Parliamentary Debates
(HANSARD)

FORTY-FIRST PARLIAMENT
FIRST SESSION
2023

LEGISLATIVE COUNCIL

Thursday, 17 August 2023

Legislative Council

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

VISITORS — CHRIST THE KING SCHOOL

Statement by President

THE PRESIDENT (Hon Alanna Clohesy) [10.02 am]: Good morning, members. Let me welcome to the Legislative Council students and teachers from Christ the King School.

PAPERS TABLED

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

CITY OF KALAMUNDA KEEPING AND CONTROL OF CATS LOCAL LAW 2023 — DISALLOWANCE

Notice of Motion

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

CANNABIS — LAW REFORM

Notice of Motion

Hon Sophia Moermond gave notice that at the next sitting of the house she would move —

> That this house urges the Cook government to legislate to introduce a complete defence to the presence of THC in a driver's oral fluid, blood or urine in circumstances when —
>
> (a) the driver has a valid doctor's prescription for a medicine containing THC;
>
> (b) the offence does not involve dangerous or reckless driving; and
>
> (c) an officer has not established driver impairment by another means.

REGIONS — ECONOMIC CONTRIBUTION

Motion

HON COLIN de GRUSSA (Agricultural — Deputy Leader of the Opposition) [10.04 am] — without notice: I move —

> That the Legislative Council —
>
> (a) acknowledges and commends the invaluable contributions of regional Western Australians to the state's economy and society;
>
> (b) expresses gratitude to the hardworking individuals in regional communities who play a vital role in our state's prosperity;
>
> (c) condemns the state and federal Labor governments for their attacks on fishing, agriculture and forestry as well as failures in regional health care and housing, which are negatively impacting regional Western Australians; and
>
> (d) affirms its commitment to advocating for policies that prioritise and support the interests of all Western Australians, regardless of geography.

Before I begin debate on the motion, I pause for a moment to reflect on last night's football game. I am sure that, like me, many members also watched that game intently. I am particularly proud of the Matildas. They are in the top four—probably even top three—in the world. That is a monumental achievement for football. It is the only game that can be called football since it is the only game in which players cannot use their hands. I am very proud of the legacy the Matildas have left sport in Australia and in particular for women's sport. I am sure everyone would agree that that strike of Sam Kerr's in the sixty-third minute was the best strike of a football they have ever seen. It was as good as you get at any level in any competition anywhere in the world, male or female.

I take this opportunity to say, "Well done, Matildas." Let us go for bronze now!

Members: Hear, hear!

Hon COLIN de GRUSSA: I move to the motion. The motion is about acknowledging and expressing gratitude to the hardworking individuals in regional Western Australia who make an invaluable contribution to Western Australian

society. Members will be well aware that Western Australia is a powerhouse economically. We are the engine room of the nation and a huge proportion of that economic power is delivered by regional people and regional businesses. Half of Australia's goods exports come out of Western Australia each year, be that minerals and petroleum, agriculture base or whatever. We are a huge export powerhouse, a global leader in mining and petroleum sectors, which is recognised worldwide. We have very strong competitive advantages over other nations. We are a very stable country to do business with. For example, lithium is an incredibly important mineral in the modern world in the transition to clean energy, and Western Australia accounts for about 57 per cent of global production. That is a huge achievement for Western Australia. It is because of those men and women in Western Australia who work in our regional areas to produce the exports that make us such a global powerhouse.

Interestingly, we are becoming a powerhouse in the area of critical minerals, which are incredibly important as part of that energy transition, with a seven per cent share of nickel on a global basis, six per cent of manganese, six per cent of rare earths and three per cent of cobalt. Forty per cent of Australia's barley, 36 per cent of Australia's wheat and 43 per cent of Australia's canola exports also come out of Western Australia. We are a powerhouse in the production of mineral and agricultural resources.

Western Australia is also a powerhouse as a tourism destination and a wonderful place for people to visit and tour around. All those people in the regions make an invaluable contribution. I am personally very grateful for all those who work in our regional areas and who help to cement our place as a powerhouse that produces those products. I take this opportunity to express my gratitude to all the people in the regions who contribute to the state's bottom line through their hard work and commitment.

I move on to limb (c) of the motion, which I am sure is the most interesting part for members opposite—that is, the continued attacks by the Labor government, both state and federal, on many of those industries. Incredibly, we see those attacks on fishing, agriculture and forestry.

Hon Kyle McGinn interjected.

Hon COLIN de GRUSSA: It is Thursday, so I will forgive members for their interjections.

What is really important here is these attacks and the effect they have on the people of Western Australia, a powerhouse economy.

Several members interjected.

Hon COLIN de GRUSSA: A powerhouse economy, honourable member. It is a great word.

Hon Darren West: Could you spell it?

Hon COLIN de GRUSSA: I probably could spell it. President, the unruly interjections are distracting me somewhat.

The PRESIDENT: Order! Order, member.

Hon COLIN de GRUSSA: Our powerhouse economy very much does not need these attacks on industries in our regional areas.

I want to draw members' attention to attacks on a number of important sectors. Let us not forget the failed proposal to nationalise the lobster industry and the attacks on our charter fishing operators and the demersal fishery. Let us not forget marine parks that are being created all over the place without proper consideration of the impacts on those communities. I am not against marine parks, but we have to consider the impacts on the communities that they affect. I do not think this government has done that to any great level at all. It is important that we also talk about the effect of the federal government's proposed phase-out of live export as well. On that, I turn to an article from ABC online news that appeared on 15 August, just two days ago. It reports that mental health support services in regional areas in Western Australia have reported an increase in the number of people reaching out for help as stress increases on farms. The article goes on to say —

> Western Australian farmers have seen new challenges added to existing pressures —

We all know that farming can be a very stressful industry —

> in the past 12 months, according to Wheatbelt Rural Aid counsellor Roger Hitchcock.
>
> He said the concerns included the promised phase-out of live sheep export among other legislation and the rising cost of production.

Cost of production is always a challenge for farmers to manage. Further on in this article we are introduced to Lake Grace farmer Shane Carruthers who said that he noticed more people in his community struggling with their mental health. He goes on to say —

> … mental health had been a long-term issue in regional areas, but political moves such as the planned phase-out of live export … exacerbated the problem.
>
> "It's not a good thing and mental health in the community is paramount," he said.

I am sure we would all agree with that. He continues —

> "I just hope the government sees a bit of common sense and realises what they're doing to these country communities and the welfare of the people."

I think that is the really important piece in this puzzle: the impact on the people and the communities themselves. It may well be fine for an agency or a minister to sit in their ivory tower and make decisions, but when all those decisions come together and impact one community or a particular sector more than others, what consideration is given to the impact on those individuals and the pressures it puts on them? It is unacceptable if we end up in a situation in which individuals in those communities and their mental health are so adversely affected.

Let us talk a little about marine parks. The proposed south coast marine park has been very topical. It has been a train wreck from the start to where we are now. That is largely because of a failed consultation process that did not consult properly with the community and certainly did not listen to the community's views.

Hon Martin Aldridge interjected.

Hon COLIN de GRUSSA: As my colleague Hon Martin Aldridge points out, that sounds familiar because it is par for the course for this government to not properly consult with communities. Proper consultation is something that it appears unable to do. The mental health concerns of fishers and the potential impacts on them were raised early on in consultation with members of the community reference committee. Of course, it all depends on the final indicative management plans when they are released and what impact that will have on the fishers. It is safe to say that, from what I understand from people I have spoken to and met with, the potential is for those impacts to be very significant on what is an important industry for the south coast, particularly in communities like Esperance. It will be devastating to see those industries be put under pressure and damaged by a decision that they did not make and was essentially forced upon them. Those communities were not asked whether they wanted marine parks; it was a decision made by government. I recall the first of those community consultation meetings with the former Minister for Environment, Amber-Jade Sanderson. At that point she said to the community, "The question is not whether you are getting a marine park; you are getting one." The community was never asked, "Do you think a marine park would be valuable?" The science does not suggest that a marine park is necessarily needed. However, it is possible for it to coexist with those industries if consultation is done properly and the proposals are developed properly.

