is a Senate inquiry into Australia’s extinction crisis, we are very concerned that the WA Government is undermining the independence of the EPA,” he said.

“Allowing industry reps onto the EPA board and for the Government to issue ‘statements of intent’ to direct the EPA erodes the independence of this important authority.

“At this critical point in time, we need more effective environmental protection and restoration and these changes move us in the wrong direction.”

I read that because these comments are not alone. I read several similar comments in my contribution to the second reading debate. Everyone in the environmental sector is saying that these changes, including what we have in the clause before us, will actually reduce the independence of the EPA. I ask the parliamentary secretary: what safeguards are still in place to ensure the independence of the EPA?

**Hon DARREN WEST:** Member, we know that people will have a range of views on the bill, but I will read the procedure for the composition of the Environmental Protection Authority that will be in place as a consequence of this bill. Under proposed section 7(2A)(b), a person must have —

a suitable level of knowledge, skills, experience or qualifications in 1 or more of the following fields —

- (i) environmental science;
- (ii) natural resource and biodiversity management;
- (iii) waste management and pollution control;
- (iv) industry, commerce or economic development;
- (v) public administration, governance, regulation or law;
- (vi) regional areas and issues.

We think that broadening the base of the board with those skill sets will strengthen the board.

**Hon Dr BRAD PETTITT:** Let me read back what the parliamentary secretary said. The very first line that he read contained the words “1 or more”. Can the parliamentary secretary read the first line to me again?

**Hon DARREN WEST:** Yes, it is —

a suitable level of knowledge, skills, experience or qualifications in 1 or more of the following fields ...

**Hon Dr BRAD PETTITT:** This comes to the heart of the issue. A person must have one or more of those skills. Let us be generous and say that they have two. We could have someone on there with public administration and industry experience, or public administration and commerce experience. There is no requirement to have environmental experience. This is the point I am making. There will be no requirement for a member of this board to have environmental expertise, and that in itself is problematic. But what I am highlighting in this clause is when there is a quorum of three out of a board of nine, there is a real danger that decisions will be made with no environmental expertise behind them. I come back to the role of the EPA, which is to advise the minister on environmental matters. The parliamentary secretary highlighted that we will have people on the board with public administration or commerce and industry skills, but that is not actually the key role of the Environmental Protection Authority. If the authority members had that and environmental expertise, I would have some comfort, but at no point does this legislation mandate that they have both of those things. We will then have a board from which two-thirds of the members could excuse themselves and there would still be a quorum. This is where I think there should be real concerns around the kind of decisions that could be made.

**Hon DARREN WEST:** We disagree with the member’s statement because in the preceding section proposed subsection (2A)(a) states —

a suitable level of interest in, and experience of, matters affecting the environment generally ...

It then goes on to list the things I read out. That is the requirement today and will be the requirement under this bill. That will not change.

**Hon Dr BRAD PETTITT:** The parliamentary secretary is failing to understand the changes. The parliamentary secretary just read them out: public administration, industry and commerce. The government is adding all those requirements, and a much larger board with a much smaller quorum. The fact that the parliamentary secretary is failing to connect the dots about the outcome that this could lead to highlights what we could end up with. Let me rephrase this to the parliamentary secretary. Does the parliamentary secretary accept it is possible we could end up with a board in which the primary expertise around that board table will reside with three people—one with expertise in industry matters, one with expertise in public administration and one with expertise in commerce? Yes, they will all have an interest in the environment. I do not dispute that, but their expertise will be in all these things.

**Hon Darren West:** They need experience.

**Hon Dr BRAD PETTITT:** None of them will have expertise in the environment. They will all have an interest in it, which is very different from expertise. There will be a real danger in that. This is the point I want to get at. We will have an Environmental Protection Authority that, weirdly, will not have environmental expertise and will not give the government frank and fearless advice. This comes to the heart of the decision, which I raised under clause 2. The minister should have the courage to appoint an EPA that can give frank and fearless advice that the minister might disagree with. The minister should have the courage to say, “I’m disagreeing with this, because I want this project to go ahead anyway.” Instead, the minister will hide behind a stacked board with a tiny quorum, so that the minister can get the advice that they may want. That will undermine the integrity of the whole system. I am trying to understand why the board will be so big and the quorum so small and why the range of expertise is increasingly moving away from environmental expertise that should be at the heart of the EPA.

**Hon DARREN WEST:** I will provide the member with some more information that I think will help alleviate his concerns. We disagree with the premise of what the member is putting before us, but I am sure this information will help. Importantly, proposed section 7(2A) of the bill will preserve the requirement for members to have interest in and experience of matters affecting the environment generally. This was previously section 7(2). This is a baseline requirement for all members that must first be met before any of the additional skills are considered. The bill will not change or affect what EPA board members are to consider in performing their functions. As established in the Coastal Waters Alliance case, the EPA can consider only environmental factors in providing an environmental impact assessment report and recommendations to the minister, which do not include broader social or economic benefits of a particular proposal. This means that it is not within the EPA’s power to weigh competing social, commercial or economic benefits of a proposal against the environmental impacts of a proposal.

Also, just to give the member some comfort regarding the composition of the board, the bill will increase the maximum number of members to nine and will set a minimum floor of five. The existing quorum of three is preserved as a simple and certain minimum that accommodates the minimum number of members. On occasions several board members may be conflicted on a particular assessment. This means that a smaller quorum will be necessary to ensure timely decision-making while maintaining the integrity of the process. When a larger number is present at a meeting, the majority of those members is still required to make a decision, with the presiding member having a vote to break any deadlock.

**Hon Dr BRIAN WALKER:** I think definitions are very important. A vague, unclear and undefined definition is a sure way to get poor outcomes. Let us take the definition the parliamentary secretary used: “interest in, and experience of, ... the environment”. That is, as I understand it, the wording the parliamentary secretary used. An interjection of yes or no would be suitable.

**Hon Darren West:** That has not changed since the 1986 bill, member. Nothing changes in that regard.

**Hon Dr BRIAN WALKER:** Based on that definition, which we can agree is the way it has been for some considerable time, which might explain a few decisions, would I, as a supporter of hemp-based industry, looking at carbon capture and improvement of soil and improvement of the topsoil with a hemp industry, then qualify as having an interest in the environment? Having lived in a number of places, including a jungle in the Asian environment as well as working in more arid environments in Australia and being exposed to climate change effects, would I have experience of the environment based on the existing definition that the parliamentary secretary has given us?

**Hon DARREN WEST:** We could not possibly speculate from here on the scenario the member raised, but I make the point that it is up to the minister to assess all applications and make the appointment.

**Hon Dr BRIAN WALKER:** Thank you, parliamentary secretary. That, indeed, makes it possible that I would be included in that list because no definition says that I cannot be. That is nice.

Let us take another part that the parliamentary secretary mentioned about the competing demands when the environment is part of the consideration. It seems that the government is saying that other things need to be taken into account and therefore it will broaden the range of skills on the board to allow for a broader view, if you like. I will give members a real example of the conflicts. I first went to work in Hong Kong to be a medical officer for the construction of Chek Lap Kok International Airport. The airport was created by flattening a small island off Lantau Island, the large island, where there was landfill. It built an excellent airport, second only to Changi Airport I believe, and is one of the renowned airports in the world. The one problem when I was there initially, was there was a small hill, which is still there by the way, and on that island was a unique frog. Of the entire world, that frog lived only on that island. Flattening the island and involving heavy machinery would put that frog’s existence in jeopardy. The balancing needs were to preserve the environment or to build a major airport, as the Kai Tak Airport was no longer fit for purpose, being built in the middle of Hong Kong and a dangerous place to land. The competing interests resulted in the loss to the environment and to our world of a species of frog. Members might think that is no big deal, but the principle is there: the economic and social interests outweighed the benefits of that particular ecological factor. Based on the definitions the parliamentary secretary has given us, we could infer that the dollar bottom line in a struggling economy would overrule the needs of the environment and the economy would come off second best.

**Hon DARREN WEST:** To take the member’s example, a purely environmental consideration would be made. Should there be such a case here, the EPA would make an environmental assessment. The consideration of any factors other than environmental would then be up to the minister upon deciding on the EPA’s recommendation. This is reflected, among other things, in the fact that the minister’s decision-making power under section 45 of the EP act is not constrained by express statutory criteria.

**Hon Dr BRIAN WALKER:** Does that explain in clear terms why we have lost 70 per cent of our vegetation?

**Hon DARREN WEST:** I am unable to comment on that in the context of the bill.

**Hon WILSON TUCKER:** I have a few questions on the conflict-of-interest process guidelines that the parliamentary secretary briefly alluded to earlier. Can the parliamentary secretary walk me through the process if there is a conflict of interest in a small quorum of three people making decisions, and what constitutes a conflict of interest?

**Hon DARREN WEST:** If there is a pecuniary or financial interest, it must be declared. The usual processes apply. The chair may make an assessment of a member’s suitability to be involved in deliberations, whether they may have had some link to a project in the past or another such example. There are opportunities for other interests to be considered.

**Hon WILSON TUCKER:** Where is that process codified or contained? Is it in the bill? Are there guidelines produced by the EPA, or is it just at the discretion of the chair of the day?

**Hon DARREN WEST:** Conflicts are established and managed at the start of each EPA meeting, and all relevant members are required to declare any personal interests prior to the meeting. At each EPA meeting, the appropriate management method for that conflict is decided by the chair, as the person presiding. This is usually managed by excusing the conflicted member from the meeting for the discussion of the item. All conflicts and the management method are recorded in the EPA’s conflict-of-interest register, to ensure a clear and transparent process. It is important to note that some EPA members seek and obtain advice on their likely conflicts at the time of their appointment to the EPA, and discuss those likely conflicts with the chair. Meeting agendas are set well in advance, which gives members the opportunity to determine which, if any, items they may have conflicts for, and allows EPA services to identify where a quorum may be an issue.

**Hon WILSON TUCKER:** Western Australia is quite a small place—certainly in the resources sector, and arguably in a lot of other sectors—and it is very relationship-driven. We are looking at a small pool of people and there is typically only one degree of separation.

I am curious how often these conflicts of interest have occurred in the past. Could the parliamentary secretary perhaps provide any range of data on that?

**Hon DARREN WEST:** It is not uncommon, but it would be really difficult for us to quantify here. I add to the member's previous point: there is an EPA code of conduct, which includes further detail on conflicts of interest.

**Hon WILSON TUCKER:** The parliamentary secretary said that the board ranges from five to nine members, so there is a bit of a sliding scale of the number of board members, but the quorum number remains fixed. What is the rationale there? I can understand that if there is a smaller board and conflicts of interest occur, splintering off to try to create a quorum to make decisions could constitute a reason to increase the size of the board, but I would expect the quorum size to also be on a sliding scale. What is the rationale behind increasing the size of the board, but maintaining the small quorum size?

**Hon DARREN WEST:** That is a fair question. The sliding scale was not chosen because of what we have been talking about for the last 15 minutes—the possibility that people may have a conflict of interest. We think it is important for the EPA to be able to continue to fulfil its role when there are perhaps fewer than nine appointees on the board or there are conflicts of interest. But a majority of members of a quorum of the board still need to agree to pass a decision.

**Hon WILSON TUCKER:** Going back to the previous point about conflicts of interest, there surely must be a list or a process in which they are declared and captured—perhaps in the minutes of EPA meetings. Is the parliamentary secretary able to share any figures for when these conflicts have occurred?

**Hon DARREN WEST:** Yes, they are recorded in the minutes.

**Hon WILSON TUCKER:** The parliamentary secretary probably knows my next question: is he able to provide those conflicts through the minutes?

**Hon DARREN WEST:** Yes, there is a register. We are just seeing whether we can find that register to perhaps refer it on to the member, but it is quite a level of detail and we are only four people!

**The DEPUTY CHAIR (Hon Steve Martin):** Given that this will probably go until at least lunchtime, would the member like to do that after lunch and we might proceed to another question?

**Hon Wilson Tucker:** Sure.

**Hon Dr BRAD PETTITT:** This is a useful line of questioning and, interestingly, I think it gets to the heart of the issue. I suspect we are setting ourselves up for an Environmental Protection Authority in which there will be a lot of conflicts of interest—hence the need for a large board and a small quorum. That, frankly, does not give us much confidence in getting the kind of independent environmental advice, with a focus on environmental protection, that we would expect. This goes to the heart of some of the other amendments standing in my name under this clause. The parliamentary secretary has several times referred to wording that appears in the explanatory memorandum, which states —

... a suitable level of interest in, and experience of, matters affecting the environment generally ...

It is vague wording, and I think the parliamentary secretary said that it is wording that was rolled over from a previous —

**Hon Darren West:** Since 1986.

**Hon Dr BRAD PETTITT:** Since 1986. I struggle to see how that wording can be in any way effectual. If it was any broader, we could literally drive a D9 tractor through it. Why has that not been tightened up?

**Hon DARREN WEST:** We are confident in the integrity of the selection process. This has not presented any challenges in the past, so we see no need to change it.

**Hon Dr BRAD PETTITT:** Again, I think some would disagree with that assessment. I could argue that many people have a suitable level of interest in the environment and experience of matters affecting the environment generally. That is so vague. The Environmental Protection Authority should be about experience of environmental protection, not merely matters affecting the environment. Can I try to understand why that wording has not been tightened up? Looking at it, it seems evident that it will not necessarily allow us to get the best people with the best expertise.

**Hon DARREN WEST:** I appreciate the member's concern and line of questioning about this, but I put it to him that the key word in the Environmental Protection Authority board is "environmental". That is the remit. That is what is assessed by the Environmental Protection Authority board. Any other matters are taken into account by people outside the Environmental Protection Authority board.

**Hon Dr BRAD PETTITT:** Let me take up that response by referring to proposed section 7(2A)(b). At page 3 of the bill, which I think the parliamentary secretary has read out, it lists —

a suitable level of knowledge, skills, experience or qualifications in 1 or more of the following fields —

- (i) environmental science;



- (ii) natural resource and biodiversity management;
- (iii) waste management and pollution control;
- (iv) industry, commerce or economic development;
- (v) public administration, governance, regulation or law;
- (vi) regional areas and issues.

Can the parliamentary secretary remind us what is different in proposed section 7(2A)(b) from the current act?

**Hon DARREN WEST:** We see the additional skills as being useful. A good example could be when the board is providing conditions on an approval. Members of the board who have outside experience may or may not know whether those conditions are practical. That is an example of when it would be good to have an increased skill set. Again, we think that broadening the skill base of the EPA board is a good move forward.

**Hon Dr BRAD PETTITT:** Can the parliamentary secretary tell us which of the fields in proposed subparagraphs (i) to (vi) are additional?

**Hon DARREN WEST:** They are all additional skills.

**Hon Dr BRAD PETTITT:** I am sorry, but I do not have the act in front of me. What skills are listed in the equivalent section of the act?

**Hon DARREN WEST:** There is none.

**Hon Dr BRAD PETTITT:** Is the parliamentary secretary saying that the act refers only to a suitable level of interest and experience in matters affecting the environment generally?

**Hon DARREN WEST:** The member is correct.

**Hon Dr BRAD PETTITT:** I have covered this pretty well, but it is interesting that about half of these skills are not related to the environment, but half are. Again, I come back to my point: when the Environmental Protection Authority is merely offering advice to the minister, which the minister can choose not to accept, we would expect its environmental expertise, with a focus on environmental protection given that it is the authority, to be a focus. This seems like a lost opportunity to tighten that up and improve it. In fact, the changes before us today will loosen it up and make the board larger, with members with a much wider range of skills, while requiring the same number for a quorum. I can only wonder what kind of advice the minister is likely to get on that basis.

**Hon Dr BRIAN WALKER:** If I can go on with more practical examples, we finally heard yesterday media reports about Alcoa and its clearing of jarrah forest for bauxite mining. I do not have the information in front of me, but I assume that the Environmental Protection Authority had already given approval for that, because Alcoa gave assurances that it would rectify the damage caused, so the money earned by the company and, of course, shareholders would be used to make our state richer, and that the end effect after it had finished mining would be to return it to the nature of before. That is environmental protection. Then we found that, against all the reassurances, the evidence shows that there has been irrevocable damage to the jarrah forest and, with that, to the flora and fauna of the jarrah forest, meaning there is irrevocable damage to a precious environment in Western Australia. This happened under the watch of the previous EPA.

With these somewhat relaxed instructions to now allow people like me to give advice to the minister, who will be able to choose whether to take that advice, they could make a statement that the intention of the environmental agency is to make money first and the jarrah forest comes second. That would be a ministerial statement of intent—certainly over the last decades, if not in the future. In what way would the newly formed environmental protection agency be able to alter the decisions made in the past?

**Hon DARREN WEST:** It is a difficult question to answer because all Alcoa projects are currently under assessment, and I cannot comment on projects that are under assessment.

**Hon Dr BRAD PETTITT:** We are probably getting to the point now at which it is worth me moving some of the amendments, which we have asked some questions about, and that has been somewhat enlightening. I wish to move three key amendments to clause 4. The first is amendment 3/4, which is a very simple amendment to line 7 on page 3.