I will talk a little about fishing—in particular, the west coast demersal scalefish resource. I do not have an issue with managing a fishery sustainably; however, it comes back to how we interact with the people involved in that fishery. Frankly, sending an email to operators in those areas, particularly tourism operators, that says, "We understand your stress; here is the number for Lifeline", is not acceptable on any level. It is not acceptable to recognise the serious impacts of those decisions, but then flippantly send an email with the number for Lifeline. Come on! We have to do better than that. We have to properly consult with these people, which means actually understanding what their businesses are, how they operate and how they can potentially pivot to do other things so that the fishery can be maintained sustainably, but not to the point at which it puts those businesses out of business and puts extra pressure on communities. That is not needed. That is certainly what operators have been communicating with me; they are in dire states and have invested in equipment and in their businesses in good faith, believing that they had a sustainable business to continue with. Unfortunately, many of them have been put in a position in which their families are facing incredible pressure as a result of government decisions.

I come back to what limb (c) of this motion is about. It is about the pressure consistently being put on a particular type of business or location of a business. It would appear to those people that the government is telling them that what they are doing is wrong, that they are not allowed to do what they do and that, somehow, those people who are going along doing something perfectly legal and acceptable from a community perspective are suddenly being told that it is not right. That may not be what government thinks, but that is the impression these people get. When we make decisions like this, it is important for all of us to understand what the impact will be on the people. We should look not just at the numbers and do a desktop analysis on the social and economic impact; we need to properly understand what the impact will be on the people, their families and their communities. From where they sit, it certainly looks like this government and the federal government has it in for them. I do not think that is acceptable at all.

I talked a little about socio-economic impacts in my contribution, and this is one of the really important parts of the puzzle that is not well done. In particular, I use the marine park example: no socio-economic impact assessment has been done. I have asked a number of questions about that. A bureaucrat who sits behind a desk in Perth and does a quick analysis is not good enough. The government needs to talk to businesses to understand the impacts and flow-on impacts for the community; that applies to any government decision. Live sheep exports is another good example. The federal decision to ban live sheep exports is a political one; it is not based on an issue with the industry. It is incumbent on the state government and the Minister for Agriculture and Food to advocate for that industry. Instead, only last week, the minister tabled a submission in this place that does not advocate for the export of live sheep and is not in accordance with her words last year —

> "I do support live sheep exports it's an important part of the mix … I absolutely do," …

Clearly, her submission is about shutting down the industry. It does not advocate for the continuation of the industry; rather, it is about the transition. Perhaps the minister needs to correct her position because if she truly supported the industry —

Several members interjected.

The PRESIDENT: Order!

Hon Kyle McGinn interjected.

The PRESIDENT: Order!

Hon COLIN de GRUSSA: I make nothing up —

The PRESIDENT: Order! That includes all members.

Hon COLIN de GRUSSA: The words are written in the submission. It advocates for a well-managed transition with a clear direction and sufficient time and resources for adjustment along the whole supply chain. That is not advocating for the continuation of the industry. If the minister were truly advocating for the continuation of the industry, that is what the submission would have said. It does not say that; it says the industry should be transitioned.

Several members interjected.

The PRESIDENT: Order! Settle. Thank you.

Hon COLIN de GRUSSA: Thank you, President. It is Thursday and it is the will of members to voice their approval or disapproval of comments made by members. I welcome members to stand and contribute to the debate on the motion. I am sure they will.

The fact is that the submission the minister tabled in this house sets out a road map for the federal government for how it should go about killing off the industry in Western Australia—that is what it does. It tells the federal government how the industry can best transition. It does not advocate for the continuation of the industry. Those government decisions are creating the mental health issue that farmers, fishers and others are reporting, certainly to me. Those decisions need to be reflected upon. If we are all proud of the work that our men and women in regional Western Australia do to support our economy, in turn, we need to return that support. If the government decides to close a sector or change what is done in a community, it needs to understand what impacts that decision will have and put the services and support in place before it makes those decisions, rather than flippantly sending people emails that read, "Here's the number for Lifeline."

Limb (d) of the motion is self-explanatory. I certainly support policies that are in the interests of all Western Australians and in which geography is irrelevant. That is right across the board, whether that be in agriculture, fisheries, education or whatever. The government must make sure that it does not discriminate based on geography. When the government makes a policy decision that will have an impact more broadly across a regional area or any one particular area, it must understand what those impacts will be, the effect that decision will have on people within those communities and how it might better manage those decisions and communicate the things that it will do in those communities so that we do not see those outcomes and a disproportionate effect on communities outside metropolitan Perth. It is incumbent upon all of us to do that when we make those decisions and it is incumbent on the government to listen.

Hon Kyle McGinn interjected.

The PRESIDENT: Order! Interjections are one thing, but constant mumbling is another. Hon Colin de Grussa.

Hon COLIN de GRUSSA: Thank you, President. It is incumbent upon governments to properly engage with communities, understand the effect that their decisions will have on communities and individuals and make sure that they do not damage the economic powerhouse of our state and nation.

Hon Kyle McGinn interjected.

Hon COLIN de GRUSSA: Hon Kyle McGinn does not agree with me that we are an economic powerhouse.

Hon Kyle McGinn: No, it's because your zinger word today, member, is "powerhouse".

Hon COLIN de GRUSSA: "Powerhouse" is the word of the day. Sam Kerr was a powerhouse last night. I cannot get the word out of my head. That is the word of the day and, on that note, I will leave my contribution there.

The PRESIDENT: The question is the motion be agreed. Hon Martin Aldridge.

Several members interjected.

HON MARTIN ALDRIDGE (Agricultural) [10.25 am]: Thank you, President; and I thank you for the support I am getting from the other side of the chamber. I rise to welcome the excellent motion moved by the Deputy Leader of the Opposition—so excellent, President, I think the house should contemplate suspending standing orders to bring the motion to a vote, because it is something that all members of the chamber can get behind. In this new era of humility and humbleness from a government that is prepared to listen, it could stretch and support this excellent motion.

I draw members' attention to an article in *The West Australian* on 9 August, which is headlined "We got it wrong on heritage". The article is an opinion piece by Premier Roger Cook, and states —

> Good governments demonstrate humility, use common sense and listen to the people. And under my leadership, that is exactly what this Government has done.

I go back a week to another *The West Australian* article dated 27 July, with the headline "I'm not Cooked". That is quite a headline. It reads —

> After Housing Minister John Carey revealed on Tuesday that Mr Cook had "stressed" to his frontbench to be "humble", Finance Minister Sue Ellery added to the impression the poll dominated Cabinet discussions on Monday.
>
> "Premier Cook has made his position really clear: we are not an arrogant Government," Ms Ellery said on Wednesday.
>
> "We are not to present as an arrogant Government. You know, we need to be really humble.

It is one thing to be humble or present as humble, but we now have a situation in which the Premier is so humble that today he is too busy for the Parliament of Western Australia; rather, he is at the Labor Party conference in Brisbane. It will be very interesting to see, on behalf of all Western Australians, how the Premier might be advancing with his Labor Party colleagues on the floor of that conference issues such as live sheep export, which the Deputy Leader of the Opposition mentioned today, instead of being here for Parliament. Again, we saw some humbleness last week when the mother of the house, Hon Kate Doust, moved a very good motion about cybersecurity, and yesterday there was another good government motion about sport. However, it appears that we reverting back to form with the motion that is foreshadowed for private members' business today because, again, it is about the government going back to congratulating the government. That is not exactly an example of humbleness and humility.

The government keeps repeating the phrase and purporting to be a government for all Western Australians—a government that will deliver for all Western Australians, but the reality could not be farther from those sayings. The government's regional development agenda is dismal; it has shut down, cost shifted and centralised royalties for regions. People have to look up the name of the Minister for Regional Development. The Minister for Regional Development does not leave the coastal plains between Perth and Bunbury. This morning, because I wanted to make sure that I did not mislead the house, I had to look up who is in charge of regional development in Western Australia. I thought it was Hon Don Punch, MLA. I jumped on the minister's Facebook page. I assume I got the right page because it had a blue tick and appears to have official status with Facebook. The profile on the page states that Hon Don Punch, MLA, is the member for Bunbury and the Minister for Disability Services; Fisheries; Seniors and Ageing. I am not sure who is the Minister for Regional Development and the Minister for Volunteering because, according to the minister's official Facebook page, it is not him. Somehow, either we have dropped these important portfolios in the middle of the night or the government realised that its performance, particularly in regional development, is so bad it does not even want to acknowledge who the Minister for Regional Development is anymore.

Hon Sue Ellery: You can actually do better if you're relying on a Facebook post to prosecute your argument.

Hon MARTIN ALDRIDGE: I still have five minutes, Leader of the House.