**The DEPUTY CHAIR (Hon Steve Martin):** Are you moving that amendment?

**Hon Dr BRAD PETTITT:** I might speak to it first and then I will move it, if that is all right.

It is a simple amendment to delete “9” and replace it with “7”. I am aiming to be pragmatic, while acknowledging that the number for a quorum will remain at three. What is proposed here is a very big jump from a longstanding board with five members to one that, at nine, is almost double the size, while the number for a quorum will remain at three. This is a pragmatic, middle-ground amendment, which I hope will be given serious consideration. Seven members would offer some of the flexibility that the government is seeking, while not going as far as allowing for the outcomes that I mapped out earlier whereby members with little environmental expertise, but with expertise

in other areas such as commerce, industry, waste, economic development, public administration or law, would be making environmental recommendations to government. Minimising that would ensure that some members in the room would have environmental expertise. This is a pragmatic amendment to take it from where we are now, which is five members, not all the way to nine members but to the middle ground of seven members. Anyone who looked at this bill impartially would see that as a sensible and moderate amendment to get the best outcomes.

With that, I move —

Page 3, line 7 — To delete “9” and insert —

7

**Hon DARREN WEST:** I thank the member for moving the amendment, but, unfortunately, the government will not be supporting this amendment either. There would be no benefit in amending the bill to reduce the membership of the Environmental Protection Authority from the proposed five to nine members down to five to seven members, and we have covered the reasons that the government is doing this. Five to nine members is comparable with the numbers for other statutory authorities in WA, as well as EPAs in other jurisdictions. Some examples of WA authorities and their membership numbers include the Heritage Council of Western Australia, which consists of up to nine members; the Western Australian Planning Commission, which consists of seven to nine members; and the Aboriginal Cultural Heritage Committee, which consists of up to 11 members.

Some examples of membership numbers in other jurisdictions' equivalent EPAs include the South Australian Environment Protection Authority, which consists of seven to nine members, and the Environment Protection Authority Victoria, which consists of between five and nine members. Importantly, the changes in clause 4 will ensure that the EPA has a sufficiently large membership to manage circumstances in which conflicts of interest arise and that there is an ability to appoint further members to ensure that there is a sufficient skills base across its membership.

**Amendment put and negated.**

*Sitting suspended from 1.00 to 2.00 pm*

**Hon WILSON TUCKER:** Before we were rudely interrupted by the lunch break, I asked a question about the conflict-of-interest register, which I believe is buried in the minutes of the Environmental Protection Authority's board meetings, and the parliamentary secretary was trying to dig those out for me. Has any progress been made in that space?

**Hon DARREN WEST:** The advice we have is that we may have not quite had the details straight before. The minutes are not publicly available, but they can be made publicly available by the board, and there have been cases in which the Parliament has asked for the minutes.

**Hon WILSON TUCKER:** Is that done by a member of Parliament? What is the mechanism by which the Parliament can ask for those minutes?

**Hon DARREN WEST:** I suggest that the member put in a question on notice.

**Hon WILSON TUCKER:** The other mechanism is through the board releasing the minutes. How will the board be asked to release those minutes?

**Hon DARREN WEST:** The board will often release them, but not until after deliberations are finished and usually about six months after that. I think people can work out what the reasons for that might be.

**Hon WILSON TUCKER:** Given that we are in Parliament and we are dealing with a hardworking parliamentary secretary, is he able to procure those minutes? Will he commit to an undertaking to make those available to the Parliament?

**Hon DARREN WEST:** The member is asking us to procure 30 years' worth of minutes. No, we cannot procure 30 years' worth of minutes.

**Hon WILSON TUCKER:** I do not need 30 years' worth. Just the last few years would be fantastic.

**Hon DARREN WEST:** It would be possible, but we would need to go to the board, which is independent, and seek its approval to have the minutes that the member wants raised. We are a little unsure about how useful that will be in the deliberations of the bill. It would not be conducive to getting the legislation through in a timely manner.

**Hon WILSON TUCKER:** Obviously, I do not want to hold up the debate and block the request, but it would be helpful, even after this bill has passed, to at least have the last few years' worth, a years' worth or perhaps six months' worth of board minute meetings released. Can the parliamentary secretary commit to have that discussion with the minister or the EPA board directly to procure those minutes?

**Hon DARREN WEST:** As indicated, I can give the member an assurance that we will do what we can to procure those minutes from the conflict-of-interest register. We will certainly not be able to do that during the debate on this bill. We will have a discussion behind the chair and I am happy to provide what we can.

**Hon WILSON TUCKER:** I appreciate the commitment. I will leave the line of questioning there and we can have a discussion behind the chair.

**Hon Dr BRAD PETTITT:** I thank Hon Wilson Tucker for that line of questioning. The conflict-of-interest register should be tabled in this place. Given that a conflict of interest is at the heart of some of this bill, that would be very good thing for the Parliament to see. Thank you for that commitment.

I will talk about my next amendment, which we have already discussed in some detail. It is a pretty straightforward one that seeks to make an amendment on page 3 of the bill, for those who are following along. The members appointed to the board will have “a suitable level of interest in, and experience of, matters affecting the environment generally”. As I have said, that is kind of a meaningless statement and one you could drive a D9 bulldozer through. I want to make it really clear that the appointed member will have experience of “environmental protection”, because that is what this board will be working on. Making these changes to the Environmental Protection Bill 2024 should improve environmental protection. I appreciate that one of the key aims of this bill is to streamline processes, but it should also provide an opportunity to improve environmental protection. This very simple amendment replaces the words “matters affecting the environment generally” with the words “environmental protection”. I am interested to know the argument against that happening, given that that is surely at the heart of what an environmental protection authority should be doing. What is the argument against changing this wording?

**Hon Darren West:** Are you moving the amendment?

**Hon Dr BRAD PETTITT:** I am not moving the amendment yet; I am just asking the question. This is a very pragmatic change that takes a meaningless statement about the member having experience of “matters affecting the environment generally”, and replacing those words with “environmental protection”. What could possibly be the argument against that?

**Hon DARREN WEST:** There are two main arguments. I will provide more detail once the amendment has been moved. The first is the unknown or unintended consequences of such an amendment, and the second is that the membership requirement to the EPA has existed since the introduction of the Environmental Protection Act and this has not presented any issues.

**Hon Dr BRAD PETTITT:** For the purposes of debate, it would be more useful to hear those arguments now. Obviously, we cannot debate them after I have moved the amendment. If the parliamentary secretary can provide that information now, that would be great. Thank you.

**Hon DARREN WEST:** I will run through them now, but I will not respond once the amendment has been moved to save on duplication. I respect and acknowledge the member’s interest in the environment, but when the time comes to move the amendment, the government will not be supporting the amendment. It would significantly change the current requirement for membership to the EPA. The unintended consequences of this amendment are unknown. For instance, altering the existing baseline skill may result in board members with time left in their terms being ineligible for membership. This membership requirement to the EPA has existed since the introduction of the Environmental Protection Act and has not presented any issues. Changing the baseline bar now without appropriate policy considerations would present significant risk to the current board’s validity. Further to that, the government is confident that the existing measures of interest in, and experience of, matters affecting the environment is an appropriate baseline to ensure that the board has the skills required to make informed and robust environmental decisions.

**Hon Dr BRAD PETTITT:** I thank the parliamentary secretary for providing that background. Obviously, the straightforward response to the parliamentary secretary’s comments is that that would be a very easy thing to fix. If the government is merely worried about the consequences on the existing board, it could simply adjust the provision to say that this will apply to board appointments from here on. I do not think the response gets to the substance of the matter in the amendment—that is, to ensure going forward that people on the board have a suitable level of experience in environmental protection. This amendment stands as being pragmatic; it would be a move in the right direction. If the government were inclined to agree to this amendment, it would improve environmental protection, not water it down, which is what, sadly, most of the provisions the government has put forward in this bill do.

I move—

Page 3, line 13 — To delete the line and insert —

environmental protection;

**Hon DARREN WEST:** I thank Hon Dr Brad Pettitt for proposing the amendment, but the government will not support it for the reasons outlined earlier.

#### **Amendment put and negated.**

**Hon Dr BRAD PETTITT:** I have a further amendment, which, again, is an important one, and I have covered it in some of my earlier comments. Proposed section 7(2A)(b) provides a long list of new qualifications. Board members will need to have a suitable level of knowledge, skills, experience or qualification in only one area. As I said before,

the Environmental Protection Authority is meant to advise the Minister for Environment on matters of environmental protection and its board should comprise people with those skills. I fail to see how a suitable level of knowledge, skills, experience or qualification in industry, commerce or economic development—noting that a person needs only one of these—is valid for a person to be on a board of this kind. My amendment is quite simple. The minister keeps saying that the EPA has functioned in the same way for the long time and there has been no problem. I would flip that and say to the minister, “It has functioned like that for a long time without having industry, commerce or economic development as a skill set on the board, so why do we need it now?”

**Hon DARREN WEST:** The member is talking about two different things. He talked about the baseline, and I said that there has not been an issue in the past. The baseline for membership is “interest in, and experience of” and that remains the baseline for membership. The government is seeking to broaden the set of skills that members of the board can bring.

**Hon Dr BRAD PETTITT:** My question stands. As the parliamentary secretary said before, the EPA has functioned just fine without this broader set of skills so why is it needed now?

**Hon DARREN WEST:** I will answer the question this way. The skill set draws from, and is broadly consistent with, those in place in other jurisdictions, including the Northern Territory, South Australia, Tasmania, Victoria and New South Wales. The chosen skills, knowledge, experience and qualifications represent the wide range of considerations to which the EPA must have regard in fulfilling its function, bolstered by the baseline requirement for a suitable level of interest in, and experience of, matters affecting the environment generally. The legislative list contains skills, knowledge, experience and qualifications that will assist the EPA when considering complex environmental proposals, as well as the functions beyond environmental impact assessments. It will ensure that EPA board members have practical experience in the areas and industries that it assesses and regulates.

**Hon Dr BRAD PETTITT:** I find that answer unsatisfactory. I am trying to understand why skills, knowledge, experience or qualifications in industry, commerce and economic development are needed when the EPA board is merely advising the minister on environmental protection matters.

**Hon DARREN WEST:** Relevant technical knowledge and understanding of a field enables better and more effective regulatory decision-making. A detailed and practical understanding of industry, for example, will elevate the EPA’s ability to give informed advice on how to regulate said industry and activities, leading to better environmental outcomes. This is consistent with the skill requirements for EPAs in New South Wales, Tasmania and South Australia, with similar regulatory experience requirements in the Northern Territory and Victoria.

**Hon Dr BRAD PETTITT:** I feel like I am not going to get much further with this. I move —

Page 3, lines 23 and 24 — To delete the lines.

**Hon DARREN WEST:** I thank the member for the amendment but, unfortunately, again, the government will not be supporting this amendment. This specific skill is consistent with requirements for EPAs in New South Wales, Tasmania and South Australia, with similar regulatory experience requirements in the Northern Territory and Victoria. It is critical that WA’s EPA remains in tune with contemporary practices across Australia. It is widely accepted that relevant technical knowledge and understanding of a field enables better and more effective regulatory decision-making. A detailed and practical understanding of industry, for example, will elevate the EPA’s ability to give informed advice on how to regulate said industry and activities, leading to better environmental outcomes. Notwithstanding those reasons, removing this from the skills list will not preclude the minister from recommending the appointment of a person with this experience to the board as long as the other requirements are met. This, of course, means that a member must still satisfy the baseline requirement to have a suitable level of interest in, and experience of, matters affecting the environment generally.

#### **Amendment put and negated.**

**Hon Dr BRAD PETTITT:** I will just comment and explain that I will not call divisions on each of these amendments, because I do not want to put everyone through the pain of those, but at the end of key clauses when none of the amendments have been supported is probably the right spot to call a division. In this case, I think all my amendments were relatively minor, pragmatic and consistent with what we would hope an improved environmental protection bill should and could do. There is a sense of frustration around the most sensible of the amendments. A lot of these are not from me but from key stakeholders, the very ones that, unfortunately, were not spoken to for the Vogel–McFerran review. If they were, maybe I would not have to move them. This is why I am moving them today, because those key stakeholders were not heard, either through that review or through legislative consultation. If they were, I would not be moving these today.

I want to be really clear: these amendments have strong support from a broad sector, a sector that is extremely frustrated because it was not heard. They deserve to be extremely disappointed that even the most pragmatic, sensible improvements to this bill, which would strengthen some parts of environmental protection and ensure the integrity of this bill, have not been taken seriously on a bill that will otherwise go in the direction of watering down the independence of the EPA. I will vote against the clause as a whole, and seek a division at that point.

*Division*

Clause put and a division taken, the Deputy Chair (Hon Sandra Carr) casting her vote with the ayes, with the following result —

## Ayes (28)

Hon Klara Andric	Hon Donna Faragher	Hon Kyle McGinn	Hon Matthew Swinbourn
Hon Dan Caddy	Hon Nick Goiran	Hon Shelley Payne	Hon Dr Sally Talbot
Hon Sandra Carr	Hon Lorna Harper	Hon Stephen Pratt	Hon Dr Steve Thomas
Hon Peter Collier	Hon Jackie Jarvis	Hon Martin Pritchard	Hon Neil Thomson
Hon Colin de Grussa	Hon Louise Kingston	Hon Samantha Rowe	Hon Darren West
Hon Kate Doust	Hon Ayor Makur Chuot	Hon Rosie Sahanna	Hon Pierre Yang
Hon Sue Ellery	Hon Steve Martin	Hon Tjorn Sibma	Hon Peter Foster ( <i>Teller</i> )

## Noes (3)

Hon Wilson Tucker	Hon Dr Brian Walker	Hon Dr Brad Pettitt ( <i>Teller</i> )
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**Clause thus passed.**

**Clause 5 put and passed.**

**Clauses 6 to 9 put and passed.**

**Clause 10: Part II Division 1A inserted —**

**Hon Dr BRAD PETTITT:** Clause 10 deals with the ministerial statement of expectation. This certainly raises some serious questions for anyone concerned about the politicisation of the process and the threat to the independence of the Environmental Protection Authority. It was just over a year ago that the ABC reported that former head of the EPA, Dr Tom Hatton, was pressured by former Premier McGowan in 2019 to withdraw tough new emission guidelines. It would be fair to say that there has been a sense that the independence of the EPA, and an EPA that can give frank and fearless advice without pressure from government of any persuasion, and certainly now with this legislation, has been compromised. I have some questions about having regard to the minister's statement of expectation. Can the parliamentary secretary explain what it means for the EPA to "have regard" to the minister's statement of expectation?

**Hon DARREN WEST:** The EPA only needs to consider the statement of expectation.

**Hon Dr BRAD PETTITT:** I want to unpack this a bit, because there is a lack of clarity around what this means. It could simply mean everything from the most inconsequential, when there is merely a statement that sits there and has no influence on the deliberations of the EPA, all the way through to a statement of expectation that would fundamentally change the order of the work, the time given to that work and even, and I hope not, the nature of the decisions of the EPA. Breaking it down in that way, in terms of order of work and time given to particular decisions and the decisions themselves, when the parliamentary secretary says that the EPA is meant to consider and that is the parliamentary secretary's definition of "have regard", how will that impact each of those?

**Hon DARREN WEST:** The Environmental Protection Authority will need to consider the minister's objectives set out in the statement of expectation to the extent that those objectives are relevant to the function being considered by the EPA. However, the EPA's statutory functions, including those described in section 16 of the Environmental Protection Act, will not be constrained by the expectation statement. The EPA will still be required to carry out those functions to meet its section 15 statutory objectives, which is to use its best endeavours to protect the environment and to prevent, control and abate pollution and environmental harm. The EPA must still provide independent environmental advice on the acceptability of environmental impacts. It is intended that the minister and decision-making authorities, rather than the EPA, will still weigh the broader public interest in, and economic benefits of, a proposal against its environmental impacts.

**Hon Dr BRAD PETTITT:** Could a statement of expectation include an objective that prioritises the assessment of some proposals over others?

**Hon DARREN WEST:** The government will be able to outline its priorities in the statement of expectation but it will be up to the EPA to decide where those priorities fit within its work program.

**Hon Dr BRAD PETTITT:** If the government outlines some priorities and the EPA chooses not to follow them, what will the consequence be?

**Hon DARREN WEST:** There will be no explicit sanction in the EP act for if the EPA does not have regard to a statement. Most laws impose statutory duties without providing an explicit sanction. The obligation to have regard does not mean that the EPA will have to follow or implement the objectives; it will just have to consider them. Therefore, it is highly unlikely that the EPA would wilfully and persistently refuse to do so.

**Hon Dr BRAD PETTITT:** I agree that it is highly unlikely, but considering is very different from agreeing. This is the point that I am trying to understand. I will use the hypothetical that I used in my contribution to the second

reading debate; that is, that the government intends to prioritise nuclear power and the nuclear industry. This legislation will long outlive this government. If a future government said that it wanted nuclear power and the nuclear industry to be the priority work of the EPA, and the EPA, quite rationally, said thanks but no thanks, would there be any consequence?