Of course, this is the government that is delivering for all Western Australians, which has just moved the department of regional development. It had the opportunity to make a decision to decentralise but will move to swanky new offices in the Perth CBD, complete with taxpayer-funded hair straighteners. I cannot make this stuff up. These are the investment priorities of the Department of Primary Industries and Regional Development. It was not only to relocate its bureaucracy to the CBD but also to put taxpayer-funded hair straighteners in the bathrooms.

If members look at this motion, there is far too much to canvass in 10 minutes. Regional health care is one of the areas I want to consider in the time I have remaining. The government says it is delivering for all Western Australians, but there is a significant divide between those people who live in the metropolitan area and those who do not even live that far from Perth. There are too many cases to go through, but one we have discovered of late is in a town that the Labor government likes talking a lot about—Collie. The government, in its hospital blitz, announced it was going to fund $1 million to redevelop the nursing quarters in Collie. We have now found out that the government has completely walked away from that commitment, saying it has run out of money. It underestimated how much things were going to cost and re-prioritised the money. The nursing quarters in Collie are no longer a priority. We asked a question last week about what impact this would have. There are 18 staff—a number way bigger than I thought was going to be the case. There are 18 staff at Collie Hospital now being housed in hotels, motels and short-stay accommodation. That is something to be proud about, members of the government. This is during a housing crisis. Think about the impact that is having on a regional community where, effectively, temporary or short-stay accommodation is being occupied on a permanent basis by public servants. How appropriate is accommodation for health professionals staying for the medium to long-term in short-stay accommodation? This is because the government will not spend $1 million on accommodation facilities at Collie Hospital. We get answers like this all the time from government members.

They say costs are escalating, there are supply shortages and the cost of doing business is higher. This is at the same time that the government's election commitment to build another pedestrian bridge across the Swan River went from $50 million to $100 million—it doubled!—and no-one blinked. The government just wrote another cheque for $50 million. That is not to mention the Metronet blowouts. These projects are sacrosanct. They cannot be stopped, touched or slowed down. When it comes to providing accommodation in Collie, probably one of the only regional towns that Labor has an interest in, $1 million is too much. It has been scrapped. The project has gone and nurses are in hotels or motels. We then come to this place and the other place and debate how more people can be attracted to the nursing profession. The debate was about how more nurses could be attracted to regional Western Australia. I tell members what, putting them up in hotels and motels as a solution is probably not conducive to attracting health professionals to work in regional Western Australia.

We are not talking about Wyndham where the government has shut the hospital. It now only operates a daylight service when it used to be open 24/7. The government shut the hospital because it cannot get staff. We are not talking about Carnarvon where we are still telling expectant mothers to go to Perth. There is actually a case now in which one mother has been told she cannot even deliver in Perth; she has to go to Bunbury because no beds are available in Perth or Geraldton. That is really something to be proud of, members of the government. I am sure members opposite might contemplate this when they get to their back-slapping motion today in private members' business about diversifying the economy and doing more. I hope they contemplate not just these two examples I have given, but the many more examples, whether they be in Geraldton, Tom Price or Mullewa. There are too many to list. I hope they reflect on their record and their commitment to delivering for all Western Australians.

HON STEVE MARTIN (Agricultural) [10.35 am]: I rise to make a contribution to the outstanding motion by my colleague Hon Colin de Grussa. Members opposite have been unusually subdued for a Thursday. Even Hon Kyle McGinn's heart is not in it this morning. It is half-hearted at best from members opposite. I think that might be because they realise there is more than a grain of truth in the excellent motion that has been put forward. They are not flying in regional Western Australia and they know it. They know that if they turn up at the moment, they are not popular, whether it is on the live sheep trade, forestry or the Aboriginal cultural heritage laws, on which they have said, "Everything's going smoothly. Hang on; it's not!" They are not popular on a number of issues. This is an outstanding motion and it is very timely. I will take a little bit of time to discuss one of the legs of this motion.

It is nearly two years since the decision by former Premier McGowan to shut down the forestry industry in the native forestry sector. We talk about consultation. Workers were told the morning of the decision that those generational small businesses were gone—dead and buried. It was overnight. The government did not take it to the election in 2021. It did not consult with the sector but shut it down. The government put in place a transition package. It is lovely terminology, the "transition package". It is nearly two years since that was announced. How are we going? How are we transitioning out of the hardwood sector? How are those small businesses travelling? How are those communities going? How many new industries have been created in that transition package? How many new jobs are there? I guess in three or four years, when we look back at the dust of what is left of that industry, it might be an interesting PhD for someone to look at how the transition package worked.

I will concentrate on one very small part of the timber industry: furniture manufacturing businesses in Western Australia. It is a very niche but wonderful industry sector. It produces some outstanding gear that is sold around the nation and around the world. It is well known. Our jarrah furniture is a well-known Western Australian product. Those businesses do not have contracts with the forestry sector. They have been handed whatever is left, basically. Those businesses were obviously very concerned about their future going forward after that forestry decision. They are limping along. They have almost got through to the end of 2023. There is some supply. There is nowhere near what they had been told they would get. Some have been forced to source overseas timber or consider sourcing overseas timber to keep alive the dozens and dozens of jobs, mainly based around suburban Perth in Welshpool and Osborne Park. There are also some businesses in regional Western Australia. The new forest management plan is due to commence in 2024. They have no clarity at all about what is coming. There is no guarantee of supply. No contracts are in place so they can say what their business will look like after the end of this year. We are in the middle of August.

That brings me to another issue. Hon Martin Aldridge raised the fact that our Premier is about to attend the national Labor conference. He should be discussing the live sheep trade. He should be on the floor at that convention moving a motion asking for the entire Labor movement to support the live export of sheep. I am guessing that he probably will not. The decision to ban the live sheep export trade is clearly a federal decision. The ban is having a far-reaching impact across the Western Australian sheep and livestock industries, and the farming industry more broadly, well in advance of it happening. That is obvious to anyone who runs a business. If a government tells a business that it is going to ban that business at some unknown stage in the future, it will have an impact from the second that decision is made. We have seen that impact flow through the Western Australian sheep industry in recent months, so I am concerned about that federal decision. I am also concerned that the transition package we will be handed will be run by the state government, and we have seen what has happened with the forestry transition package. Somehow our state will be given a transition package for the live sheep export industry to run. We know what that

will look like. We will be told that the export industry will not be banned immediately and that we will be given 18 months, two and a half years or three years to transition in an orderly manner, to do something else, and a few scraps will be thrown our way.

Hon Martin Aldridge interjected.

Hon STEVE MARTIN: Yes, alternatives such as solar panels, wind farms or hemp, Hon Dr Brian Walker. That will be fine and it will be an orderly transition, but that is absolutely not how industry works. From the second that ban is announced, those businesses will be dealing with the impact. The state transition package will not work; it simply will not work. That is another industry that the Labor government will abandon and leave to its best devices.

I was not going to raise this next matter but Hon Martin Aldridge talked about some of the health impacts in regional Western Australia. He raised one issue in particular that has come to my attention and that is the issue in Collie. Right across regional Western Australia, local shires, through their very small rate bases, are being asked by the state government—with a budget of around $30 billion or a surplus of many billions over the last couple of years—to pay for the accommodation for health services staff. That is extraordinary. The state government is saying to the shires that have a rate base of $1.5 million, that it cannot quite provide the accommodation or make it work. It is saying, "Would you mind building the accommodation? You can take out the loan and pay it off over 15 years. We will lease it. We might lease it for the length of loan or we might not. We might leave you hanging for the last five years of the loan, but that is okay. Somehow we cannot afford to build that housing." But the Shires of Wyalkatchem, Trayning, Narrogin and maybe Collie have been asked to foot that bill, which is an extraordinary thing for a state government as wealthy as this one to do. By the way, this is not happening in the suburbs. It is not happening in Armadale, Gosnells, Claremont or Joondalup. Ratepayers in those suburbs are not paying for housing for health services staff. That has been left to regional Western Australians.

In the short time that I have left, I want to mention the first couple of parts of this excellent motion that acknowledges the extraordinary contribution that regional Western Australians make to this state. That is obvious. Anyone in government would be well aware of that from the mining, agriculture, horticulture and fisheries industries et cetera. In my patch alone in the Agricultural Region, more than 50 million tonnes of grain have been produced in the last two years, with another sizable crop coming up, I hope. That is a wonderful contribution. Most of it is exported, which is also important for this country and this state. That task is down to the men and women who work and live in regional Western Australia.