**Hon DARREN WEST:** In that case, member, the EPA would consider the statement.

**Hon Dr BRAD PETTITT:** Yes, I understand that. Hon Darren West has already said that; he is repeating himself. Maybe we need to unpack what is meant by “considering”. When I consider something, it means that I read it and reflect upon it, but it does not mean that I act upon it. Is it correct to say that there will be no requirement to act? To consider something does not mean to act upon something; it just means to reflect upon something. Does the government assume that the EPA could merely reflect upon but not act upon the statement of expectation?

**Hon DARREN WEST:** Yes.

**Hon Dr BRAD PETTITT:** The irony is that the two criticisms of this are actually polar opposites. One criticism is that this will be entirely meaningless. Governments state their expectations all the time through the media and a range of strategic documents. The idea that this needs to be put in the act seems to be a little meaningless as the government could signal something without substance. That could be one critique. The other perhaps more sinister critique is that although the government will not say it out loud, there will be expectations that the EPA will assess certain categories of proposals over others, that the amount of time the EPA takes to assess certain proposals will be defined, about the outcomes of certain proposals or that certain environmental factors will be prioritised over others. What comfort can the parliamentary secretary give that that second critique of the ministerial statement of expectation is not correct?

**Hon DARREN WEST:** I will be able to give the member some comfort here. I note that the statement will be a publicly available document. The EPA is a function of government, so it is appropriate that it have regard to the minister’s, and therefore the government’s, priorities when performing its functions, and particularly when prioritising its work program. By the government being up-front and transparent about these priorities, the EPA will be able to allocate its resources accordingly and be responsive to the needs of Western Australians—for example, by prioritising proposals that relate to energy transformation, housing et cetera.

**Hon Dr BRAD PETTITT:** This probably leads to the first of my amendments to clause 10. On one level, I have no problem with having an expectation statement, but I think we need to be really clear about what it will and will not do. What we have learnt so far in this debate is that that is not well defined. I suspect that different people will come at this with different expectations around what the statement of expectation will do to the EPA’s work. The first of the amendments that I will move to clause 10 seeks to clearly define this. I have no problem with the government stating its priorities, but that should not in any way undermine the core work of the EPA, which is to provide independent, evidence-driven, scientific advice on environmental protection to the minister. One thing that I am really keen to do is to take away this fakery in the bill and ensure that the expectation statement does not include any objectives that prioritises work or certain categories over others; around the amount of time that it takes to assess proposals, because that could undermine proper environmental assessment; around the preferred outcomes from the assessment of proposals; or around prioritising certain environmental factors over others for the purpose of assessment. I think this amendment is a good one that will merely tidy up and make clear this new ministerial statement of expectation. We need to ensure that everybody is really clear that whilst the government has the right to set out its strategic objectives, the EPA must be able to do its job. That is the first of those amendments. As we have done before, I will be interested in hearing the parliamentary secretary’s response before I formally move this amendment.

**Hon DARREN WEST:** I thank the member for the proposed amendment. However, unfortunately, the government will not be supporting the amendment. The amendment either is contrary to the policy objectives of introducing a statement of expectation or is a proposed repetition of matters that are already safeguarded within the Environmental Protection Act.

With reference to proposed subsection (3A)(a), the purpose of the statement will be to set the minister’s expectations so that the EPA can consider those when setting its work program. With reference to proposed subsection (3A)(b), the minister can already direct on assessment timeframes under section 44(2c) of the Environmental Protection Act. This amendment could be contrary to that existing power. With reference to proposed subsection (3A)(c) and (d), the EPA’s role of providing independent advice is already safeguarded under section 8 of the Environmental Protection Act. This amendment is superfluous.

To reiterate, the statement will not be able to be inconsistent with or contrary to any laws, including the Environmental Protection Act itself. As such, the statement will not have the power to alter the object or principles of the act; nor will it have the ability to direct the EPA to act in a manner contrary to its legal duties as prescribed within.

**Hon Dr BRAD PETTITT:** I thank the parliamentary secretary for that response. All I will say is that that leads quite nicely into my further amendment to ensure that the proposed section on the ministerial statement of expectation will not override section 8 of the act, and we will come to that in a second because that is at the heart of this.

With that, I move —

Page 8, after line 5 — To insert —

- (3A) The expectation statement must not include an objective that relates to any of the following —
- (a) prioritising, for assessment under Part IV, certain categories of proposals over others;
  - (b) the amount of time that it takes to assess proposals under Part IV;
  - (c) preferred outcomes of assessments of proposals under Part IV;
  - (d) prioritising certain environmental factors over others for the purpose of assessing proposals under Part IV.
- (3B) The expectation statement must accord with the object described in section 4A, having regard to the principles described in that section.

**Hon DARREN WEST:** As indicated, the government will not be supporting this amendment for the reasons outlined in my last response.

**Amendment put and negatived.**

**Hon Dr BRAD PETTITT:** The second and much more straightforward amendment to this clause will make it really clear that the ministerial statement of expectation will not override section 8 of the act and the independence of the EPA. What certainty can the parliamentary secretary give to the chamber that this will not occur?

**Hon DARREN WEST:** Can the member repeat that question? I missed a bit at the start.

**Hon Dr BRAD PETTITT:** With the next amendment, I will seek to be very clear that proposed section 21B(5) will not override section 8. There is certainly some nervousness that the new ministerial statement of expectation will override the independence and objectives of the EPA. What safeguards are currently in place to ensure that that will not happen?

**Hon DARREN WEST:** No. Section 8 of the EP act provides that the EPA is independent, subject to the act. The EP act already contains several provisions that allow the minister to direct the EPA to take certain actions, including section 43(1), which provides that the minister may direct the EPA to assess a proposal; section 44(2c), which provides that the minister may direct the EPA to prepare an assessment report within a specified period or before a specified date; and section 48E(1), which provides that the minister may direct the EPA to assess referred schemes. Although the EPA will have to have regard to the statement, it will not be a legal direction of how the EPA is to perform its functions. It will give the EPA a line of sight of the minister's, and therefore the government's, objectives for the performance of its functions but will not interfere with its independence in determining how it is to perform them.

**Hon Dr BRAD PETTITT:** I thank the parliamentary secretary for that, but he did not answer the question about the safeguards that are currently in place. We are aware of the other sections, but we are seeking to overlay this proposed subsection (5) to allow the EPA to be informed. What safeguards are in place to ensure that proposed subsection (5) will not override section 8?

**Hon DARREN WEST:** The EPA's statutory objectives are to use its best endeavours to protect the environment and prevent, control and abate pollution and environmental harm. It performs its functions, which are primarily set out in section 16, in the context of those objectives and the object and principles of the EP act as set out in section 4A. The statement will not interfere with the EPA's independence in the performance of those functions.

**Hon Dr BRAD PETTITT:** I actually think we are in agreement on this one, which is that proposed subsection (5) will not override it. There is a very interesting question here. My very small amendment would make it absolutely clear that it will not override it. The parliamentary secretary has given us lots of verbal assurances that it will not, but it is not written anywhere. What I am seeking to do with this very minor amendment is properly put in writing exactly what the parliamentary secretary has said already exists. I would be fascinated to know what the argument is against that, given that we agree. I am trying to make sure that it is locked away in the act in black and white.

**Hon DARREN WEST:** Section 8 of the act will remain unchanged.

**Hon Dr BRAD PETTITT:** Yes, we know that section 8 will remain unchanged. What will not remain unchanged is a whole bunch of other things around it that may or may not influence it. The parliamentary secretary argued to me that they will not, and that is great; I am comforted by that. I am just saying let us lock that down with a very simple extra line that will make it absolutely clear that proposed subsection (5) will not override section 8. Given that we agree, what is the argument against doing that?

**Hon DARREN WEST:** The advice we have is that it is not necessary because the statement will not give the minister the power to direct.

**Hon Dr BRAD PETTITT:** I know that the government thinks it is not necessary, but other legal minds and key stakeholders have raised concerns about it. Given that we agree, this would offer a sense of comfort that that is

absolutely the intent and that there is no ambiguity. What is the downside of locking down in black and white what the parliamentary secretary has said and what we all agree on—that is, that the independence of the EPA will remain paramount and that this provision will not influence that?

**Hon DARREN WEST:** The government has not received any legal advice that says this change is necessary.

**Hon Dr BRAD PETTITT:** I appreciate that. Although the government may not have, certainly we have spoken with several people who have raised this concern. The member is probably right, but let us take away any ambiguity. What would be the downside of making it crystal clear, which I am trying to do here, that proposed subsection (5) will not override section 8? The parliamentary secretary has already said that it will not change anything, so what is the downside of putting it clearly into the act?

**Hon DARREN WEST:** The advice is that when we draft legislation, we do not add provisions that do not provide any extra value.

**Hon Dr BRAD PETTITT:** I think this adds extra value. My point is that it would make very clear something that I think the environmental sector especially would like to be made clear, which is that despite these other changes and the new ministerial statements of expectation, the Environmental Protection Authority will remain absolutely independent. I think these small changes would give great comfort and provide great clarity to decision-makers going forward around how these two parts of the act would sit together when in place.

I think it is a very simple amendment. I will move it shortly, noting that I do not think we will get much further in this discussion. I think there is value in making these things as clear as possible and ensuring that the Environmental Protection Act clearly states that the independence of the EPA is, at no time, overridden by ministerial statements of expectation and that the independence of the EPA is paramount. Putting those words into the bill is the least we can do. I move —

Page 8, after line 9 — To insert —

(6) Subsection (5) does not override section 8.

**Hon DARREN WEST:** I thank the member for the proposed amendment. Unfortunately, the government will not support it. Section 8 of the Environmental Protection Act, which will not be changed by this bill, is very clear in prescribing that neither the EPA nor the chair are subject to the direction of the minister except in very specific circumstances prescribed in the act. This amendment is not necessary, as the clauses relating to the ministerial statement of expectation do not give the power to direct and it would not be reasonable to interpret them as such.

**Amendment put and negatived.**

**Clause put and passed.**

**Clause 11 put and passed.**

**Clause 12: Section 3 amended —**

**Hon NEIL THOMSON:** I want an explanation of this clause. I think there might be a mistake in the explanatory memorandum. I am seeking some clarification on that. The explanatory memorandum states —

Clause 12 of the Bill amends section 3 of the EP Act, the general definitions provision, to insert a new defined term, **minor or preliminary work**. Minor or preliminary work is defined to include any work prescribed as minor or preliminary work under section 41A(4) of the EP Act.

I cannot find that subsection. I think it is meant to be section 41(4). I would like to get that clarified first.

**Hon DARREN WEST:** We will insert proposed section 41A(4) at clause 14.

**Hon NEIL THOMSON:** Sorry, I misread that. The bill will insert the new section. The way that I read it was that it was prescribed under the act. I assumed it was the existing act.

I refer now to the parallel approvals. A few clauses relate to that in different ways. The proposal to insert “minor and preliminary work” is, I assume, simply to enable minor and preliminary work to be approved. The effect of that in clause 13 is to enable minor and preliminary work to be approved and undertaken. Is that correct?

**Hon DARREN WEST:** It is just for clarification.

**Hon NEIL THOMSON:** That did not clarify it. What does the parliamentary secretary mean by clarification? I was asking for clarification. Can the parliamentary secretary actually clarify it?

**Hon DARREN WEST:** We are trying to clarify that they can be prescribed in the regulations.

**Hon NEIL THOMSON:** Is this the head of power to give effect to the other clauses? Is that what it does? Is this the first step to enable the other clauses to take effect?

**Hon DARREN WEST:** Clause 12 is the change in definition. Clause 14 will allow works to be prescribed in the regulations.



**Hon NEIL THOMSON:** Okay. I will probably pick up what those works concern at clause 14. We probably could have done these clauses en bloc, although I am not sure whether that is possible. We will move on to the next clause.

**Clause put and passed.**

**Clause 13: Section 41 amended —**

**Hon NEIL THOMSON:** We are on the same theme. We will get to clause 14 next. Clause 13 talks about restricted decisions. I would like an understanding of how they will be defined. I think the second reading speech referred to hydraulic fracturing as a restricted decision, from recollection. I note the reference in the explanatory memorandum that states —

Clause 13(3) consequentially amends sections 41(4) and (5) to replace references to “a decision” with “a restricted decision”.

They include restrictions that will still be able to be made while a part IV environmental impact assessment is underway. The effect of the decision will allow the doing of minor or preliminary work—we have just had a discussion on definitions—with the consent of the EPA. Maybe we could tackle that first. Just so I am clear, will this clause enable the EPA to make decisions on minor and preliminary work? We could say that that is an in globo enablement. That is probably not the right phrase. It is just a general enablement. For restricted decisions, this clause seeks to effectively give the EPA the power to enable restricted decisions to also be made. Is that the purpose of the provision?

**Hon DARREN WEST:** There will remain a category of restricted decisions prescribed by regulations. Section 41 will still apply to those decisions in the same way it does now. That means that a decision will have to be prescribed as restricted. It will have to be a decision that causes or allows implementation of a proposal that is going through part IV processes. The government plans to prescribe planning decisions and decisions authorising hydraulic fracking. Planning decisions are prescribed because they have a complex interaction with the Environmental Protection Act. They will have to be carefully considered by the government before it can be sure that there will be no unintended consequences. For example, many planning decisions are required to be made within particular timeframes and, once made, cannot be undone. Fracking is prescribed because it complements other laws and government policy. The power to prescribe other decisions is a safeguard in case parallel approvals for certain decisions become so problematic that they should again be restricted.

**Hon NEIL THOMSON:** The EPA will still be able to consent to those restricted decisions to be made while part IV impact assessments are underway. Is that correct?

**Hon DARREN WEST:** As outlined earlier, fracking and planning decisions will remain restricted, with all others. The EPA will not be able to make a call on those restrictions.

**Hon NEIL THOMSON:** With all others, but the EPA can make a call on the restricted decisions.

**Hon DARREN WEST:** That is not the case; it relates only to minor and preliminary works.

**Hon NEIL THOMSON:** I thank the parliamentary secretary for the clarification. That is what I thought the clause meant, but it was just a bit complex. It is not an easy one. For the sake of clarification, as the parliamentary secretary outlined, I was right. Decisions will be able to be made only on minor and preliminary works, and consent will not be needed. That is the way I read it. Restricted decisions will be able to be made during the assessment, if the EPA consents. By the way, we are in support of this provision; I think it is good.

In relation to the nuance around the restricted decisions and why they have been identified, I am more familiar with the planning decisions, given my history, and I can understand the complexity. As to how that will work, it will still give the EPA a bit of work. It would be fair to say that under the current legislation, those decisions cannot be made, even if the EPA wanted them to be made prior to the completion of the expressions of interest process. Is that right?

**Hon DARREN WEST:** Yes, that is correct.

**Hon NEIL THOMSON:** That is a very substantial reform. We are here to help the government! It will probably give some comfort to those people in the hydraulic fracturing industry, for example, who might want to proceed because at least it will provide them with a pathway to get a decision if the EPA considers a practice is not harmful. It will still be able to make such decisions during the expressions of interest process. The EPA will have that safeguard. That is an excellent outcome for industry.

Several members interjected.

**Hon NEIL THOMSON:** The interjections behind me relate to this. One thing about this process is that we can get beyond the rhetoric to the actual truth. It is very important, from the point of view of the industry, to know that the Labor government supports industry.

The next part of the clause relates to the Aboriginal Heritage Act 1972. This is also positive, given the complexity around AHA approvals. The proposed sections will ensure that decisions made under the Aboriginal Heritage Act 1972 can still be made while part IV environmental impact assessments are underway.

The explanatory memorandum states —

This preserves the status quo for decisions made under the *Aboriginal Heritage Act* ...

I want to ensure I know what that means. I think it means that the Aboriginal Heritage Act will not be altered and that no decisions can be made under that legislation. The provisions will enable decisions to be made while the economic impact assessments are underway.

**Hon DARREN WEST:** The Aboriginal Heritage Act already allows for assessments of Aboriginal heritage.

**Hon NEIL THOMSON:** I am not sure why that is referred to in the explanatory memorandum. I will have to go back to the bill. The parliamentary secretary is saying that the clauses in the bill before us will have no impact on the timing of decisions made under the Aboriginal Heritage Act.

**Hon DARREN WEST:** We have written this legislation in a way such that assessments can still be made under the Aboriginal Heritage Act, as they are now.

**Hon NEIL THOMSON:** I am a little unclear about what the parliamentary secretary is saying. Is he able to clarify what this provision will do and why it is in the bill? I am sorry to be so general here, but the way it is written in the explanatory memorandum is a little unclear. Maybe that is me. Is the parliamentary secretary able to provide further clarification?

**Hon DARREN WEST:** The explanatory memorandum has been written in a way to give people comfort that the status quo will remain.

**Hon NEIL THOMSON:** The EM refers to ensuring that decisions can still be made. The parliamentary secretary has clarified it, and I now understand. On my reading of it, I accept that. Just to be clear, is there any restriction on any decision under the Aboriginal Heritage Act that currently exists in the EP act? From what the parliamentary secretary said, there will be no restriction while the assessment is underway.