Recently, an interesting opinion piece by Owen Whittle, secretary of UnionsWA, talked about the need for wage rises in the public sector, which is appropriate, but he said that public sector workers had borne the brunt of the COVID pandemic. They certainly dealt with some extra workload. People in regional Western Australia absolutely did not have access to the staff that they needed when our borders were closed. They have had a seriously extra workload in recent years, coupled with those two very large harvests in the broadacre grain sector. Well done to every single one of those small businesses. Farming in this state is, thankfully, still a family business. There is a little bit of the corporate stuff going on, but it is still the family business that is the backbone of regional agriculture. I would like to echo the remarks of my colleagues by thanking them for their excellent work on behalf of the state.

HON SUE ELLERY (South Metropolitan — Leader of the House) [10.45 am]: I am happy to support parts (a), (b) and (d) of the motion put by Hon Colin de Grussa.

The PRESIDENT: Leader of the House, are you the —

Hon Dr Steve Thomas interjected.

The PRESIDENT: Excuse me. The one person who should be speaking is the chair. Leader of the House, can you indicate if you are providing the government response?

Hon SUE ELLERY: Yes, I am. I am happy to support parts (a), (b) and (d), and I will talk about those in a minute. I am the lead speaker on behalf of the government, but I am going to take less than my allowed time because we have here with us the minister for two of the portfolios mentioned in the motion, and we have the excellent Parliamentary Secretary to the Minister for Fisheries, so he is going to make a contribution as well.

Hon Peter Collier: That is three Labor speakers on non-government business.

Hon SUE ELLERY: What I am trying to explain, honourable member, is that I am going to take less time, and I am hoping that if I take less time, members opposite—but I recognise that it is their motion —

Hon Peter Collier interjected.

The PRESIDENT: Order!

Hon SUE ELLERY: I am actually trying to be helpful because I think it would be useful for members opposite to hear from the minister as well. I would be surprised if they did not want to hear from Hon Kyle McGinn. Anyway, I am going to use less time. Of course we are happy to support parts (a), (b) and (d) of the motion. We are happy to acknowledge and commend the invaluable contributions of regional Western Australians to our economy and society. We are happy to express our gratitude to the hardworking individuals who play a part in that. We are

also happy to affirm our commitment to advocating for policies that prioritise and support the interests of all Western Australians, regardless of geography, noting, of course, that we represent most of the regional areas of Western Australia. They are our constituents so of course we are going to support them.

In the few minutes that I want to take, I am going to read from a document titled *WA budget overview 2023–24*. I am happy to table it, but it is available publicly. I want to turn in particular to the bit that summarises our investment in the regions. One of the key parts of that is the reference to the $4 billion allocated to royalties for regions over the next four years, but the next bit in particular that states that we are making —

> a massive $11.2 billion investment in regional infrastructure, of which only —

Several members interjected.

The PRESIDENT: Order! There is too much noise on my left.

Hon SUE ELLERY: Thanks, President —

> 9 per cent is funded by Royalties for Regions.

What is interesting about that is that if we go back to the last time the other side was in government, in its last budget in 2016–17 its asset investment program allocation was $6.9 billion—compared with our $11.2 billion—of which 22 per cent came out of royalties for regions. That is a significant difference and demonstrable evidence of our commitment to regional WA. The overview states that there was a $342 million increase in spending on regional health and mental health initiatives. I note the commentary by Hon Colin de Grussa. It is right to talk about mental health, which is why we are increasing our spend in mental health in regional WA. An additional investment of $61.6 million has been put into Government Regional Officers' Housing to support the attraction and retention of public sector workers; $32.6 million to protect the state's livestock industries, which I am sure the minister will talk about; $31.3 million for the Buccaneer Archipelago marine parks; $23.6 million to support the survivors of family and domestic violence in the regions, including the new FDV one-stop hub in Broome; $20.2 million for a future drought fund, which I am sure the minister will talk about as well; and $20.7 million for the regional airfare zone cap, which is an incredibly popular and sensible investment in regional WA. In the education and training sector, $6.8 million has been invested in upgrades for agricultural colleges around the state; $93.4 million in new and expanded initiatives to support students in the regions to access training, women to enter apprenticeships and non-traditional fields, and for Aboriginal people to gain employment; $3.5 million for the expansion of the heavy vehicle driving operations training program in the Kimberley and Pilbara. There has been investment in upgrades to Albany High School, Dampier Primary School, Derby District High School, Donnybrook District High School, Eaton Community College, Halls Creek District High School or Roebourne District High School, and continuing investment in schools to ensure facilities continue to improve across the state.

I turn to investment in the wellbeing of Aboriginal people, many of whom live in regional Western Australia: $42.6 million has been spent over four years for the essential municipal services upgrade to Aboriginal remote communities after the previous federal government vacated the space; $18.3 million in the South West Aboriginal Medical Service health hub; $11.8 million for initiatives forming part of the Kimberley Juvenile Justice strategy; $6 million to establish the Aboriginal community controlled organisation peak body; $5.8 million to extend the driving access and equity program; $5.8 million for additional Aboriginal mental health, and the list goes on. There are others who want to contribute to this motion, so I reiterate that I am happy to support limbs 1, 2 and 4, but will not agree to limb 3. I am happy to continue as part of a government that is investing more than has ever been invested before in regional Western Australia, an area we represent very well.

HON JACKIE JARVIS (South West — Minister for Agriculture and Food) [10.52 am]: I thank the opposition for the opportunity to respond, noting that it is non-government business. Given the short time, I will speak firstly about forestry. Some comments were made about native forests. The reality is it was a science-based decision. It is not environmentally, socially or economically viable to continue harvesting our native forests. That is why we put $80 million into a transition plan. The opposition can criticise it all they like, but the government has provided money to timber mills, displaced workers and harvest and haulage contractors. We supported small businesses through a range of initiatives and funding. We provided funding to community groups through a community program, and we have a major $10 million new industry fund that is being assessed as we speak. It is clear that those opposite do not believe in the science of climate change and they do not believe we should have got out of native forestry.

I have a number of media releases from Hon Steve Martin, the man who would like to be the next Minister for Forestry in Western Australia. In October he called native forestry "one of the state's most sustainable industries." He said that the government had shut it down despite lacking any scientific evidence. On 10 February, he mentioned "Labor's unscientific and cynical decision to shut down a sustainable regional Western Australian industry." On 22 February, he called it shutting down a sustainable local industry. Most recently, in his July media release, Mr Martin said he is backing the forest industry.

It is clear that the opposition wants to retain logging in native forests. We are 18 months out from an election. I need to hear from the member for Vasse—the woman who wants to be the next Premier of Western Australia—exactly what her position is on native forestry. We say it is no longer sustainable, and with reducing rainfall, it is

clear that we cannot keep harvesting our native forests. However, the man who wants to be the next Minister for Forestry is clearly saying, "No, no, it is fine. It is sustainable. Let us keep doing it." I am trying to understand what the Liberal–National Party's plan is for protecting native forests.

From the other questions I get, it is clear that the opposition does not support plantation timbers either, but that is probably a discussion for another day.

In relation to live export, it absolutely beggars belief that I would be criticised for submitting a report to a panel that has been specifically formed to manage the transition. The commonwealth has been very clear that it will phase out live sheep export by sea. I have gone in to bat for WA and I told the federal government what the cost will be to the economy, and I get criticised? I am being criticised for asking for federal money. It absolutely beggars belief that the opposition does not want money from the federal government. This is a once-in-a-generation opportunity to get funds from the commonwealth to support an industry that will change. It will change—I acknowledge that. It will change the structure of the sheep industry; that is what our report said. Yet the opposition wants to thumb its nose at money for regional communities, farmers, feed lotters, processors, and truck drivers. Why? It is because they want to get more votes. They say, "No, do not give us any money; we want people in the regions to suffer as a result of this decision so we can get a few more votes." It is unbelievable! Members on our side of the chamber live and work in every sheep-producing region in Western Australia. We care about our communities. We want to make sure this transition is as smooth as possible. I am not above federal law. The opposition knows that, but they criticise me for submitting a report that highlights the economic damage this decision will cause. Get on board team WA. This is absolutely unbelievable!

HON DR STEVE THOMAS (South West — Leader of the Opposition) [10.56 am]: It is a Thursday morning, but even for a Thursday morning, I wonder how many free hits the government wants to give me today. Holy mackerel! There were a couple of nice energy announcements this morning when the government said, "Our plan does not work, we have failed again." That has come out twice today. I was just asked why I was late. I had to go and reinforce the fact the government had messed this up. Then a motion comes out today saying perhaps the government should look after regional communities a bit better. I love the argument. I mean, I know it is a Thursday, but the government does not have to be too generous. The Leader of the House said she disagrees with some of these things—there are a couple of question marks in there—but in particular, paragraph (c). I think we all agree with (a), (b) and (d).

Hon Sue Ellery: You didn't listen to what I said.

Hon Dr STEVE THOMAS: I did listen to what you said, very carefully and quietly.

There are a couple of issues in the third paragraph. The first part condemns the state and federal government for its failures in regional health care and housing. The only issue I have with that is that failures in health care and housing are not restricted to regional areas. There are significant failures across the entire breadth of Western Australia, including the 80 per cent of people who live in the metropolitan area. I think Hon Colin de Grussa was being a bit generous, by letting the government off for the 80 per cent that it is not doing a particularly good job for in the metropolitan area. The contribution from the Minister for Forestry was particularly interesting because she started by saying that her response to the forestry sector was based on science, but then the first thing she came out with was social parameters. Either it is based on science or it is based socially.

Hon Jackie Jarvis: Environmentally, socially and economically. Environmentally was first.

Hon Dr STEVE THOMAS: No, no, no. The issue with this government is that most of what it does in regional areas is very much based around votes rather than around the outcomes for regional Western Australia.

Several members interjected.

Hon Dr STEVE THOMAS: Why did it shut it down? This is very important.

The DEPUTY PRESIDENT: Order!

Hon Dr STEVE THOMAS: I thank the Deputy President for your protection. This is very important. The timber industry could have been made sustainable. I have been involved in this since 1990s, and I have said repeatedly and publicly that the trajectory that it was on was not necessarily sustainable. I have always called for it to be put on a sustainable trajectory—it could have been. This is where the science that the minister referred to is important. The timber industry could have been a long-term sustainable industry based on a harvest that was sent on a longer time frame, turnover and harvest interval. A sustainable industry could have been built, but it would not have placated the Greens in Fremantle and the votes that the Labor Party wanted to pick up.

Hon Jackie Jarvis: Is that your policy? Returning to sustainable native logging?

Hon Dr STEVE THOMAS: I would love to see a return to a sustainable timber industry. That would actually allow us to harvest some timber. Instead, the Labor Party killed the industry. It killed it, not because it could not make it sustainable—it would have been hard and there would have been people exiting the industry needing compensation packages—but all of that was deliverable and could have been done. We might have actually even

supported the government with it! I might have had to say "Yes, we have to drop the harvest because we have to set it at a sustainable level". However, the government did not apply a triple bottom line or social, economic and environmental outcomes. As a party, Labor said "There are no votes for us in Manjimup and not many in Nannup, so we can crucify those communities. We can kill them off, because all the votes —

Hon Jackie Jarvis: The member for Warren–Blackwood will hold that seat.

Hon Dr STEVE THOMAS: Let us see. There will be a nice battle; I am looking forward to that. I have a lot of respect for the member for Warren–Blackwood. I think she works very hard. We were together at the Nannup Garden and Flower Festival on Friday night. She goes to a lot of functions and is very active. I like a challenge. She is going to be one that we will have to work very hard to unseat. Having said those nice things might cruel the preselection, but anyway.

The government had the opportunity to deliver a sustainable long-term forest industry and it chose to kill it off for completely political reasons. The motion before the house is actually a very good one. One of the other things the government did was before the last election. On numerous occasions, members said that they were not interested in removing the representation of regional Western Australia. The then Premier was repeatedly asked about it, particularly down in Albany—but not only in that area of the south west. He was asked "Are you going to shaft country Western Australians? Is that your policy?" He said "No, we are not considering it. It is not on our agenda". He was asked "Are you going to damage Western Australians' representation if they live outside the metropolitan area?" and he said "It is not in our agenda". Then, holy mackerel! The Labor Party had a landslide victory and it was suddenly on the agenda. There is a reason it hit the top of the list and was the first bit out there. That was because this government saw an opportunity to enhance its power and extend its political influence at the expense of regional Western Australia. That is exactly what it did. It is incredibly difficult to read anything else into this. The government was absolutely happy to destroy the representation of Western Australia. In a horrible, cynical backstabbing of the regional people of Western Australia, the government was happy to use its advantage. Obviously, Labor Party wants to protect its margins in all those places like Fremantle.

Hon Kyle McGinn: Are you the next member for O'Connor?

Hon Dr STEVE THOMAS: No. I can guarantee that. I am not sure what the member's obsession is with O'Connor. Where is Hon Kyle McGinn going to be on the upper house ticket? Perhaps the powerbrokers in the ministry can tell us where he will sit on the upper house ticket. I might even come to give Hon Kyle McGinn a plug! Coming out of the regional area, he might be wanted, but he also might be endangered. I am very interested to see where Hon Kyle McGinn will sit. He is the Parliamentary Secretary to the Minister for Regional Development. That is very important. Let us see where Hon Kyle McGinn will sit in a party that has shown its contempt for regional Western Australia. It has done that at a state and federal level. We have seen the performance of the government firsthand. Where was most of the impact of the debacle that was the Aboriginal Cultural Heritage Act going to be? In regional areas. Where is effectively all the impact of the changes to the forestry industry? In regional areas. Where will the impact of the decisions of the government's federal colleagues hit? I have a bit of sympathy for the state Minister for Agriculture and Food. At least she has been able to say some positive comments about the live sheep export trade. However, her federal colleagues have snubbed her and thrown her under the bus on this one!

Hon Darren West: You do remember who stuffed it up?

Hon Dr STEVE THOMAS: There are a few buses that Hon Darren West has been thrown under in the last two weeks. I suggest that he should walk out onto Harvest Terrace very carefully, and be careful of any bus. Luckily, the government has been closing down buses a bit. The Collie bus is looking a bit dodgy. That might make Hon Darren West safer when he goes out to regional areas. At least he will not have any more Aboriginal cultural heritage meetings to go to. He will not have to check for buses outside. His party has thrown him under the bus.

It has also thrown Hon Kyle McGinn under the bus, who told me that he attended some Aboriginal cultural heritage meetings as well. I apologise for last week; I did not see him at the meetings. I am happy to give him the credit that he did go. Well done. It is important that he brought it up, but he told regional Western Australia that his party was happy to get rid of its representation and damage its industries. The member is happy to talk about the industries that have come knocking on the Labor Party's door. He is very good at talking about oil and gas and mining—as so he should be. That is where the government's surpluses come from. He should be on bended knee thanking the mining industry for its surpluses. The government is propped up by the mining industry, not its economic management. The mining industry propped it up during the biggest boom that this state had ever seen since February 2019. It still goes on today—iron ore is $US104 a tonne. Thank you very much, mining sector! Yes, we support it.

Luckily for Hon Kyle McGinn, so many of the people in the mining industry are fly-in fly-out, so he does not have to explain to them why they would have been shafted if they were living locally. It is no wonder that the Labor Party is so desperate to keep the vote propped up in metropolitan Western Australia. It has no interest in what happens out in the regions, except for a couple of patches.

I will finish with this: the compensation of the timber industry helps a tiny bit. How about the government match the Collie compensation for coal down to Manjimup?

HON PETER COLLIER (North Metropolitan) [11.06 am]: I stand to make a few comments, particularly on part (d) of the motion. I thank Hon Colin de Grussa for bringing this motion to the house. The area that I would like to look at is specific to my shadow portfolio of police, and that is law and order. I will do it in a very generic sense across the state, but with specific regard to regional Western Australia. The most contemporary statistics on crime in the regions are stark. They present an extraordinarily challenging yet scary picture for regional Western Australia in terms of law and order.

As a house, it is important that we regularly affirm our commitment to abrogating the policies that prioritise the interests of all Western Australians. Western Australia is a geographically very unique state. It is evidently the largest in the nation.

Hon Darren West: No shit.

Hon PETER COLLIER: I beg your pardon?

Hon Darren West: It is the bleeding obvious, member. Thank you.

Hon PETER COLLIER: It is the language that concerned me. I am surprised that it went through, to be completely honest. Anyway, it will be in *Hansard*.