**Hon DARREN WEST:** Section 41 does not restrict Aboriginal Heritage Act decisions.

**Hon WILSON TUCKER:** I have a fairly general question—perhaps this is not the right clause—related to parallel processing. The parallel processing clause is around the approval and assessment aspect and streamlining some of the approvals. There is not much emphasis in the bill on compliance monitoring and ensuring that proponents going through the approvals process will comply with the provisions set out by the Environmental Protection Authority. That risk is exacerbated with parallel processing because a proponent, in assuming that the EPA will give approval, could continue with minor assessment groundworks and clearing and not comply with some of the provisions set out by the EPA. Will additional funding come as part of this bill to ensure that proponents are doing the right thing and complying with the provisions and conditions set out by the EPA?

**Hon DARREN WEST:** A proponent will need consent from the EPA to carry out minor works while a project is under assessment.

**Hon WILSON TUCKER:** What will be the penalty if that consent is not sought and the clearing is undertaken without it?

**Hon DARREN WEST:** The bill provides for an increase in the penalties for such breaches. The current penalty for an offence under section 41A is set out part 2, schedule 1 of the EP act. It is \$62 500 for an individual, with a daily penalty of \$12 500 and \$125 000 for a body corporate, with a daily penalty of \$25 000. Under the bill, the penalty will be uplifted from its current tier 2 status to become a tier 1 offence. This will result in an increase in the application of the penalty as follows—\$125 000 for an individual, with a daily penalty of \$25 000, and \$250 000 for a body corporate, with a daily penalty of \$50 000. The applicable penalty for the offence has been increased because of the lifting of the prohibition on making decisions while a part IV assessment is underway. Increasing the penalty reflects the seriousness of implementing a proposal before the EPA assessment is complete.

**Hon WILSON TUCKER:** Although \$250 000 sounds like a lot, it could be argued that it is not much money at all for a tier 1 resources company. Does the parliamentary secretary have a list of offences that have occurred to date? Is there a register? Is that information known or publicly available?

**Hon DARREN WEST:** Hon Wilson Tucker may have also noted the \$50 000-a-day penalty, which would considerably increase any penalty. The department releases information about convictions to the media. We do not have a register of convictions.

**Hon WILSON TUCKER:** I agree that naming and shaming publicly is probably a greater penalty in some respects. A clause in the bill deals with penalties so I will hold off on the rest of this line of questioning until we reach the applicable clause.

**Hon Dr BRAD PETTITT:** I have further amendments to clause 13. To give them some context, the feedback that we have received is that parallel approvals and parallel decision-making may have unintended consequences, such as duplication. I appreciate that streamlining approvals is at the heart of what this bill is trying to do. Approvals

done in parallel with the EPA's decision-making process may need to be redone because the EPA has inserted conditions or changed the approval in a way that means that the other processes are no longer relevant. What work has been done to assess the potential consequence of duplication and the cost to industry as a result?

**Hon DARREN WEST:** The spill will not compel other regulators to make their decisions; it will just allow them to do that.

**Hon Dr BRAD PETTITT:** That does not answer the question, because other regulators will go through their processes as they do. Whilst this will not compel them to, they may do so; indeed, the new default is that they probably will. There is a risk here that if the EPA applies conditions and changes to a project, which is its job, the other approvals and the like will also need to change. What work has the government done to assess the danger of duplication and the potential cost to industry? That was the question I asked before.

**Hon DARREN WEST:** The government has a parallel decision-making policy, which is available online. The following categories demonstrate the circumstances in which decision-making authorities may need to consider using a parallel decision on a case-by-case basis; notwithstanding, all decisions must be processed to the greatest extent possible in parallel with a part IV assessment. There are three categories. A category 1 decision binds to implementation; there is little or no recourse to reverse the decision. It effectively starts implementing the proposal. A category 2 decision protects and manages WA's unique environment, manages environmental factors and governs the use of limited natural resources. A category 3 decision impacts the ability to meet with other legal obligations. Competing obligations under other legal schemes create lengthy or conflicting processes.

**Hon WILSON TUCKER:** I remembered the line of questioning that I previously forgot. Regarding the compliance and monitoring aspect, there is obviously a lot of emphasis on approvals and assessments, certainly in regard to parallel processing. The Chamber of Commerce and Industry of Western Australia's view is that the compliance and monitoring aspects could become a little more stretched, and noncompliance could become more of an issue when we put this parallel process in place. What is the Environmental Protection Authority's current budget for compliance and monitoring?

**Hon DARREN WEST:** We do not see a great change. The number of projects and required decisions and assessments should not be changed by the process of this bill.

**Hon WILSON TUCKER:** Is there a dedicated compliance and monitoring section or department within the EPA that is fixed, regardless of the number of projects that are ongoing?

**Hon DARREN WEST:** There is an assurance branch within the Department of Water and Environmental Regulation, but as I said, we do not see how the progress of this bill will have a great impact on the assurance branch within DWER. Projects will need to be assessed, decisions made and compliance enforced.

**Hon WILSON TUCKER:** Is it fair to say that there will be no additional funding for this assurance branch within DWER?

**Hon DARREN WEST:** At this stage, that would be right, because it does not change the number of projects it needs to monitor. I presume that should the number of projects it needs to monitor change, the appropriate resourcing will be provided.

**Hon WILSON TUCKER:** What is the headcount within the assurance branch, and how many of that headcount would be actively going out to sites to inspect and ensure compliance?

**Hon DARREN WEST:** I am being as helpful as I can, but we are sort of outside the scope of the bill. I might suggest that the member has other avenues as a member of Parliament to seek that information, perhaps as a question on notice.

**Hon Dr BRAD PETTITT:** To follow up from Hon Wilson Tucker's line of questioning, one of the things that this parallel decision-making highlights is the potential for increased complexity of monitoring some of these parallel processes and the resourcing that might occur in relation to those. I will move an amendment accordingly, because this is quite a substantial change to the Environmental Protection Act as it has existed for some time. We are going from none to all, as a default.

Again, the amendments that I will move will try to put forward a pragmatic middle ground that acknowledges that there are cases in which parallel processing makes sense. But it is not all, and it should not be the default. In fact, there are real dangers that we will see influences on EPA decisions coming through as companies get approvals on other aspects, and then start demanding that the EPA get on and give its approval as well because they have already spent all this money, are already long down the track and it would merely be the Environmental Protection Authority holding them up. There is a real danger on that basis, especially with some of the more complex environmental decisions when the EPA has the most work to do and the most rigorous process to go through. The pressure will be on as other approvals will be well down the train.

On that basis, I will seek to move some amendments that will hopefully even that up a little and restore a more moderate kind of parallel decision-making for some of those works, and, importantly, a requirement for confidentiality surrounding any other approvals until the EPA's assessment report has been published. It is really

important that whilst decision-making authorities should be able to talk to each other and share information, the parallel decisions should not be published beforehand. Before I move my amendment, am I understanding it correctly that the way it is currently written, those decisions could be published before the EPA's assessment report?

**The DEPUTY CHAIR (Hon Dr Brian Walker):** Member, are you seeking to move that amendment?

**Hon Dr BRAD PETTITT:** I will move my amendment very shortly, thank you. I just wanted to confirm that the way the bill is currently written would enable parallel decisions to be published before the EPA's assessment report has been published. Is that correct?

**Hon DARREN WEST:** This bill will not interfere at all with other regulator's publishing requirements. That is not within this regulation; this is just regarding the EPA.

**Hon Dr BRAD PETTITT:** I will take that as a yes; it does enable them. There is no restriction on that, is my point. They could.

**Hon DARREN WEST:** The member is correct; there is no restriction.

**Hon Dr BRAD PETTITT:** That could result in public pressure, media pressure and stakeholder pressure on the EPA for its decisions. Is that correct?

**Hon DARREN WEST:** Under the publicly available government policy, proponents are expected to acknowledge that approvals received from DMAs prior to the path or outcome does not create the expectation that a part IV approval will be granted.

**Hon Dr BRAD PETTITT:** I feel like there is a nice parallel there that I cannot quite think of, but of course it will create the expectation. The parliamentary secretary can say that, but a company that has spent millions of dollars getting other approvals will expect that. I suspect media outlets will be willing to say, "Why hasn't this happened?" What safeguards are in place at the moment to ensure that that pressure does not come on the EPA and others to go ahead with approvals when these other parallel approvals have taken place?

**Hon DARREN WEST:** If an organisation wishes to seek parallel approvals, they do so in the knowledge that the outcome of any such approvals has no impact on the EPA assessment processes for that approval.

**Hon Dr BRAD PETTITT:** I thank the parliamentary secretary for that answer; I think it is extremely naive. This is the heart of the problem and that is why the amendment I am moving matters. At the very least, we should make sure that parallel decisions are not public, so that the EPA can continue to do its work according to its timeframes in a way that does not attempt to influence it publicly through these other approvals. If there is no more on this one, I will move my amendment. The first of those under clause 13 is 8/13 on the supplementary notice paper. I move —

Page 10, line 16 to page 11, line 4 — To delete the lines.

**Hon DARREN WEST:** I thank the member for the amendment, but the government will not be supporting it. Clause 13(4), which follows the lines proposed to be deleted, refers to restricted decisions and allows for the making of regulations to determine that decision class. Without those lines being inserted in section 41, the prohibition on parallel decision-making would remain and the policy intent of the changes would not be realised.

#### **Amendment put and negatived.**

**Hon Dr BRAD PETTITT:** The second amendment tries to create a much more sensible approach to parallel decisions in a way that would enable them but not make them the new normal. With that, I move —

Page 11, after line 6 — To insert —

- (5A) Subsections (2) and (3) do not apply to a decision in relation to a proposal if the decision is of a prescribed class.
- (5B) If a decision-making authority makes a decision in relation to a proposal in reliance on subsection (5A) —
  - (a) the decision-making authority must give the proponent written notice that the proposal must not be implemented in reliance on the decision unless, and until, a statement is published under section 45(8)(b); and
  - (b) the decision must not be made public unless, and until, a statement is published under section 45(8)(b).
- (5C) Subsection (5B)(b) does not prevent the decision being disclosed to the Authority or to another decision-making authority.

**Hon DARREN WEST:** I thank the member again for the amendment, but the government will not be supporting it. The amendment would lead to a limited lifting of the prohibition on specified decisions. This model was explored during policy development but was deemed to be unnecessarily complex given the number of decisions that intersect with an EPA assessment and did not meet the policy objectives of streamlining regulatory approvals across government. The purpose of lifting the prohibition is to enable the streamlining of complex approval processes

across multiple agencies. This is best achieved by lifting the prohibition, providing guidance through the parallel decision-making policy and providing sufficient detail in regulations regarding restricted decisions. On the requirement for regulators to give written notification to not implement a proposal, this amendment would not provide any additional benefit. The EP act, as it currently operates and as it will be amended by this bill, is clear that implementing a proposal prior to an EPA assessment outcome is an offence. This does not need to be legislated. However, a regulator may choose to do this as a matter of practice. With regard to the restricted publication of decisions, this amendment is rejected because it would likely come into conflict with requirements in other regulatory frameworks. For example, there is often a need to publish decisions to enable rights of appeal and comply with public notification obligations et cetera. It is critical that any amendment that seeks to restrict public knowledge relating to a decision is balanced by due consideration of the public interest.

**Amendment put and negatived.**

**Hon Dr BRAD PETTITT:** My last amendment follows on from those amendments, so I will not speak to it, other than to move it. I move —

Page 11, lines 7 and 8 — To delete “the definition of *restricted decision* in subsection (1A)” and insert —  
subsection (5A)

**Hon DARREN WEST:** I thank the honourable member for the amendment. However, the government will not be supporting this amendment. As the previous two amendments to clause 13 have been rejected, this amendment is redundant. It would prevent the making of regulations for restricted decisions, which are required.

**Amendment put and negatived.**

**Hon NEIL THOMSON:** I just want to clarify my understanding of restricted decisions. The parliamentary secretary said that they would be planning decisions and decisions on hydraulic fracturing. Will decisions on uranium mining be included as a restricted decision?

**Hon DARREN WEST:** The regulations are still being drafted. So far, they include planning and fracking.

**Hon NEIL THOMSON:** It is very good to hear that uranium has not been included at this stage. I hope that that continues to be the case in the restricted decision class. We hope that that remains the case.

I have another point to make about restricted decisions. Would any changes to either of the two types of restricted decisions that the parliamentary secretary outlined simply be made by a regulatory amendment, which would have to be tabled and sit in this house for the necessary period of time? Is that correct?

**Hon DARREN WEST:** That is correct.

**Hon NEIL THOMSON:** Quite honestly, I do not know why we even need a restricted decision list. There might be some merit to planning being a restricted decision, although given the minor works pieces, there is the overall requirement to do only minor works. I want to understand the processes of the decision-making authorities. Is there anything in the remit of the decision-making authorities to make a decision in parallel to a decision being made by the EPA on an environmental impact assessment and for that decision to be a provisional decision subject to the approval? What I am trying to ask is: have there been any cases of things that went beyond the scope of minor and preliminary works for which there might have been some merit in enabling DMAs to make decisions but to have some sort of caveat on those decisions to not only provide the requisite environmental protection, but also speed up the process? Was consideration given to that during the development of this clause?

**Hon DARREN WEST:** Consideration was given to a risk to the state. A good example would be an option to lease subject to an EPA approval.

**Hon NEIL THOMSON:** That is actually a very good example. Is the parliamentary secretary saying that an option to lease would not be allowable under parallel approvals under this reform? Is that correct?

**Hon DARREN WEST:** In order to protect the state in the example quoted, an option to lease would be given to provide security for the proponent so that the land was allocated, but it would not proceed with the lease until the EPA had approved the project.

**Hon NEIL THOMSON:** I thank the parliamentary secretary for using that example, because it is exactly the sort of example that I would like to prosecute so that we can understand it. This might not be the technical term, but an option to lease would then be granted subject to the final decision by the EPA. Is that how that might work? Will that be any different from what might be occurring now?

**Hon DARREN WEST:** No, we cannot grant that option now under current legislation. That will be enabled under the new legislation. Again, it will be an option for a lease so that the land is secured for the proponent, subject to an EPA approval. That is not something we can do now.

**Hon NEIL THOMSON:** What I am hearing is a good reform. We are always here to support the government when it makes good decisions.

To be clear, this legislation will enable the provision of an option to lease that might be beyond the scope of minor or preliminary work. An option to lease is not actually work; it is something else. That is right. It is another action. There is nodding from the advisers.

**Hon Darren West:** Your assessment is correct.

**Hon NEIL THOMSON:** For the purpose of *Hansard*, I thank the parliamentary secretary. That is good. I am not verballing the government; I am actually saying something that is right. Some members opposite might say “for a change”, but I am always saying the right things. I am just reminding people on the other side.

Several members interjected.

**Hon NEIL THOMSON:** That is right. It is good that they are nice today!

Are there any other of these sorts of non-works decisions, to use that kind of phraseology? I am thinking of the provision of a water licence, for example, that might be enabled by these amendments.

**Hon DARREN WEST:** During the policy formation of the bill, there were many such examples. A water licence would be a good example of such.

**Hon NEIL THOMSON:** I am sure that will come as good news to many in the industry. Maybe it has been outlined somewhere. I am not saying that the government has not outlined it, but it would be helpful for industry to hear a few case studies. I am sure it was part of the minister’s announcements about the passage of the bill. It would be useful to provide industry with a list of the sorts of decisions that might not involve minor or preliminary work that might be picked up as a result of the amendments that we are passing today. In the absence of having a full list of the types of policy decisions to be made, will this be enabled under clause 13? Am I missing something here? Do I need to avail myself of another part of the bill to understand the sorts of decisions that will go beyond the minor and preliminary work decisions that decision-making authorities will be able to exercise as a result of the passage of this legislation?

**Hon DARREN WEST:** No, because we have just agreed to remove the prohibition on everyone, except restricted decisions.

#### **Clause put and passed.**

#### **Clause 14: Section 41A amended —**

**Hon NEIL THOMSON:** I think this is obvious, but I just want to make sure that it is clear. We are amending the act, which provides that it is an offence to implement certain things. I assume that this is simply referring to the legal position so that it is not an offence to do things that we are enabling in other clauses. Is that a reasonable description of clause 14?

**Hon DARREN WEST:** Sort of. It provides for the power to make regulations that make minor and preliminary work clearer.

**Hon NEIL THOMSON:** I have some questions about the regulations and the definition of “minor or preliminary work”, and this might be the appropriate time to deal with that. In an earlier discussion, we were told that a number of things will be achieved with the promulgation of this bill, but one thing that will not be is the parallel approval process, and that is because of the regulatory requirement. Could we have a little bit of insight, if the parliamentary secretary has it?

**Hon DARREN WEST:** Essentially, this clause will enable future regulations to define specific activities that may meet the threshold of minor or preliminary work. This is a flexibility mechanism that will enable the government of the day to give further clarity to activities that may be considered to be minor or preliminary work. However, the government is satisfied that no such regulations are necessary at this stage as the process for proponents to gain consent to undertake minor or preliminary work is operating appropriately. It is important to note that should future regulations prescribe an activity that can be considered minor or preliminary work, the EPA will have a discretion in granting consent for that work to be undertaken. This amendment will not enable work of this kind to be undertaken without the consent of the EPA.