Western Australia needs special representation in those regions. Of course, that will not be there after the next election. The needs in the Kimberley and Pilbara are decidedly different from those of the metropolitan area, and likewise, those in the south west are different from the midwest and the eastern goldfields. With that in mind, we need to understand that the challenges in regional Western Australia vastly exceed those in the metropolitan areas. So many areas have already been identified and articulated by previous speakers There are different challenges in areas like housing, health and education, and principally, law and order. Unfortunately, a lot of country towns in Western Australia do not have the luxury of a police station. All they might have, if they are lucky, is a roving police officer. If members are thinking for a moment that the methamphetamine scourge is exclusive to the metropolitan area, they are living in a dream world. It is not that way. Crime, particularly in the Kimberley area of Western Australia, and in the eastern goldfields and Carnarvon, is out of control. We have the extraordinary situation in which there is a TikTok page in the north of our state called "Don't stop till you kill a cop". That is exactly right. That is what our police have to deal with in the Kimberley on a daily basis. We have these young kids out there ramming police cars on a daily basis. We have businesses too scared to open their doors after six o'clock at night because they do not have sufficient police protection in those country towns.

I am not just standing here making this up. I draw members' attention to the Western Australia Police Force website and the crime statistics that came out last week. They are absolutely horrific. Across Western Australia, 271 856 crimes were reported during the last financial year, which was higher than the previous three years, and reported crime across the state was 12 865 offences above the five-year average. Anyone who suggests that crime is not an issue needs a dose of reality. But, and this brings me back to my point, the most significant thing that is particularly pertinent to today's motion is that the worst crime was in the regions. Let me tell members that crime in the regions is the worst on record. The worst crime statistics since records have been taken in Western Australia occurred over the last quarter. Over the last financial year, regional WA recorded 73 948 offences. That is higher than any time that records have been taken in the history of Western Australia. Crime in Carnarvon is up by 42 per cent, Kununurra is up 33 per cent and Broome is up 9.1 per cent. That is, of course, from the very high base. Crime in Karratha is up by 19 per cent, Kalgoorlie is up 20 per cent, Northam is up 22 per cent, Busselton is up 27 per cent, Bunbury is up 34 per cent and Collie is up 31 per cent.

As I have said, it is not exclusive. Crime across the board has increased, but it is out of control in the regions. Why is crime out of control in the regions? It is because there is a parlous shortage of police officers in Western Australia. In fact, we are 182 police officers short in Western Australia. Do members know where 110 of them are? They are in regional Western Australia. Out of 182 police officers across the state, 110 come from regional Western Australia; that is, there is an allocation of another 110 police officers in Western Australia and they cannot fill them. Do members know why they cannot fill them? We keep hearing about these wonderful recruitment campaigns, and they are, and I applaud the government for giving it a crack. I go to pretty much every graduation ceremony. But there is no point in bringing them in at one end if they are going out the other end at a faster rate. Do members know how many resignations we had in Western Australia last year? We had 473. Do members know what the average is? It is 150. We had 473 police officers leave the force last year. Just recently, the Minister for Police said that that has slowed down, it is an aberration, it is across the board, and it is global et cetera. Guess what? Up until 30 June this year, 202 officers resigned. To me, that is not a slowing down. To the end of June, 202 officers resigned. That is already above the average and we are only up to 30 June. As the minister says, "It is entirely attributable to other opportunities." Can I say to the minister and the government: sorry, but you are wrong. They need to go out there and they need to talk to police officers. They need to talk to people who are intimately involved with the police force and understand that there is an issue. When we have members of the hierarchy of WA police having a kill list for people they do not like within the force, we have an issue. When we have the government blindly ignoring the fact that a switch-off clause would be an innocuous, bleeding obvious and practical improvement in police work conditions, we have a problem.

Police now, in contemporary society, are dealing with a much more complex society than they have ever dealt with before. The meth scourge is extraordinary, and the problems that that creates in terms of crime is unacceptable. Why on earth can the government not just say, "We will adhere to the union call for a switch-off clause," so when police finish their shifts, they can switch off for a time and refresh for work the next day?

One of the biggest issues that the crime statistics showed, in the last quarter in particular, is in family-related offending—that is, domestic violence. There was a 35 per cent increase in the rate of domestic violence. That is at a time when the government has actually reduced the numbers of officers who are committed directly to working in the domestic violence unit. The first answer that I got when I asked this question a week and a half ago was that there were 77.65 officers within that unit, compared with 90 officers two years ago. There was a correction to that answer, which said: no, it was not 77.65 officers; it was 87.65 officers. The minister said that he had made a mistake and he went off and knew it needed to be corrected. I acknowledge that it was a correction, minister, but can I also say that 87.65 is not 90! It still means that we now have two and a half officers fewer dealing directly with domestic violence incidents than we did two years ago. That is what we have.

If the government is going to take domestic violence seriously, and it keeps beating its chest about how many extra police officers it has, surely it can allocate a number of 50 officers to deal with the scourge of domestic violence. In a community where we have a 35 per cent increase in domestic violence incidents over a three-year period, we have an issue. That is not me saying that; they are the government figures. In any stretch of the imagination, 90 always beats 87.65. The government has fewer officers dealing with this terrible situation. We have an issue here with regard to crime in Western Australia, and it is of particular concern in regional Western Australia. All Western Australians deserve to be safe.

HON KYLE McGINN (Mining and Pastoral — Parliamentary Secretary) [11.17 am]: It is good to get up to respond to some of the outrageous comments that have been made by the opposition today on this motion. The most outrageous comment, I think by far, came from the Leader of the Opposition in this place when he stated that people who work in the mining industry are from metropolitan Western Australia. It must shock the member to know that we have residential workforces out in Kalgoorlie, for example. It is a bit of a slight to say that it does not matter about the voters because they are from metro Perth. When we have some of the biggest representation in regional WA —

Hon Dr Steve Thomas: Check *Hansard*!

Hon KYLE McGINN: I will check *Hansard*, Leader of the Opposition. How it came across in this chamber was that the Leader of the Opposition was trying to stipulate that we do not have regional workforces that work in the mining industry. I tell the member right now that we do. Absolutely, we do.

I turn to Hon Martin Aldridge who uses his time to study ministers by going on Facebook—unbelievable! He goes on Facebook to find out who a minister is.

Hon Martin Aldridge: I didn't even know who the minister was!

Hon KYLE McGINN: That is absolute rubbish that the member did not know who the minister is because Minister Don Punch has been out in the regions doing a fantastic job for regional development. How about the member uses Google instead of Facebook? But he does not check that. Would the member check who he asks his questions to? Hang on! Has he asked a question about regional development in this chamber? Has the member asked a question about regional development? Has he even asked for a briefing from the Minister for Fisheries on the marine park? I find it fascinating that Hon Colin de Grussa comes into this place and makes up rhetoric—like he has been told from Tory—and never even asks for a briefing. He does not even ask for a briefing. We would think that the member who says that he is representing regional WA would have the smarts to ask for a briefing to see what the government is doing. Instead, the member makes up rubbish and talks about it like it is knowledge.

That is what the Nationals WA do here, members; let us be very clear. The National Party makes up rubbish to make us believe it. It does not ask for truth. It does not ask for briefings or the truth of what is happening. Instead it makes up its own narrative because that suits it out in the regions. Hon Jackie Jarvis hit the nail on the head when she said it is better for the National Party members to be out there whingeing about an issue than accepting the funding from the federal government. That is the sort of rubbish we are used to in this chamber, but I thought maybe on this Thursday we would see an elevation in the opposition. However, that did not happen. I am very disappointed with that.

Let us talk about what Hon Colin de Grussa raised in the fishing space. I find it fascinating that he has the gall to stand in this chamber and talk about the demersal fishing industry because when the National Party was in government, it did nothing for the sustainability of our fishing industry—not a thing. It promised that it would but Hon Colin de Grussa did what he always does—all talk, no walk. Absolutely that is what the opposition does, and that is what it did with fisheries and what it will continue to do. Luckily, we have a great minister in Hon Don Punch, who is willing to go out there and create a sustainable fishing industry, unlike the previous Liberal–National government,

which sat on its hands, whinged about the issue but did not have the gall to go out there and do anything about it. If it had its way, we may end up like South Australia, which had to ban demersal fishing—full stop. If people sit on their hands for too long, Hon Colin de Grussa, nothing happens, except the fishing industry goes to—I will not say that word. That is exactly where it is heading if people sit on their hands and do nothing.

Several members interjected.