**Hon NEIL THOMSON:** I am not sure that that explanation will provide comfort to those in industry who might be undertaking minor and preliminary work. In the absence of getting real-time feedback from stakeholders, it is a little hard to understand.

**Hon Darren West:** The EPA has publicly available guidelines online on minor and preliminary works.

**Hon NEIL THOMSON:** I thank the parliamentary secretary for that interjection. It is always a different process when someone is in court if, for some reason, the guidelines are not clear. The guidelines and regulations can be different. Although I guess that in this case the guidelines might be referred to as quasi-judicial instruments and therefore would have some protection for an organisation or company undertaking those minor works. Would it be fair to say that an organisation or corporation undertaking minor and preliminary works could take some comfort knowing that those guidelines are already in place?

**Hon DARREN WEST:** Yes, it provides comfort because minor and preliminary works under this legislation will be possible only with the consent of the Environmental Protection Authority.

**Hon NEIL THOMSON:** I will go back to the issue of consent. When the parliamentary secretary refers to the consent of the EPA, that is the decision-making authority. I know that I am referring back to the previous clause, but it is relevant to this clause. If the parliamentary secretary recalls, he said at clause 13 that decisions can be made when there is consent from the EPA only for those restricted decisions. I am saying that the exception is the bigger part of the rule. The minor and preliminary works do not need consent. However, what the parliamentary secretary is now telling me is that everything needs the consent of the EPA. Until we have regulations, will everything need the consent of the EPA?

**Hon DARREN WEST:** No, that is not the case. Only minor and preliminary works will need the consent of the EPA.

**Hon NEIL THOMSON:** Now I am completely confused. Minor and preliminary works will need the consent of the EPA but there is a category of minor and preliminary works that are restricted decisions that will also need the consent of the EPA.

**Hon Darren West:** They are two completely separate matters.

**Hon NEIL THOMSON:** I might have skipped something. For clarification, regardless of whether we have regulations in place, will the EPA be required to provide consent for minor and preliminary works? Is that what the parliamentary secretary is saying?

**Hon DARREN WEST:** Yes, that is correct. That is the case now.

**Hon NEIL THOMSON:** If that is the case now, why do we have this bill? Maybe I am getting caught up in the semantics, I am not sure. I am not trying to be difficult; I am just trying to understand what will be achieved with this provision of the definition of “minor and preliminary works”. What is the advantage of this bill? If the EPA must give its consent, is it simply because the DMA will make a decision and it will not have to go through the full process of the EPA? Is that where we are getting caught up in the semantics? I am just trying to understand what the advantage of this bill is.

**Hon DARREN WEST:** For clarification, there is a provision for the EPA to grant consent to do minor and preliminary works now, and there will be in the amended act. We are changing the capacity to draft regulations and make more specific definitions of what is minor and preliminary work.

**Hon NEIL THOMSON:** I will come back to this. I am not trying to be difficult. We are making regulations and there already is that capacity. Companies might be worrying about what they will be able to do under this bill. The substantive part seems to be not those things that are regarded as minor and preliminary works but other decisions like leases, water licences and other things that are the substantive parts that have been identified that would provide them some comfort and which we are dealing with now and the penalties that might apply to clause 14. That would appear to be the case.

I will ask for one last clarification, otherwise we will just have to leave it.

**Hon DARREN WEST:** I think there is some confusion about the approval and the implementation. The only thing I will add is that over the last eight years, the EPA has approved 93.5 per cent of minor and preliminary works. Consent has been given 93.5 per cent of the time. In terms of a risk, as the member outlined before, if someone is given consent, they have consent to do minor and preliminary works. That will not change. People will still need to get consent to do minor and preliminary works. We will introduce regulations to tighten up the definitions of what is and what is not minor and preliminary work. The amendment will provide industry with more clarity.

**Hon NEIL THOMSON:** Okay. We will leave it at that.

**Clause put and passed.**

**Clauses 15 and 16 put and passed.**

**Clause 17: Section 51F amended —**

**Hon Dr BRAD PETTITT:** I note that I intend to oppose clauses 17 to 28 on the basis of how they relate to parallel decision-making. I have amendments on the supplementary notice paper but I do not want to waste anyone’s time by moving them. For the record, I will state that I will oppose each of those clauses, but I will not move my amendments one by one.

**The DEPUTY CHAIR (Hon Dr Brian Walker):** Thank you for that information. I take it there are no questions on clause 17?

**Hon Dr BRAD PETTITT:** No.

**Clause put and passed.**

**Clause 18 put and passed.**

**Clause 19: Section 51KB amended —**

**Hon NEIL THOMSON:** This might be the wrong clause because there are a few clauses that relate to clearing permits. We know there is a major issue with clearing permits and maintaining compliance with the clearing permits. It would seem that there are some challenges with the department's resourcing in the area of clearing permits. This clause will delete a section of the act that refers to DMAs being precluded from making a decision under section 41 because that relevant section is no longer needed. We can step back and look at the overall reform. In practice, what advantage will we provide to those seeking a clearing permit by introducing the provisions of clause 19 and, if I may say so, the other related clauses? We will have a discussion on clause 19 first.

**Hon DARREN WEST:** Much like the previous clauses, this provision will facilitate the operation of the parallel decision-making reforms and will ensure that the CEO has appropriate powers to align decisions with the part IV assessment.

**Hon NEIL THOMSON:** The parliamentary secretary is saying that the provisions are probably a little unorthodox but they are related. The reforms relating to clearing permits as proposed in this bill relate to part IV. Is that a reasonable question? The parliamentary secretary does not have to answer that if he does not want to but I am asking if he could do so.

**Hon DARREN WEST:** This provision will allow the government to approve part V applications in parallel with part IV applications. If we need to amend applications as part of that parallel process, that can be done as well.

**Clause put and passed.**

**Clauses 20 to 32 put and passed.**

**Clause 33: Section 41 amended —**

**Hon Dr BRAD PETTITT:** Clause 33, which also relates to some following clauses, relates to recommendation 36 c) to remove public appeal rights. This is one of the key issues of concern. I will start by asking a couple of questions about this. With regard to a recommendation made in the Vogel–McFerran review, what problem was the government hoping to solve?

**Hon DARREN WEST:** This change will reduce unnecessary processes while maintaining reasonable rights of appeal across the system. Not assessed appeals rarely result in a different outcome and have limited environmental benefit. It is very rare for new substantive issues to be raised in these appeals that were not raised and considered during the public comment period. Between 2018 and 2023, only 15 “not assess” decisions were appealed. The average completion time for “not assess” appeals is 176 days, or about six months. Of these appeals, one was remitted back to the EPA, which resulted in another “not assess” decision.

**Hon Dr BRAD PETTITT:** I am just trying to understand where this has come from. Obviously, we have had the Vogel–McFerran review. An earlier review undertaken by this place looked at the EPA. Finding 13 of the review stated —

**The Committee finds that the appeals against the EPA's:**

- **decision as to the level of assessment ...**

...

**provide a critical mechanism for public and proponent comment, and Ministerial review, of the validity of the distinctions drawn by the EPA between schemes ...**

Looking through this review and any others that I could find was a rigorous process. The document I just quoted was a review into the Environmental Protection Act 1986 in 2009. Between this review, which, to the best of my understanding, recommended retaining the appeal rights, and the Vogel–McFerran review, did any other reviews recommend getting rid of this appeal right?

**Hon DARREN WEST:** As the member indicated, this bill was drafted from recommendations of the Vogel–McFerran review. None of the advisers or myself are familiar with any other reviews that recommended keeping the appeal rights.

**Hon Dr BRAD PETTITT:** I certainly read from a review. The frustration is that we have an opaque Vogel–McFerran review—a review no-one has seen, let alone seen the terms of reference; we have just seen the recommendations—recommending an outcome. This Parliament has done reviews of this legislation. It has recommended that the appeal rights be retained. The parliamentary secretary can shake his head. If he thinks otherwise, I am happy to be corrected, but that is what I have in front of me. This place did a thorough review, and recommended that they be retained. This government has a hidden terms of reference that it will not share, a report by Vogel–McFerran that it will not share and a consultation process that has been shown to be absolutely flawed. The review came up with a recommendation and the government was quick to jump at it. Was it only the Vogel–McFerran review that led to this recommendation? Did any other inputs lead to it?

**Hon DARREN WEST:** We accepted the recommendations of the Vogel–McFerran review, we used that review to formulate this legislation, we spent six months consulting, briefing and working with stakeholders, and we came



up with this legislation. I can add a couple of things that may give the member some clarity. A “not assess” decision does not mean that a proposal will not proceed unregulated. Common reasons for the EPA making a “not assess” decision include that the proposal’s impact does warrant a full environmental impact assessment. Proponents’ management and mitigation measures are deemed adequate. The environmental impact of a proposal can adequately be managed by other regulators—for example, mining, water and others—or by other parts of the act, such as part V. Additionally, other statutory decision-making processes have their own appeal rights. As an additional safeguard measure, the minister’s ability to direct the EPA to assess a proposal after making a decision to not assess remains. No other Australian jurisdiction has a similar right of appeal. The Northern Territory removed its comparable appeal right in 2020.

**Hon Dr BRAD PETTITT:** One of the good things about this appeal right is that it uses local knowledge to give the Environmental Protection Authority and others the ability to understand some of the local impacts that might otherwise not be understood. It is worth going back to the last time this Parliament reviewed this issue. I refer to finding 20 of the review, which states —

**The Committee finds that, on the basis of the information provided to it, it is unable to conclude that deletion of the rights of appeal against the EPA’s:**

- decision ...

...

**from the EP Act will have the practical effect of significant reduction in the time taken to assess any significant number of proposals.**

That is what this Parliament recommended the last time it did a proper in-depth review of this matter. It is probably worth sharing what the Environmental Defenders Office wrote about this issue. It stated —

This recommendation proposes removing all public appeal rights against EPA assessment reports, and moving public appeal rights against conditions on licences from the Minister to the State Administrative Tribunal ...

Currently, any person (including any member of the public) can lodge an appeal against an EPA assessment report or conditions on a licence. Appeals are usually heard by the Office of the Appeals Convenor, and determined by the Minister for the Environment.

These appeals provide an opportunity for the public to participate in, and improve, environmental assessment and decision-making. For example, the EPA often strengthens its recommendation conditions in response to appeals. No other reviews of the EP Act (of which there have been many over the years, subject to comprehensive stakeholder input —

It provides a series of examples —

have suggested removing appeal rights.

The appeal process is not a drain on DWER or EPA time and resources—it is conducted by the independent Office of the Appeals Convenor and remains within the minister’s remit. A previous review confirmed that removing appeal rights would not have practical effects in reducing assessment times ...

The point I make is that it feels like this is a solution that is looking for a problem. There is no problem here, but, once again, the government has decided to use an untransparent review to chip away one more time at the EPA and public involvement in environmental processes and further weaken environmental protection in this state. It is for these reasons that I will be moving amendments to oppose these clauses. Ultimately, I stand in this place and say that this is a shift in the wrong direction. It is disappointing and not backed up with evidence.

**Hon DARREN WEST:** Can the member provide clarification on how he is going about this? Will he move the first amendment first? We need to respond in the way the amendments are moved.

**Hon Dr BRAD PETTITT:** I seek advice from the chair. I will be opposing this clause, noting that it runs across clauses 33 to 36 and part of clause 42. I will oppose clauses 33, 34, 35 and 36. When we get to clause 42, I will move to delete some lines.

**The DEPUTY CHAIR:** The member will tell me if I have misunderstood what he said, but I will simply put the clause.

**Clause put and passed.**

**Clauses 34 to 41 put and passed.**

**Clause 42: Part IX Division 5 inserted —**

**Hon Dr BRAD PETTITT:** I will not add anything further on the back of what I previously said, other than to move the amendment. I move —

Page 25, lines 23 to 30 — To delete the lines.

**Hon DARREN WEST:** We are just formulating what we will do. I thank the member for the amendment, but the government will not support this amendment. This amendment relates to the removal of the not-assessed appeal right. These lines are required to ensure the policy intent is achieved. The government proposes to remove this appeal right to reduce unnecessary duplication and processes with limited additional environmental benefit while maintaining reasonable rights of appeal across the system. It rarely results in better environmental outcomes.

Moreover, the Environmental Protection Authority is a subject matter expert body well-versed in determining the likely environmental impact of a proposal. A not-assessed decision does not mean that a proposal will proceed unregulated. Common reasons for the EPA making a not-assessed decision include circumstances in which the proposal's impact is not deemed by the EPA to warrant a full environmental impact assessment; the environmental impacts of a proposal can adequately be managed by other regulators, for example, mining, water and others or by other parts of the act such as part V, which includes an appeals function; and the proponents own management and mitigation measures are deemed to adequately manage environmental impacts. The removal of this appeal right is balanced by the introduction of the requirement for the EPA to publish a summary of its reasons for deciding not to assess a proposal.

**Amendment put and negatived.**

**Hon Dr BRAD PETTITT:** There are two further deletions I would like to make. Is there a way to do these together or should I do them separately?

**The DEPUTY CHAIR:** Does the member seek to move those two amendments en bloc?

**Hon Dr BRAD PETTITT:** Yes.

**Hon Dr BRAD PETTITT — by leave:** I move —

Page 27, line 5 to page 29, line 14 — To delete the lines.

Page 29, line 15 to page 30, line 10 — To delete the lines.

**Hon DARREN WEST:** I thank the member again for proposing the amendments. The government will not support these amendments. The first section proposed to be deleted clarifies how the parallel decision-making reforms apply to existing proposals and part V applications and must be retained. The government will also not support the amendment at 29/42 on the supplementary notice paper, which proposes to delete new section 133W, which deals with existing appeals against a decision of the EPA not to assess a proposal. It clarifies that existing appeals from decisions not to assess a proposal continue despite the bill. This includes any appeals lodged before commencement day. If there are no lodged appeals before commencement day, there will be no right to lodge appeals, even if the period for lodging an appeal has not yet run out. This clause clarifies how existing appeals will be dealt with when the reform of removing the appeal right for not assessed decisions comes into operation and must be retained.

**Amendments put and negatived.**

**Clause put and passed.**

**Clauses 43 to 49 put and passed.**

**Title put and passed.**

*Report*

Bill reported, without amendment, and the report adopted.

*Third Reading*

**HON DARREN WEST (Agricultural — Parliamentary Secretary) [4.23 pm]:** I move —

That the bill be now read a third time.

I thank all members for their contribution during the Committee of the Whole stage of the Environmental Protection Amendment Bill 2024. The purpose of this bill is to enhance the integrity of WA's environmental approvals framework, reflecting industry and community expectations of a modern regulator. The reforms in the bill retain the rigorous environmental protections under the Environmental Protection Act 1986 whilst streamlining processes to reduce complexity and timeframes associated with assessments of major job-creating projects, such as those that will contribute to WA's energy transition. The bill will modernise our independent EPA, provide for greater transparency in how government interacts with the Environmental Protection Authority and ensure that industry has certainty that our assessment pathways are robust. I reiterate that this bill and associated reforms will not undermine the independence of the EPA. This independence remains safeguarded under section 8 of the EP act, which is unchanged by this bill. Similarly, it will not interfere with the EPA's functions, which is also unchanged and outlined in section 16 of the EP act. Notwithstanding, I reiterate that the minister will not have the power to influence the outcome of the EPA's advice, nor does this government seek to do so. Our Environmental Protection Authority is an independent advisory board and will remain as such.

I will make some comments on matters raised during Committee of the Whole. We had members talk about the skills of the membership of the EPA. The skills, knowledge, experience and qualifications chosen to be in this bill represent the wide range of considerations that EPA members must have for the authority to fulfil its functions, bolstered by a baseline requirement for a suitable level of interest in and experience of matters affecting the environment generally. The diversity of skills of members on the board will reflect the specific knowledge, skills and experience the government and broader WA community rightly expects to be represented on such an important authority and that will set up the EPA for success in undertaking its important role of protecting our environment.

A number of comments were made during deliberations on the bill about the proposed statement of expectations. The statement is a transparency tool that will outline the minister's objectives as they relate to the EPA's functions outlined in section 16 of the act. To reiterate, neither the statement nor the bill will undermine the EPA's independence and advisory role as protected under section 8 of the act. This section will be unchanged by the bill. Therefore, the minister's statement of expectation will not have the power to influence the outcome of the EPA's advice. Under the new laws, the Minister for Environment will provide the EPA with a statement of expectation, helping it better understand the government's priorities including the green energy transition, housing delivery, job creation and the protection of WA's unique environment.

I note the opposition's strong support for the parallel decision-making provisions. Under the new legislation, other government regulators will be allowed to issue their own approvals ahead of the Environmental Protection Authority issuing an environmental impact assessment. Under the current system, other government regulators cannot consider approvals for projects until the EPA has finished its assessment, often resulting in delays to projects. The reforms supported by the new parallel decision-making policy will allow proponents to obtain other approvals while the environmental impact is assessed, potentially saving significant time in the process.

To maintain our strong environmental protections, projects will still need EPA approval before they can be implemented. Under this legislation, penalties for carrying out work without approval will double, with fines of up to \$125 000 for an individual and \$250 000 for a body corporate.

The right of appeal against a decision made by the EPA not to assess a project will be removed because most projects in this case will be subject to other forms of rigorous environmental regulation. This change strikes the right balance between reducing unnecessary processes and maintaining accountability and reasonable rights of appeal across the system. Not assessed appeals rarely result in a different outcome and have limited environmental benefit. The EPA will instead publish a summary of reasons for its decision. Further work is underway to see whether more efficiencies can be achieved across policy and legislative changes.

In addition to the reforms identified by the Vogel–McFerran review, additional opportunities for improvement to a licence validation have been addressed. To this end, the bill will repeal and replace the regulation that causes a licence to automatically cease to have effect when fees are not paid with an additional late payment penalty. A supporting power to revoke or suspend a licence when a fee has not been paid is included in the bill.

Finally, in summing up, these reforms build on the Cook Labor government's legacy of environmental protection demonstrated through our record investment in climate action, the most significant expansion of the conservation estate in WA's history and our historic decision to end native logging. In closing, this legislation is about retaining strong environmental protections while creating more transparent and efficient processes. I again thank all members for their contributions to the debate.

I commend the bill to the house.

Question put and passed.

Bill read a third time and passed.

## QUESTIONS WITHOUT NOTICE

### POLICE — RESIGNATIONS AND RETIREMENTS

#### 1226. Hon PETER COLLIER to the minister representing the Minister for Police:

I refer the minister to question without notice 1007 of Tuesday, 10 September 2024 and question without notice 1167 of Tuesday, 15 October 2024.

Given there were 7 109 officers on 31 August, 28 resignations in September and 7 219 officers on 30 September, will the minister confirm that there were 138 new recruits in September?

#### Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question. I provide the following answer on behalf of the Minister for Emergency Services.

I thank the honourable member for highlighting the tremendous result the Western Australia Police Force is experiencing in the growth of police officer numbers and recruits. All figures are provided by the WA Police Force.

## BUSSELL HIGHWAY — DUPLICATION

**1227. Hon PETER COLLIER to the minister representing the Minister for Transport:**

I refer to the Bussell Highway duplication project listed on the Main Roads Western Australia website as “under consideration”.

- (1) Has the project been delayed?
- (2) On what date was this project first linked to the Main Roads website as under consideration?
- (3) Does the project currently have an exact expected completion date?
- (4) If yes to (3), on what date will this project be completed?
- (5) If no to (3), why is there no current completion date for this project?

**Hon SUE ELLERY replied:**

I thank the honourable member for some notice of the question. I provide the following answer on behalf of the Minister for Emergency Services.

- (1)–(5) The project is not under consideration; it is being built.

## LOCAL GOVERNMENT AMENDMENT BILL 2024 — COUNCILLORS — REMOVAL

**1228. Hon TJORN SIBMA to the minister representing the Minister for Local Government:**

With the President’s indulgence, I note that the circumstances around this question changed quite extraordinarily after I put it in, but I will ask it nevertheless.

I refer to the Local Government Amendment Bill 2024 and the recent example of a City of Belmont councillor who was convicted of three counts of indecently touching women while he was employed by the Department of Transport as a driving assessor.

- (1) Has the minister received a briefing on the matter from the Department of Local Government, Sport and Cultural Industries; and, if so, will she table that briefing?
- (2) Noting that the Department of Transport terminated the employment of the person in question, what avenues exist under the present Local Government Act to remove the councillor from his position at the City of Belmont?
- (3) If there are no avenues under the current statute, will the minister’s present bill confer a power to remove a councillor in circumstances such as this?
- (4) If not, will the minister consider amending her current bill to do so?

**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 Local Government.

- (1) The department has kept the minister informed on this matter.
- (2) The Local Government Act 1995 sets out the circumstances under which a councillor can be disqualified, which includes convictions for serious local government and other offences. The councillor referred to has not been convicted of a disqualifiable offence as defined in the LG act, nor did he receive a custodial sentence of more than five years. As is appropriate, he has resigned.
- (3)–(4) The Local Government Amendment Bill 2024 advances a suite of important reforms, including ones that will strengthen and enhance the system of oversight of local government. Future reforms, including consultation, could consider this issue.

## SCHOOLS — BUILDING CONDITION ASSESSMENTS PROGRAM

**1229. Hon DONNA FARAGHER to the Leader of the House representing the Minister for Education:**

I refer to the answer provided to question without notice 1221 asked on 16 October 2024 regarding the building condition assessment program and the advice that the assessment has been completed and schools have received their individual reports.

Given that the minister stated in his response to supplementary information No A6, sought in the 2024–25 budget estimates hearing with the Department of Education, that a summary of the information could be provided once the current BCA program was completed, will the minister now table that summary?

**Hon SUE ELLERY replied:**

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

The Department of Education is compiling a summary, which is anticipated to be available before the end of 2024. As this will most likely be after the Parliament has risen for the year, the minister's office will ensure that a copy of the summary is provided directly to the honourable member.

STATE BIOSECURITY CENTRE

**1230. Hon Dr STEVE THOMAS to the Minister for Agriculture and Food:**

I refer to my question without notice 1182 of 15 October 2024 on the agricultural diagnostic and laboratory services of the Department of Primary Industries and Regional Development in South Perth.

- (1) What is the proposed completion or operational date for the soon to be announced new state biosecurity response centre?
- (2) What is the numerical value of staff still working at DPIRD South Perth, and what technical and administrative roles are undertaken?
- (3) What other federal and state accredited testing providers are analysing high-priority samples from veterinarians and agronomists?
- (4) Has the state government sought or undertaken an evaluation process or assessment of the South Perth DPIRD site?
- (5) If yes to (4), what was the evaluation?

**Hon JACKIE JARVIS replied:**

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

- (1) The state biosecurity response centre project is subject to commercial negotiations, and an announcement of completion is expected shortly.
- (2) The number of staff accessing the South Perth site fluctuates due to the seasonal nature of the work, demand from industry and biosecurity testing requirements. The types of roles include grains and pastoral research, veterinary and plant virologists and pathologists, laboratory scientists and technicians, technical area managers for animal and plant pathology, site security, site management and administration officers supervising sample receivals.
- (3) Other accredited laboratories undertaking testing include the CSIRO Australian Centre for Disease Preparedness, other CSIRO laboratories in Canberra, AgriBio in Victoria and the Department of Primary Industries and Regions laboratories in South Australia.
- (4)–(5) This will be a matter for DevelopmentWA and the Department of Planning, Lands and Heritage.

BUILDING AND CONSTRUCTION INDUSTRY — BEST PRACTICE INDUSTRY CONDITIONS POLICY —  
HALE ROAD, WELSHPOOL ROAD AND ROE HIGHWAY

**1231. Hon NEIL THOMSON to the minister representing the Minister for Transport:**

I refer to ongoing civil works including but not limited to interchanges for Hale Road and Welshpool Road, and to Roe Highway.

- (1) Will these be subject to best practice industry conditions?
- (2) Why does the BPIC document require that head contractors and key subcontractors must consult with the Construction, Forestry, Mining and Energy Union 28 days prior to awarding work to any other contractor?
- (3) Has the minister or the department undertaken any modelling on the cost increases resulting in the application of BPIC?
- (4) If no to (3), why not?
- (5) If yes to (3), what are the likely costs for the two projects that were announced on 14 October as going to tender?

I think I may have muddled up that one.

**Hon Sue Ellery** interjected.

**Hon NEIL THOMSON:** I do not know.

**The PRESIDENT:** Leader of the House, do you think you could provide your best answer?

**Hon SUE ELLERY** replied:

No, I do not think I can because I do not have a question that matches what has just been read out.

**Hon Neil Thomson:** It is an amalgam. These things happen. My staff have mixed up.

REX AIRLINES — REGIONAL ROUTES

**1232. Hon LOUISE KINGSTON to the minister representing the Minister for Transport:**

I refer to a recent reel on Facebook posted by local member for Albany Rebecca Stephens, MLA, that claims, according to my notes —

Roger Cook and WA Labor have introduced a regional airfare cap. One-way airfares less than 1 000km to Perth are capped at \$199. One-way airfares more than 1000km to Perth are capped at \$299.

REX Airlines advises that government regulations allow passengers to access those fares only if they book a return flight, and family circumstances do not always require a return flight.

- (1) Why is the Premier touting cheap regional one-way fares when passengers cannot book a one-way flight?
- (2) When will the minister clarify with REX Airlines that it also needs to provide one-way fares at this price?
- (3) If the minister cannot, why not?

**Hon SUE ELLERY replied:**

I thank the honourable member for some notice of the question. I answer on behalf of the Minister for Emergency Services.

- (1)–(3) From 1 July 2022, regional residents in Western Australia have had access to capped airfares for travel to Perth under the regional airfare zone cap scheme, the first program of its kind in Australia. The requirement to book a return fare is part of the governance requirements of the scheme, ensuring only eligible regional residents can access the zone cap fare. The reference to one-way fares in advertising for the scheme is consistent with the aviation industry’s terminology when referring to regional and/or domestic airfares.

PUBLIC HOUSING — WAITLISTS

**1233. Hon Dr BRAD PETTITT to the minister representing the Minister for Housing:**

I refer to the wait turn and priority public housing waitlists, noting that double counting is present in the potential response.

- (1) How many applications were on the public housing waitlist at the end of September 2024, and how many individual applicants does that represent?
- (2) How many applications were on the public housing priority waitlist at the end of September 2024, and how many individual applicants does that represent?

**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.

- (1)–(2) As at 30 September 2024, there were 20 491 applications on the public housing waitlist statewide. This included 6 115 priority applications.

MEDICAL CANNABIS — WORKING GROUP

**1234. Hon Dr BRIAN WALKER to the parliamentary secretary representing the Minister for Health:**

I refer the minister to the cross-party interim report on the legalisation of medicinal cannabis tabled in the South Australian Parliament last month and specifically to the first recommendation in that report, which calls upon the South Australian government to draft amendments to provide that it is not an offence to drive with tetrahydrocannabinol in one’s system if prescribed medicinal cannabis and not impaired.

- (1) Has the minister’s own working group convened yet; and, if not, why not?
- (2) Who has been appointed to sit on the working group and why were they invited to do so in each case?
- (3) Will the minister forward copies of the South Australian report to the members of her own group for their consideration?
- (4) Will she urge the working group to consider, as the report recommends, the Tasmanian defence, which treats all prescribed drugs in the same manner?
- (5) If no to either (3) or (4), why not?

**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) Yes.
- (2) The working group includes representatives from the Department of Health, the Mental Health Commission, the Western Australia Police Force, the Road Safety Commission, the Department of Transport and medical experts.

(3)–(5) Relevant material from other jurisdictions will be considered.

CORONAVIRUS — PREMIER’S STATEMENT

**1235. Hon BEN DAWKINS to the Leader of the House representing the Premier:**

It is a long preamble but a short question.

**The PRESIDENT:** And is still eligible to be ruled out of order if it is lengthy.

**Hon BEN DAWKINS:** I refer to the following statement —

“I, Roger Cook, acknowledge the harm caused by vaccines administered, promoted and mandated by the WA government when I was Health Minister. This includes the AstraZeneca Covid vaccine, which I took myself, and has since been removed from the market due to serious side effects. I acknowledge that there are a number of West Australians who have been formally compensated under the \$33 million COVID-19 Vaccine Claims Scheme which has confirmed their injuries. While I did the best I could with the information available at the time, I recognise that some people suffered from vaccine injuries and admit my role in this as health minister. I hereby undertake to continue to monitor, pre and post the next election, the emerging understanding of adverse effects of these vaccines and undertake to communicate any findings to the public of Western Australia as soon as they are made known to me”

Will the Premier sign and issue a statement as per the above or similar in his own words covering the same subject matter?

**Hon SUE ELLERY replied:**

No.

RETURN TO PRISON WARRANTS

**1236. Hon NICK GOIRAN to the minister representing the Minister for Police:**

I refer to the implication in the answer to my question without notice on 16 October 2024 that one of the historical return to prison warrants has been successfully executed following the public release on 7 September 2024 of information about the offender.

- (1) What is the offender’s name, age and offence?
- (2) When was the warrant successfully executed?
- (3) Where was the warrant executed?
- (4) For how long had the warrant been outstanding?

**Hon SUE ELLERY replied:**

On behalf of the Minister for Emergency Services, I thank the honourable member for some notice of the question. The Western Australia Police Force advises the following.

- (1) Ms Candice Allen, 29 years old and offering to sell or supply a prohibited drug.
- (2) It was on 13 September 2024.
- (3) It was at Perth international airport.
- (4) It was for three years, one month and 17 days.

HOUSING SUPPLY UNIT

**1237. Hon STEVE MARTIN to the minister representing the Treasurer:**

I refer to the first anniversary of the housing supply unit.

- (1) Can the Treasurer please provide the number of FTE employees working in the HSU currently and their levels of pay?
- (2) What is the total cost incurred to taxpayers to date to set up and run the HSU?
- (3) What housing policies has the HSU developed?
- (4) How many homes has the HSU added to WA’s housing supply?
- (5) Will any and all policies developed by the HSU be announced before the government enters caretaker mode?

**Hon SUE ELLERY replied:**

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

- (1)–(5) I refer the member to Legislative Council question without notice 1033.

## POLICE — ROAD POLICING COMMAND DIVISION

**1238. Hon PETER COLLIER to the minister representing the Minister for Police:**

- (1) What is the current allocated FTE for the road policing command division?
- (2) What is the current actual FTE for the road policing command division?

**Hon SUE ELLERY replied:**

I thank the honourable member for some notice of the question. I answer on behalf of the minister representing.

- (1) The answer is 359.
- (2) The answer is 343.68 as at 10 October 2024.

## RETURNED AND SERVICES LEAGUE OF AUSTRALIA WA — NOLLAMARA SUB-BRANCH

**1239. Hon TJORN SIBMA to the minister representing the Minister for Police:**

I refer to civil action undertaken earlier this year by the Returned and Services League of Australia WA to recover and secure its lawful premises, which was previously occupied by the now-dissolved Nollamara RSL Sub-Branch.

- (1) Were police advised by RSLWA of its intended action at the Nollamara premises?
- (2) If yes, when was this advice provided, and from whom and to whom was it conveyed?
- (3) Were police requested to attend the premises; and, if so, who made the request?
- (4) Did police attend; and, if so, from which station and at what date and time?

**Hon SUE ELLERY replied:**

I thank the honourable member for some notice of the question. I answer on behalf of the minister representing.

The Western Australia Police Force advises that it was not possible to provide an answer within the required timeframe. A response will be provided to the honourable member on Tuesday, 22 October 2024.

## PICKERING BROOK — METROPOLITAN REGION SCHEME AMENDMENT

**1240. Hon DONNA FARAGHER to the minister representing the Minister for Planning:**

I refer to the request by the City of Kalamunda to the WA Planning Commission to initiate a metropolitan region scheme amendment for the Pickering Brook town site expansion.

- (1) On what date was the city's request received by the WAPC?
- (2) What is the current status of this request?
- (3) When is a decision expected by the WAPC on whether the MRS amendment should be initiated?

**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 Planning.

- (1)–(3) The metropolitan region scheme amendment request remains under assessment as the Department of Planning, Lands and Heritage continues to work through a number of significant constraints, including bushfire risk.

## WATER CORPORATION — ALKIMOS DESALINATION PLANT

**1241. Hon Dr STEVE THOMAS to the parliamentary secretary representing the Minister for Water:**

I refer to Western Power's authorised contractor LS Cables commencing in October 2024 the construction of a five-kilometer underground transmission line from the Yanchep substation to the Alkimos seawater desalination plant.

- (1) What is the generation source for Western Power to provide or deliver energy to the Alkimos seawater desalination plant?
- (2) What percentage of the energy sourced for Alkimos will be sourced from renewable generation?
- (3) What is the anticipated daily energy usage requirements for the plant when it is fully operational?

**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.

- (1)–(3) The power used in the desalination plant will be coming via the south west interconnected system. Water Corporation will ensure the Alkimos seawater desalination plant has net zero scope 1 and 2 greenhouse gas emissions during construction and operation, including procurement of renewable energy to meet the plant's total annual energy needs. Stage 1 of ASDP will consume almost 600 megawatts per hour on average per day when fully operational.



BUILDING AND CONSTRUCTION INDUSTRY — BEST PRACTICE INDUSTRY CONDITIONS POLICY —  
TONKIN HIGHWAY AND THOMAS ROAD

**1242. Hon NEIL THOMSON to the Minister for Finance:**

I have the correct question in front of me. There was some operator error. I refer to the *Western Australian best practice industry conditions* and clause 4.2(b) in relation to unions—namely, the CFMEU in the construction sector—which states that “consultation will commence before contracts are let and at least 28 days before the commencement of the work by other contractors”.