Hon KYLE McGINN: I will say it all day so that Hon Martin Aldridge can get it in his head, because there has not been a question from Hon Martin Aldridge about regional development. How would he know who the minister is when he never questions the minister? He does not say anything. He stands and says rhetoric about going on Facebook. How about the member comes into the chamber and engages with the minister? It would be interesting if that were the case.

Believe it or not, we heard from Hon Colin de Grussa about the rock lobster industry. Let us talk about who is looking after the rock lobster industry after what happened with the exports to China. Let us talk about how the government has worked with and consulted the crayfishing industry through the COVID pandemic and through the challenges that have happened. I love hearing this word "consultation" from the opposition. In my speech I have just spoken about the opposition's lack of consultation with the government in briefings it is entitled to get. It is astounding that opposition members come in here and talk about consultation.

Look at the process with the Buccaneer Archipelago marine parks. Did any members look at that process and how consultation took place? I can tell members that plenty of consultation took place and there was absolutely consultation in that space. The consultation on the marine park down south is ongoing. That is why I find it hilarious that Hon Colin de Grussa talks about what we are going to do about this and that. The fisheries are going to engage like we engaged on BAMPs and we are going to look at a recovery package in that space. That is exactly what we did with the Buccaneer Archipelago, but it does not suit the narrative of the National Party. If the government is doing well in regional WA, that is not good for the National Party. It cares more about its vote than it cares about regional WA. That is a sad, sad thing for it to bring into this chamber. It constantly runs down the regions. That is exactly what it does. It runs them down and runs them down. The opposition leader is talking about the mining industry not having any locals in regional WA. That is absolute rubbish. It is running down the regions, Hon Colin de Grussa. The powerhouse that is regional WA is getting run down by the National Party.

Several members interjected.

Hon KYLE McGINN: I know Hon Peter Collier does not like me raising my voice, but I am being interjected on so I have to. I apologise for that, Hon Peter Collier. I will not be supporting this motion. It is typical from the National Party—all talk, no walk.

Motion lapsed, pursuant to standing orders.

PRIMARY INDUSTRIES TRADE

Motion

HON SANDRA CARR (Agricultural) [11.24 am] — without notice: I move —

> That this house congratulates the Cook government on its continued investment in developing a more sustainable and diversified economy, in particular supporting and boosting primary industries trade.

I rise today to note and acknowledge the Cook government and its continued investment in developing a more sustainable and diversified economy and in particular supporting and boosting primary industries. WA is, as we are all aware, an economy that is export orientated, with around half of Australia's export goods originating from WA each year, including minerals, petroleum, agrifood and specialised manufactured goods. As a result, we also attract many international visitors and students, and these export industries support employment across Western Australia. The Department of Jobs, Tourism, Science and Innovation each year publishes profiles on WA's economy and international trade in our major industries. These are available for all to see and they speak to the great success and the work that the Cook government has done in supporting export and those primary industries.

We are the leading exporter of all the states in Australia. In 2022 we accounted for 44 per cent of the value of Australia's export goods. Our main exports include minerals and agrifood. I will focus my discussion in this debate on agriculture and some of my colleagues will talk about other industries. Being a regional member, as I am and as many of my colleagues on this side of the floor are, I would like to focus on agriculture because it is what I am surrounded by and grew up surrounded by. When I taught in regional areas over the years, many students spoke to me about their experience in agriculture culture as well.

The Cook government is committed to supporting the growth and development of agriculture, fisheries and food industries for the benefit of the state. It is a nonsensical discussion to suggest that any government would want to dismantle agriculture when it is one of our most significant exports. It does not make sense. Why would a government dismantle one of its most significant export businesses? The Department of Primary Industries and Regional Development's agribusiness, food and trade area works in partnership with government, industry and

business to develop and enable growth and to increase competitiveness and diversification of WA's agrifood sector through the facilitation of value-adding in investment and exports. We are committed to keeping Western Australia's economy and finances strong and stable, so we can invest in what matters.

The Diversify WA framework supports the WA government's Our Priorities: Sharing Prosperity, Stronger Economy target of an extra 150 000 jobs by mid-2024, with 30 000 of those, as an approximate figure, to be regional jobs. Diversify WA identifies six priority sectors in which Western Australia has a competitive advantage and where there are significant growth and diversification opportunities, including for primary industries. The framework provides a vision for WA's economy, and outlines the initiatives, actions and strategies that will contribute to achieving this vision. We are an evolving and growing economy that does not forget who our main supporters and exporters are, but we are also here to embrace new opportunities and sustainable practices that ensure the ongoing prosperity and success of those industries.

Biosecurity is a priority for our government and we have contributed some significant investment to protect WA's horticulture industry from pests and disease. The Cook government has taken a proactive approach to biosecurity threats in our primary industries, and has opened up international trade opportunities for WA that no other state or territory in Australia has access to. This speaks to our support and absolute commitment to enhancing, protecting and developing our agriculture and horticultural industries. They are significant industries that the government is committing to in all manner of ways. I will discuss some of those now.

One example is the value-add investment grants. The Cook government has committed $17.56 million through three grant rounds, with 66 value-adding food and beverage businesses having been awarded some of those grants. The government is investing in new projects and the expansion of opportunities to build competitiveness and grow business opportunities in Western Australia. We are building capacity in the market. Round 2 of the value-add investment grants enabled WA food and beverage processors to overcome supply chain challenges, attracting more than $60 million through business expansion, diversification and resilience. This has also unlocked another $152 million in private sector investment and created almost 100 new jobs. Some examples of businesses that have been awarded grants under the value-add investment grants include Good Drinks Australia, which received $750 000; Stella Bella Wines—it rolls off the tongue very nicely and I am sure the drink does too—another $750 000; Dardanup Butchering Unit Trust, $750 000; DCB Australia, $750 000 to upgrade solar power systems technology to amalgamate its smallgoods factories; NewCo Mills, $750 000 to develop some stockfeed grain mills; Milne Agrigroup, $525 000 for dedicated production lines for poultry and port processing; Magnum Essence, received funding for packing rooms and solar panels to expand its food supplies; Homestyle Vegetable Processors, just over $600 000 to automate its processing; and the British Sausage, Ham and Bacon Company, $750 000 for a new production facility.

I am struggling to see evidence of a government that is not supporting agriculture and our food and trade industries. Anyone who has a close look will see that the government is absolutely committed to supporting and developing our agriculture and food industries.

Another example is the agrifood and beverage voucher program that supports small businesses across regional and metropolitan WA. Pitting those two groups against each other is another nonsensical argument. Those two things are like the right hand hating the left. We work together with unity and collaboration, a point that Hon Colin de Grussa made when he acknowledged the Matildas at the start of debate on his motion. He said what a great team the Matildas are. That is an example of something that unifies the nation. When we collaborate and work together, we do better. Instead of operating on a process of division, upsetting groups, causing disharmony and hurting groups to achieve political points, we can all work together. Opposition members can work with their group and advocate instead of hurting their own voters and other groups in the process. I will say across the floor that the hurt they caused to our Indigenous population is unforgivable.

Fifty-seven businesses have been successful in the agrifood and beverage voucher program and will share in nearly $432 000, with each business matching its voucher dollar for dollar. They have skin in the game; we have skin in the game. That is called partnership and working together.

The international competitiveness co-investment fund supports WA businesses to adopt new business models and supply chain scenarios using digital tools and marketing strategies to connect with export customers. There are lots of initiatives to support those potential export markets and help to facilitate our primary producers and understand them and enhance the best possible opportunity for success as they access those markets.

The Cook government has invested $8.47 million in the Fresh and Secure Trade Alliance and is working in conjunction with the Queensland Department of Agriculture and Fisheries. It is all about helping to improve production, reduce cost and develop a more robust and evidence-based system to ensure we maintain and secure access to key export markets.

The Asia access business grants are delivered through the Department of Jobs, Tourism, Science and Innovation. Since its inception in 2019—note that date; that is when we came to government—the AABG program has awarded around $1.4 million to 80 Western Australian small and medium-sized enterprises and organisations, assisting

them to gain access to key Asian markets. Asian markets are significant for us in Western Australia. We provide a lot of export products and they are our key export markets. Every opportunity we have to harness and develop those trade opportunities is particularly significant. Some of the recipients of that grant are Food, Fibre and Land International Group, Clandestine Vineyards and Delroy Orchards. There is definitely strong evidence of the government supporting export markets and helping our primary food producers and regional communities develop, grow and have sustainable and ongoing industry and trade opportunities. I could mention many more. I cannot believe how quickly the time has passed.