- (1) Did the minister have any involvement in approving the BPIC agreement before it was applied to the Tonkin Highway and Thomas Road upgrades?
- (2) What grounds are there for requiring consultation with a union before the letting of contracts?
- (3) Do any other procurement procedures in the state government require consultation with unions prior to the letting of contracts?
- (4) If yes to (3), can the minister please list these?

**Hon SUE ELLERY replied:**

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

- (1) No.
- (2)–(4) As advised in the response to Legislative Council Question without Notice 1172 earlier this week, best practice industry conditions fall within the portfolio responsibilities of the Minister for Transport.

GOVERNMENT HOUSE SECURITY OFFICE — ROOF SHINGLES

**1243. Hon LOUISE KINGSTON to the Leader of the House representing the Premier:**

I notice that the jarrah shingles are being replaced on the Government House security office and it has been brought to my attention that the roof was completely replaced less than 12 months ago.

- (1) Why are the shingles being replaced after less than a year?
- (2) Where was the jarrah sourced from?
- (3) Was this job prioritised?

**Hon SUE ELLERY replied:**

This question was redirected to me representing the Premier.

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

- (1) I am advised that in October 2023, the roof shingles on the Government House security office were replaced as part of a planned maintenance program. Since the maintenance took place, the materials have warped and have been identified as being defective. The replacement works are being completed under warranty and there is no additional expense to government.
- (2) The jarrah is sourced from recycled materials from local demolition sites via a family business based in Gidgegannup.
- (3) No. The works are being completed under warranty.

HAKEA PRISON AND CASUARINA PRISON — BEDS

**1244. Hon Dr BRAD PETTITT to the minister representing the Minister for Corrective Services:**

- (1) How many prisoners in Hakea Prison and Casuarina Prison respectively are sleeping on mattresses on the floor?
- (2) How many special-purpose beds at Hakea Prison and Casuarina Prison respectively have been repurposed for the general population?
- (3) How many forensic mental health beds at Hakea Prison and Casuarina Prison respectively have been repurposed for the general population?

**Hon SUE ELLERY replied:**

I thank the honourable member for some notice of the question. I provide the following response on behalf of the minister representing the Minister for Corrective Services.

The Department of Justice advises that it is not possible to provide an answer within the required timeframes. A response will be provided to the honourable member on Tuesday, 22 October 2024.

## CYRIL JACKSON SENIOR CAMPUS — SMARTRIDER CARDS

**1245. Hon Dr BRIAN WALKER to the minister representing the Minister for Transport:**

I refer the minister to correspondence that she and I have apparently received on behalf of the school board of the Cyril Jackson Senior Campus in Bassendean asking why the government continues to disadvantage school students who happen to reach the age of 18 while still in the school system by requiring them to pay the tertiary student fare on public transport.

- (1) Has the minister had an opportunity to respond to either of the two written approaches that I am advised have been made by the board to her office seeking clarification of this issue?
- (2) If yes to (1), when were the letters received and when was the response provided?
- (3) If no to (1), why not?
- (4) What is the government's policy on this example of financial discrimination?

**Hon SUE ELLERY replied:**

I thank the honourable member for some notice of the question and provide the following answer on behalf of the minister representing the Minister for Transport.

- (1)–(4) Representatives from the office of the Minister for Transport have spoken with the chair of the board of Cyril Jackson Senior Campus and a formal response will be provided shortly. All mature-aged students over 18 undertaking secondary school studies as a full-time student are entitled to a tertiary concession SmartRider card. The settings that apply to a tertiary SmartRider card are global settings, enabling all tertiary SmartRider cardholders to receive the same concession irrespective of their course of study. Unfortunately, it is not possible to change the conditions of travel for a select tertiary group within the limits of the current SmartRider system. The government will continue to explore ways that it can provide support to mature-aged students when the SmartRider upgrade project rolls out, noting the significant investment the government has already made in reducing public transport fares, including the two-zoned fare cap, the summer of free public transport and the fare-free Sundays.

## EMERGENCY DEPARTMENT PRESENTATIONS

**1246. Hon BEN DAWKINS to the parliamentary secretary representing the Minister for Health:**

Can the minister please provide information, broken down by year, related to the number of people under the age of 40 presenting to emergency departments in Western Australian hospitals with chest pain or heart issues for the years 2017 to 2023?

**The PRESIDENT:** Honourable member, I think you are probably aware that that question is seeking a lot of information and thereby does not fit the definition of being concise, but let us see whether the parliamentary secretary is able to provide an answer to that.

**Hon PIERRE YANG replied:**

Thank you, President. I do have an answer.

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

The level of data requested would require an extensive review of the records and is not considered a reasonable use of government resources. I request that the member place the question on notice.

## RETURN TO PRISON WARRANTS

**1247. Hon NICK GOIRAN to the minister representing the Minister for Police:**

I refer to the response to my question without notice on 22 August 2024 in which the minister declined to provide any information about the 30 offenders whose return to prison warrants have been outstanding for more than 12 months, notwithstanding the Commissioner of Police having informed Parliament that he has been a long-time advocate for the release of the names of such individuals to assist the public to come forward with information.

- (1) On what date did the minister table a section 82 notice under the Financial Management Act regarding this non-provision of information to Parliament?
- (2) If not yet done, will he undertake to do so within one parliamentary sitting week?

**Hon SUE ELLERY replied:**

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

- (1)–(2) As the honourable member has been previously advised, it is entirely appropriate that the Commissioner of Police and the Western Australia Police Force determine whether names of individuals are released.

## COMMERCE — HOME INDEMNITY INSURANCE

**1248. Hon STEVE MARTIN to the Minister for Commerce:**

I refer to home indemnity insurance.

- (1) What is the current balance of the fund for home indemnity insurance?
- (2) What was the future claims liability of the fund at the most recent available date prior to Nicheliving's building licence being rescinded?
- (3) What is the future claims liability of the fund now, factoring in the impact of Nicheliving's unfinished homes?
- (4) Will indemnity insurance premiums rise as a result of the now expected Nicheliving payouts?

**Hon SUE ELLERY replied:**

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

- (1) It is \$40.2 million.
- (2) The Department of Energy, Mines, Industry Regulation and Safety engages an independent actuarial consultant to assess future claims liability—FCL—associated with home indemnity insurance—HII—on an annual basis. The most recent assessment was completed on 31 May 2024, at which time the FCL was assessed at \$83.9 million. This figure represents an absolute worst-case scenario, and the actual annual claims in previous years has never reached the estimated FCL.
- (3) This is not known. It will be considered in the next actuarial assessment, which will be undertaken in 2025.
- (4) No.

BANDYUP WOMEN'S PRISON — MELALEUCA WOMEN'S PRISON —  
SUICIDE ATTEMPTS AND SELF-HARM INCIDENTS**1249. Hon PETER COLLIER to the minister representing the Minister for Corrective Services:**

- (1) How many prisoners attempted self-harm or suicide at Bandyup Women's Prison in 2022, 2023 and 2024 to date?
- (2) How many prisoners attempted self-harm or suicide at Melaleuca Women's Prison in 2022, 2023 and 2024 to date?

**Hon SUE ELLERY replied:**

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

- (1)–(2) The Department of Justice has provided the answer in tabular form, “Table 1. Distinct Persons—Bandyup Women's Prison”, and “Table 2. Distinct Persons—Melaleuca Women's Prison”. I seek leave to have that incorporated into *Hansard*.

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

- (1) Table 1. Distinct Persons - Bandyup Women's Prison Attempted Suicide and Self - Harm Instances between 1 January 2022 and 16 October 2024, by Type and Calendar Year.

Incidents	2024*	2023	2022
Attempted Suicide	4	1	4
Self-Harm – Serious	2	2	2
Self-Harm – Minor	53	55	32
<b>Bandyup's Average Population</b>	<b>284</b>	<b>213</b>	<b>191</b>

\*Incomplete Calendar Year.

- (2) Table 2. Distinct Persons – Melaleuca Women's Prison Attempted Suicide and Self- Harm Instances between 1 January 2022 and 16 October 2024, by Type and Calendar Year.

Incidents	2024*	2023	2022
Attempted Suicide	3	8	4
Self-Harm – Serious	0	1	3
Self-Harm – Minor	98	95	50
<b>Melaleuca's Average Daily Population</b>	<b>232</b>	<b>206</b>	<b>175</b>

\*Incomplete Calendar Year

POLICE — DRUG TESTING

**1250. Hon TJORN SIBMA to the minister representing the Minister for Police:**

I note that this question is dated 10 September.

I refer to roadside traffic operations of Western Australia Police Force.

- (1) How many random drug and alcohol tests have been conducted over the year to date?
- (2) Where did these tests occur?

**Hon SUE ELLERY replied:**

I thank the honourable member for some notice of the question, which I answer on behalf of the minister representing the Minister for Police. I note that the answer is correct as of 10 September.

The Western Australia Police Force has provided the following advice.

- (1) It has conducted 1 331 448 breath tests and 36 400 oral fluid drug tests.
- (2) Random drug and alcohol tests are conducted statewide. The tests can be conducted by authorised personnel both at random and in multiple locations while on patrol. Individual data relating to every random test and locations of these tests is not available.

COMMUNITIES — EDUCATION AND CARE REGULATORY UNIT

**1251. Hon DONNA FARAGHER to the minister representing the Minister for Early Childhood Education:**

I refer to the education and care regulatory unit within the Department of Communities.

- (1) Will the minister provide a staffing breakdown by FTE and headcount of the number of investigation officers and assessment officers currently employed in the education and care regulatory unit?
- (2) Can the minister advise whether there are any current vacancies in the unit; and, if so, how many?

**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 Early Childhood Education.

The Department of Communities has provided the following advice as at 30 September 2024.

- (1) The position FTE for senior investigation officer is three; investigation officer, three; senior assessment officer, 16.8; assessment officer, 32.6; and compliance support officer, five. The head count for senior investigation officer is three; investigation officer, one; senior assessment officer, 17; assessment officer, 33; and compliance support officer, five.
- (2) There are two vacancies for investigation officers. Both positions are set to be filled in the coming weeks.

BRETON BAY — GAZETTED LAND USE

**1252. Hon Dr STEVE THOMAS to the minister representing the Minister for Lands:**

I refer to the 1979 gazetting of 234 hectares for a future nuclear power station at Breton Bay, north of Perth.

- (1) Are the 234 hectares of land still a separate title?
- (2) Is it still managed by the Department of Primary Industries and Regional Development?
- (3) What is the zoning and conditions attached to the land?
- (4) What use has the land been put to since 1979?
- (5) Can the land still be used only for a power station, given its zoning and conditions?
- (6) What is the government's plan for the land?

**Hon JACKIE JARVIS replied:**

I thank the member for some notice of the question. The following response has been provided by the Minister for Lands; and, as the member noted, the answer is correct as of Thursday, 20 June.

- (1) Yes.
- (2)–(6) The Department of Planning, Lands and Heritage is responsible for the management of the site, which has been offered for inclusion in the Noongar land estate as part of commitments under the South West Native Title Settlement, originally initiated by the former Barnett government. Land use permissibility is in accordance with the applicable planning framework. The state government has a clear plan to manage the state's energy transition to deliver cleaner affordable and reliable energy for Western Australia's future. Nuclear is the most expensive form of energy and does not add up in a state with our renewable

energy resources. By endorsing nuclear, the Liberal Party has made its position clear on the future of Western Australia's energy, putting ideology ahead of what is best for WA.

#### FITPACKS — NEEDLE AND SYRINGE PROGRAM

#### 1253. Hon NEIL THOMSON to the parliamentary secretary representing the Minister for Health:

I refer to question without notice 1201 regarding the Premier's response to media questions about concerns about the scale of needles in Broome, and the answer provided by the Leader of the House in which she said, in part —

Unlike members of the Liberal Party, who have spread misinformation related to WA Health's Kimberley needle and syringe program ...

- (1) Is the government going to do anything new to address the genuine level of community concern about the rising number of fitpacks being distributed in the Kimberley, which points to rising drug use and is resulting in increasing and dangerous littering, impacting on children who use our parks and public spaces?
- (2) Has the Premier spoken directly to the member for Kimberley about this specific issue; and, if yes, what are the actions being planned as a result?
- (3) If the federal government is successful in its efforts to pass laws regarding misinformation, will the Labor Party look to take action to suppress the free speech of opposition parliamentarians, like those in the Liberal Party who raised legitimate concerns that were brought to them by health professionals and others in order to improve its own image?

**Hon Sue Ellery:** Are you asking us to do that?

**Hon NEIL THOMSON:** I am asking if the government is going to do it.

**The PRESIDENT:** The parliamentary secretary representing the Minister for Health.

**Hon Neil Thomson** interjected.

**The PRESIDENT:** Order! The parliamentary secretary is about to provide an answer.

**Hon PIERRE YANG replied:**

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

- (1)–(3) It is a requirement that all needles and syringes distributed in Western Australia are provided with a safe disposal container. Prepackaged needles and syringe packs include a disposable receptacle and are labelled with safe disposal information. Broome is now receiving support from the Pilbara needle and syringe exchange program to support the establishment of a more comprehensive service. The Shire of Broome has also been offered 10 additional needle and syringe disposal units for installation in public amenities. The state government remains committed to working with stakeholders on this matter.

#### POLICE — PRESUMPTIVE POST-TRAUMATIC STRESS DISORDER LEGISLATION CASUARINA PRISON — SELF-HARM AND SUICIDE INCIDENTS

*Questions without Notice 1196 and 1208 — Answers*

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [5.03 pm]: On behalf of the minister representing the Minister for Police, I would like to provide answers to Hon Peter Collier's questions without notice 1196 and 1208, asked yesterday. I seek leave to have them incorporated into *Hansard*.

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

#### Question without notice 1196 —

As the A response is unable to be provided noting the drafting and timing for the introduction of legislation to Parliament is a decision for Cabinet.

#### Question without notice 1208 —

The Department of Justice advise:

- (1) Table 1. Distinct Persons - Casuarina Prison Attempted Suicide and Self-Harm Instances between 1 January 2022 and 13 October 2024, by Type and Calendar Year.

	2022	2023	2024*
Average Daily Population at Casuarina Prison	1,137	1,209	1,504
Attempted Suicide	7	7	5
Self-Harm – Serious	1	8	2

Self-Harm – Minor	54	55	47
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\* Incomplete Calendar Year.

- (2) Table 2. Distinct Persons - Hakea Prison Attempted Suicide and Self-Harm Instances between 1 January 2022 and 13 October 2024, by Type and Calendar Year.

	2022	2023	2024*
Average Daily Population at Hakea Prison	901	991	1,123
Attempted Suicide	6	13	27
Self-Harm – Serious	5	6	6
Self-Harm – Minor	130	167	182

\* Incomplete Calendar Year.

## YOUTH DETENTION — OFFENCES

*Question without Notice 1214 — Answer*

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [5.04 pm]: On behalf of the minister representing the Minister for Corrective Services, I would like to provide an answer to Hon Dr Brad Pettitt’s question without notice 1214, asked yesterday, which I table.

[See paper [3711](#).]

## LOCAL GOVERNMENT AMENDMENT BILL 2024

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Jackie Jarvis (Minister for Agriculture and Food)**, read a first time.

*Second Reading*

**HON JACKIE JARVIS (South West — Minister for Agriculture and Food)** [5.05 pm]: I move —

That the bill be now read a second time.

I am pleased to introduce the Local Government Amendment Bill 2024, which continues with the delivery of the Cook government’s local government reforms, the most significant changes to the system of local government in Western Australia in more than 25 years.

Like last year’s first tranche of local government reforms, this bill is based on a substantial body of prior work and significant consultation that has been undertaken by our government since 2017, including the findings of the *Local Government Review Panel: Final report* of 2020, the *Report of the inquiry into the City of Perth* of 2020 and the Select Committee into Local Government’s *Final Report—Inquiry into local government* of 2020.

Following the first tranche of legislation delivered this year, this bill will deliver on five of the main reform themes. The first of these is early intervention. This bill responds to the significant public interest in, and demand for, a stronger system of oversight and early intervention to respond to emergent dysfunction in local government in line with the reform theme of “Early intervention, effective regulation and stronger penalties”. Although the vast majority of local governments across our state operate in ways that reflect the values of respect, integrity and professionalism, there have been high-profile examples of local governments falling into division, dysfunction and chaos. Dysfunction in local government can reflect adversely on people involved in that local government and on the sector more broadly. That is why the sector has been so strongly supportive of an improved model for identifying and addressing emergent problems within local governments at the earliest possible stage. This bill will provide for the creation of the position of Local Government Inspector. The Local Government Inspector will be appointed by the Governor as a separate full-time statutory position. The inspector will be supported by staff as part of the Office of the Local Government Inspector.

The inspector and their office will be responsible for receiving, investigating and resolving complaints about local governments, council members, local government CEOs and other local government employees. The complaints the inspector receives will be split into two types: breach complaints, which are complaints about a council member committing a behavioural breach, a conduct breach or a specified breach; and general complaints, which are complaints about noncompliance with the Local Government Act 1995 or its regulations. The inspector will have broad powers to investigate complaints and dismiss complaints that are frivolous, trivial, vexatious, misconceived or without substance. The bill will provide a much wider range of tools to deal with complaints when a breach or contravention may have occurred.

The bill includes a new system of adjudication for conduct breaches, which are currently known as minor breaches. Adjudicators will replace the current Local Government Standards Panel and will have the power to make findings and issue sanctions for alleged conduct breaches. Adjudicators will be experienced legal practitioners who are

not involved in the operation of the Office of the Local Government Inspector. Among the sanctions adjudicators will be able to issue in response to conduct breaches is the power to suspend a council member from office for up to three months, with decisions able to be reviewed by the State Administrative Tribunal. When a council member commits a prescribed offence known as a specified breach, the inspector may refer the complaint to the State Administrative Tribunal for determination of a finding and potential sanction. These sanctions may include a suspension for up to six months or a disqualification from office for up to five years.

This new system of breaches is complemented by other reforms in this bill that focus on deterring those involved in local government from breaching the act. This will include the doubling of financial penalties for most offences and the introduction of an infringement scheme for certain offences. In the case of other general complaints, the inspector may assess and determine the best way to deal with the complaint. This may include referring the complaint back to the local government, issuing a notice to comply with the act, appointing a monitor to the local government or initiating an inquiry into the local government.

The introduction of local government monitors is a key aspect of this bill. A monitor is a suitably qualified and experienced person who is appointed by the inspector to assist a local government in resolving issues early, before they escalate. The purpose of monitors is to proactively assist in the resolution of a problem at an early stage. This may include assisting with interpersonal issues, recommending changes to governance practices or advising on financial management or human resources issues. If a monitor is unable to resolve an issue, the monitor may report back to the inspector recommending the inspector take further action.

The bill provides for a legislative framework for monitors to have a range of powers to assist them in fulfilling their role. For example, these powers may include powers to require council members to attend meetings to discuss issues and the authority to temporarily pause or adjourn a council meeting to provide advice to the council and the CEO related to that matter. Aside from appointing monitors, the inspector will also be vested with the important powers to conduct inquiries, including inquiries to recommend whether a council or a council member should be dismissed. The inspector will inherit the current act's powers of the director general to recommend that the Minister for Local Government suspend a council member or council. In addition, the minister will retain the power to establish an independent inquiry with the powers of a royal commission when the nature of the dysfunction or alleged misconduct requires it.

The bill will insert a regulation-making power to enable the prohibition on the use of local government resources, including the local government's insurance policy, for certain legal matters. This regulation-making power is to ensure that the resources of a local government are not used for unreasonable purposes, such as for the payment of an infringement issued to a council member by an inspector. This is a commonsense measure to ensure that ratepayers' funds are not used by councillors to avoid their personal liability for penalties or sanctions, or to fund a legal action that is intended to delay or frustrate the effective resolution of a complaint against the council member.

The government recognises that this is an inherently complex area of legislation and acknowledges that the development of these regulations will require careful consideration and consultation. The bill will deliver the reform proposal to empower local government CEOs to refuse to deal with unreasonable complaints. This is intended to prevent the diversion of the local government's limited resources to dealing with a complaint that is vexatious, trivial or already dealt with. A complainant can seek a review of the CEO's decision by the inspector, who can revoke it if the inspector identifies the CEO's decision was contrary to the act or guidelines published by the minister.

Aside from the new oversight and early intervention system, several other important reforms in the bill reflect other reform themes. The bill will deliver on the reform theme of clearer roles and responsibilities by legislating clearer roles for the council, mayor, president, council members and the chief executive officer. This will provide greater clarity between the distinction of strategic and operational functions in local government.

These amendments emphasise the critical separation between the council as the governing body—responsible for establishing policies, making strategic decisions and appointing the chief executive officer—and the chief executive officer, who is responsible for managing the day-to-day business of local government. This separation will mean that council members must not seek to involve themselves in managing the local government's administration, intervening in the service delivery by the local government or otherwise seeking to perform the role of the chief executive officer. Other reforms, including council communications agreements, aim to ensure that there are supporting frameworks to maintain this critical separation.

The bill will enable local governments to decide to pay superannuation to council members, on top of existing council member allowances. Responding to advocacy from the sector, the bill provides for regulations that can specify local governments, or classes of local governments, that will be required to pay superannuation contributions on a mandatory basis. However, individual council members will be able to opt out of receiving payments, for instance, if a council member has otherwise retired and cashed out their superannuation accounts.

The bill will deliver on the reform theme of reducing red tape and increasing consistency and simplicity by delivering measures to streamline the making of local laws. The bill will extend the interval for the review of local

laws from eight to 15 years, with any local laws not being reviewed in that time lapsing. The bill includes new provisions to allow for shared CEOs or senior employees, which will be particularly beneficial and cost-effective for our smaller regional councils.

The bill contains reforms to improve the formation and capabilities of regional subsidiaries. The bill provides for much greater flexibility in the establishment of regional subsidiaries and contains provisions to establish that the principles for the employment of local government employees should extend to the employees of any regional subsidiary. Other administrative reforms will allow local governments to borrow money against their freehold property, including to fund the construction of improvements on that land, such as new housing. Local governments will also be able to facilitate building upgrade finance agreements, which have been used in other states to fund works such as energy efficiency investments and the restoration of heritage buildings.

The bill will deliver on the reform theme of greater transparency and accountability by providing a stronger framework for the limited circumstances in which part of a council meeting can be closed to the public. The bill will narrow the discretionary scope to close part of a meeting and will introduce the requirement to minuted the specific reasons why part of a meeting has been closed. These provisions aim to prohibit local governments from attempting to close a meeting simply to avoid public scrutiny of the merits of their decision.

The bill includes a regulation-making power that can prescribe a requirement for council members to declare their completion of mandatory training. This provision will be able to be used to withhold fees and allowances from a council member who fails to complete and declare their completion of mandatory training within the prescribed period. This will deliver on our reform commitment to ensure that there is a suitable penalty for council members who defiantly refuse to complete mandatory training.

The bill includes a power for the minister to recommend that the Governor make an order to specify the method of election to be used in a local government district. This power will enable orders to be made to ensure that the most appropriate method of election is used for a district. This can guard against decisions being made by a council to hold elections by a method that does not facilitate the greatest possible engagement of voters for that district. This power is intended to address the recent highly unusual decisions made by the Town of Cambridge to hold in-person elections, without specific consultation of their ratepayers.

The bill reflects the reform theme of improved financial management and reporting through a new requirement for local governments to publish an annual mandatory rates and revenue policy, which is intended to provide ratepayers with a clearer forecast of expected rates revenue to be collected over a number of future years. The introduction of independently chaired audit, risk and improvement committees for all local governments will promote good governance and a culture of improvement throughout the sector. Smaller local governments will be able to establish one audit, risk and improvement committee, shared with other local governments to save on costs.

This bill is a landmark moment for local government in our state. These reforms—the biggest in a generation—will continue to deliver benefits for all Western Australians.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and I table the explanatory memorandum.

[See paper [3712](#).]

Debate adjourned, pursuant to standing orders.

## SOUTH BY SOUTHWEST SYDNEY — STARTUPS

### *Statement*

**HON WILSON TUCKER (Mining and Pastoral)** [5.17 pm]: I was not originally supposed to be here today; I was going on urgent parliamentary business to South by Southwest Sydney, which is a culture, tech, gaming and music conference. The Minister for Innovation and the Digital Economy is over there at the moment. The difference between the minister and I is that the minister's plane was not cancelled. My flight was cancelled very late yesterday evening by an airline that shall not be named—Jetstar—so here I am!

Quite a few WA startups are heading to the conference to pitch and to network. The Department of Jobs, Tourism, Science and Innovation has a good program that sponsors a number of WA businesses to head over there to network and to try to pitch to venture capital funds, attract investment and make some meaningful connections. I give a shoutout to Dannelle Cross from Curtin University, who is helping to coordinate what is called team WA. I think one of the advantages of living in such an isolated place as Perth, Western Australia, is that when WA businesses head overseas together as part of these delegations—I have been fortunate enough to attend a few, including London Tech Week and \_Southstart in Adelaide—they tend to stick together and look out for each other. There is a strong sense of comradery.



I acknowledge two startups that are pitching and made it through to the final event. The first one is Lucy Cooke from SpaceDraft. Lucy was pitching in the entertainment, games and media section. She made it into the final round. I believe we have had that final contest, and I am not quite sure of the result. In Lucy's words, SpaceDraft is the world's first rehearsal tool for real-world scenarios allowing users to create interactive visual playbooks. SpaceDraft is designed to cater to different learning styles, making it an enjoyable and visually engaging productivity tool that promotes inclusivity and fair employment practices. Last week, I visited Lucy's office in Subiaco, which is actually located in a building that was the old Club Red Sea nightclub. I am sure some members have haunted those halls. I am certainly one of those people. It has been a while, member.

The other team that was pitching was WaveX. Its members were Matt Allen, Tracie Clark, Simon Renwick and Tim Green. WaveX is a green wave energy company. It was started by a bunch of offshore engineers who wanted to make a difference and transfer their existing skills into the emerging green economy.

I am not sure what the outcome of the finals was, but I am sure that both startups have done WA proud and I wish them all the best.

### **JANDAKOT JETS JUNIOR FOOTBALL CLUB**

#### *Statement*

**HON STEPHEN PRATT (South Metropolitan)** [5.20 pm]: This evening, I want to take the opportunity to congratulate the Jandakot Jets Junior Football Club. As many members would be aware, the season recently changed from footy to cricket and a lot of footy clubs celebrated their end of season with wind-ups and awards. As a local member of Parliament, I have had the privilege to support the Jandakot Jets Football Club down at Atwell Reserve in Atwell for a few years. It is a truly impressive organisation, full of families from the area and run by committed volunteers who go above and beyond. Of course, the most important element is a real sense of community. Do not take just my word for it; look no further than the weekend just gone, when the inaugural regional development council community football awards were held and the Jandakot Jets were well represented with several nominations. They included Cameron Bond for the young volunteer of the year award and Jackie Sutherland for the administrator of the year award, and Brooke Ward, who won the club person of the year award. Congratulations to those local legends.

The awards did not stop there. The club itself won the Further with Football award for the South Fremantle district. The award was in recognition of the Jandakot Jets blue and pink rounds, which saw players and officials wear the Jandakot Jets jersey in blue or pink to raise awareness for important mental health causes. The rounds raised funds for the Kai-Fella foundation, which I have had an association with over the years, as well as the National Breast Cancer Foundation. When I was approached to support these rounds and sponsor the club, the decision was easy. The themed rounds raised an impressive \$1 760 for the National Breast Cancer Foundation and over \$2 000 for the Kai-Fella foundation. Over the past three seasons, the club has raised over \$10 000 for both charities, which is a commendable effort.

In a lot of ways the award was a cherry on top of a pretty successful season for the club. Its on-field success included a premierships for the year 11 and 12 boys side. That is without mentioning the booming and expanded number of girls teams and the success they are bringing the club. I would normally make the point that the Jandakot Jets senior team has a strong talent pathway to rely on for the next decade, except that the senior club also took out a premierships in the C1 reserves division. It seems the club has a very solid foundation across the board to continue building upon. Given the success of the club, it should come as no surprise that it is planning for the future and working towards upgrades of its facilities to ensure that going forward they are appropriate to serve the local Atwell community, meet growing demand and all the club to continue moving from strength to strength. I have seen the planning work that has commenced and I look forward to doing what I can to support the club's efforts. Clearly, when the Jets win, the whole community wins. Congratulations must go to Jackie Sutherland and all the committee members, award nominees, volunteers, parents and players at the club. Go Jets!

*House adjourned at 5.24 pm*

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### QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

#### HEALTH — FUNDING — REGIONS

**2176. Hon Louise Kingston to the Parliamentary Secretary to the Minister for Health:**

As the Minister has previously advised, there has been significant reform and investment in the health care system, including staff and 700 additional beds, as well as a \$47 million investment in the establishment of the State Health Operations Centre, and I ask:

- (a) can you outline the management of the restructure and the benefits to regional centres;
- (b) can you elaborate on how the State Health Operations Centre will function to improve patient transport and bed flow across the state health system;
- (c) could you provide details on the number of new regional positions that have been created in rural and remote areas as part of the Minister's health system reforms;
- (d) what specific steps has your government taken to address the issue of bed blocking by National Disability Insurance Scheme and aged care patients awaiting placement in appropriate facilities;
- (e) how many times has elective surgery been cancelled in regional hospitals because of bed blocking; and
- (f) can you advise how many of the 700 additional beds have been in rural and remote areas?

**Hon Pierre Yang replied:**

- (a)–(c) The State Government invested a record additional \$3.2 billion in Health in the 2024–25 State Budget. Since coming to government, the health budget has increased by 45 per cent and in the same period, the workforce has grown by 4,400 full-time equivalent nursing staff and 1,800 full-time equivalent medical staff. Additionally, since 2021, over 700 beds have been delivered across the system with a further 550 in the pipeline.

Included in significant reforms to the health system is the State Health Operations Centre (SHOC) which will improve patient transport and flow by managing patient flow throughout the system through access to real time data and centralised coordination, including for regional patients. Additionally, the WA Country Health Service Command Centre has been established to provide 24/7 services including emergency care specialist access for local inpatient admissions, facilitating patient transfer and service delivery for maternity, mental health and palliative patients.

The WACHS Command Centre clinical and coordination teams will be collocating with the SHOC late 2024. The benefits of this collocation for country patients are multifaceted and include patients transfer coordination of over 21,000 inter-hospital transfers in collaboration with St John Ambulance and Royal Flying Doctor Service, ensuring inbound patients from country locations get to the most appropriate facility, supporting better collaboration with metropolitan hospitals and the opportunity for real time situational awareness between WA Health and WA Police in the event of significant emergency.

- (d) While Aged Care and the NDIS are primarily Commonwealth Government responsibilities, the State Government has introduced nation leading reforms to support the discharge of older adults where clinically appropriate. These include the From Hospital to Home program, the Long Stay Patient Fund, Transition Care Program and the Long Stay Patient to Respite Program.
- (e) The term 'bed block' refers to levels of bed occupancy impacting patient flow from the emergency department. It is unclear what information is being sought from this question.
- (f) 65 additional beds were delivered with an additional 170 beds currently under planning and development for areas under WA Country Health Service.

#### LOCAL GOVERNMENT — DOG ACT — REGISTRATION SYSTEM

**2180. Hon Dr Steve Thomas to the minister representing the Minister for Local Government:**

I refer to the registration system for dogs under Part III of the *Dog Act 1976*, and I ask:

- (a) is the present lifetime registration, as recorded in a local government authority, of an unsterilised dog to be transferred onto the new database;
- (b) will the recorded details in the present system remain unchanged when transferred into the new system;
- (c) is the owner of the dog required to have a separate owner number for each dog that they own; and
- (d) is the owner of the dog required to hold a separate approval to breed for each dog that they own?

**Hon Jackie Jarvis replied:**

The Department of Local Government, Sport and Cultural Industries is currently developing and establishing the Pets WA centralised registration system:

- (a) Yes;
- (b) Data in the present systems will generally remain unchanged when transferred into the new system (Pets WA). For example, data regarding a dog which is known or reasonably believed to be deceased may be updated during data migration. Pets WA will also capture additional data such as a new ‘dog owner number’;
- (c) No; and
- (d) No.

## CONSUMER PROTECTION — COMPLAINTS — RETIREMENT VILLAGES

**2197. Hon Steve Martin to the Minister for Finance; Commerce; Women’s Interests:**

I refer to complaints made to Consumer Protection in relation to retirement villages, and I ask:

- (a) how many complaints have been made for each of the years below:
  - (i) 2020;
  - (ii) 2021;
  - (iii) 2022; and
  - (iv) 2023;
- (b) for each of the years in (a), how many complaints were there, organised by category type (in terms of the broad nature of the complaint); and
- (c) for each of the years in (a), how many complaints were:
  - (i) successfully resolved;
  - (ii) incomplete/ unresolved;
  - (iii) withdrawn; and
  - (iv) determined to not be within the scope of consumer protection?

**Hon Sue Ellery replied:**

(a)

Year	Number of Complaints
2020	43
2021	44
2022	34
2023	31

(b)

Dispute Cause	2020	2021	2022	2023
Advertising and marketing		1		
Dispute		2		
Failure to Act in best interest of principal	1			
Fees	15	8	5	3
General breach of legislation or regulation*	15	6	9	5
General financial management				2
Obtaining and providing information				1
Other	4	15	13	7
Professional Conduct	3	1		
Property Management	5	11	7	13

\*The “General breach of legislation or regulation” category captures complaints concerning tenant enquiries, issues with quiet enjoyment, landlord enquiries and civil disputes, amongst others.

(c)

<b>Outcome</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
Successfully resolved	28	29	26	21
Incomplete / unresolved	4	2		2
Withdrawn	5	5	3	1
Determined not to be in the scope of Consumer Protection	5	8	5	5

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