I will mention an opportunity I had recently to represent the minister and speak to a delegation from Japan—another way we are supporting some of our grain industry market. For those who are not aware, WA provides high quality wheat for the Japanese udon noodle. They love our wheat for their udon noodle. We are their provider for that wheat and it is a really important market that we protect, including the farmers and the research and development around it. It works in collaboration to ensure that market is sustainable, that the quality of the grain that the Japanese market is looking for is protected and that the relationship with the Japanese is healthy, robust and strong and that we always work together to ensure that market is ongoing and sustainable for our farmers.

I will talk briefly about barley as WA also supplies barley to Japan. That is a significant part of the WA export industry but it is also a great piece of evidence around how Labor governments are better for farmers. China recently lifted the tariffs it had imposed on Australian barley, although not for the CBH Group and one of our other exporters. However, it is the calm and consistent approach of the Albanese Labor government in its negotiations that enabled those tariffs to be lifted and WA now has the opportunity to export to China again. That is an example of the rock solid calm and consistent approach, the collaborative and diplomatic approach, that a Labor government takes to protect agriculture and industry, unlike the previous federal government that took an inflammatory approach that destroyed many agricultural and primary producer industries. It is not the opposite of humbleness, as Hon Martin Aldridge suggested, to congratulate and give credit where credit is due because we deserve significant credit for that. The Cook Labor government is incredibly supportive of the Albanese government and looks forward to working in a positive relationship with China, rather than taking the Liberal–National approach that is inflammatory and negatively impacts our export markets. I am really pleased the government has achieved that development. It is one that Premier Cook has acknowledged and continues to work on in a diplomatic and progressive way.

I also acknowledge the securing of $32 million in the most recent state budget for biosecurity. That is something Hon Jackie Jarvis has given significant focus to since she became Minister for Agriculture and Food. Biosecurity is incredibly important. We do that particularly well in Western Australia. In the absence of things such as research and development—again, something that members across the chamber do not seem to think is very important—we cannot protect and look after our agriculture industry. Recently at the Mingenew Midwest Expo I talked to scientists about the work they are doing to protect grain. They are looking at the way grain reacts to pests and the range of different issues they are experiencing. The absence of good quality research and development in the agriculture industry results in the potential destruction of the industry, yet the previous government was quite happy to cut research and development facilities, to pretend that they do not matter. I congratulate Minister Jarvis for protecting biosecurity and recognising its great significance in agriculture.

The Buy West Eat Best Plating Up WA: Singapore Edition was held recently. That is another way that we use opportunities to build relationships to further develop export relationships with countries and the Asian market. That was a particularly successful event. A lot of people were in attendance and each country showcased their food and cuisine to develop and improve export opportunities and trade markets—another fantastic event. Another one is coming up in February next year, evokeAG 2024. That is a really exciting opportunity hosted by the Department of Primary Industries and Regional Development and the Department of Jobs, Tourism, Science and Innovation, all about making sure that we promote and develop our food and agriculture export opportunities.

HON SHELLEY PAYNE (Agricultural) [11.40 am]: I thank Hon Sandra Carr for bringing this important motion forward today. I am glad that we can continue the debate this morning on the importance of our regions and their contribution to our economy, as well as all the great work that the Cook government is doing to help diversify our economy. I would like to mention the Diversify WA framework and how we have identified the six priority sectors in which we have a competitive advantage and that have significant growth and diversity opportunities, including primary industries, which I want to mainly focus on today, as well as the manufacturing industries in the regions that support our agriculture industry.

Diversification has been a high priority for our government. More than $3.8 billion has been invested in economic diversification initiatives, with over $460 million invested in this budget alone. The data is showing that labour forces are growing in our non-mining sectors, as well as our mining sectors. Hon Sandra Carr talked quite a bit about our different grant programs; for example, the agrifood and beverage voucher program. We have also talked a lot in this place about the regional economic development grants and last month we announced the investment attraction fund, which is a huge grant program of $150 million. Today, I will talk about the opportunities that we have given to some of these businesses with the different grant programs, and how we have been able to see them grow and develop.

One of the great examples, which we have seen be successful recently with the investment attraction fund, is Wide Open Agriculture. It has done a lot of work with lupins, which is usually used as a stock feed. Last year, it opened a pilot facility for lupins. Its view is that if we processed all the lupins in Western Australia into protein, the value would be $1 billion to our export or local markets. Wide Open Agriculture has done a great job setting up this pilot plant and it has a lot of ideas about adding lupin protein into oat milk, as well as some other lupin products that it is working on. It has a lot of buyers for its protein products and it is also moving into oat milk. Wide Open Agriculture is really passionate about supporting regenerative farming practices. In 2021, we gave it a grant through the value add agribusiness investment attraction fund. That was a relatively small $20 000 grant to help it do a feasibility study of oat milk processing.

All this work has led to the company last month being announced as receiving $5 million through the investment attraction fund for an oat processing facility. Oat milk has become quite popular; even this place now has oat milk that is made in WA. The Asian market is also really growing with regard to oat milk. There is a lot of potential for this. I do not know whether members have heard, but this company's products run under the name of Dirty Clean Food, and last year it made a deal with Coles to sell its Dirty Clean Food range. Its range of Dirty Clean Food oat milk is Oat UP, supporting our WA farmers, our Western Australian oats and regenerative farming practices. That is one great example.

Another example is UniGrain, which is based in the eastern states. The only plant UniGrain has in WA is its oat processing facility in Wagin. It just started processing oat flour as well, which will go into the growing oat milk market. It employs about 50 people in Wagin, which is really fantastic. It wants to expand its facilities so that it can process more Western Australian oats, with a $10 million expansion. It was recently successful with $1 million from the investment attraction fund. That is really fantastic news for Wagin, as we help to diversify WA for a stronger economy, trying to get more jobs into the regions as well.

I want to mention another small business that we have really helped, particularly because Hon Martin Aldridge talked about our minister not knowing he was the Minister for Regional Development. Last month, I had a chance to go on a regional road trip with Minister Punch. We went to Williams, Narrogin and Pingelly and ended up in Brookton at Stumpy's Gateway Roadhouse. That business received $5 000 through round 2 of our agrifood and beverage voucher program to help it transition to manufacturing. After that, it received a bigger grant of $50 000 through our RED grant program for food drying. It had the great idea of freeze-drying a lot of vegetables and putting them into bread. It has a patent for it. When we visited, they gave us all some great pumpkin bread and beetroot bread and that kind of stuff. It is a really great idea. It has been great to see how through these different grant programs we can help companies go through thinking about how they can build their business and then help support them when they get their business ideas and want to get things growing.

Whinbin Rock Farms is another one. We do not have any malting facilities in Western Australia. I met a great couple, Kelly and Justin from Whinbin Rock Farms. Justin grew up on a farm just east of Narrogin. He left to do his engineering degree and decided to go back to the farm. He saw all these breweries around the state, with most of them getting their malt from either the eastern states or overseas. His idea is to set up a malting facility. Through a couple of rounds of the agrifood and beverage program, he got a $2 000 planning and investment grant, and then in the next round, he received $1 900 for a sales and marketing grant and then $1 960 for a voucher for manufacturing and business growth. These vouchers are fantastic. Over 150 of them have been given to businesses across Western Australia. It allows them to get professional advice about how to grow their business and start it up. It was fantastic. I went to visit Justin and Kelly recently because they were awarded a RED grant for $190 000 to help them build their malting facility. They had all their malting equipment delivered and I got a tour of the brand new shed facility they have built. They have some good customers who will buy the malt they produce. It will be the only malting facility of its type in Australia. It will be a really great thing for Western Australia. There are heaps of breweries around that can benefit from this.

Three Farmers is another innovative farming company that has benefited from some of our voucher programs. It was first looking at quinoa, but has moved on to oat milk. It recently received a $95 000 RED grant to look at the processing of low-gluten oats. That is another great thing that our grant programs have helped.

Mainly, when we talk about primary industries it is about forestry, fishing and agriculture, but the mining industry is also part of our primary industries. I want to talk a little about it because of some of the great grant programs that we have for our mining industry, particularly around supporting rare earths. OD6 Metals is looking at the rare earth around Esperance and it recently received $180 000 to conduct more drilling around Esperance through our exploration incentive scheme. With graphite in short supply, International Graphite is looking to set up in Hopetoun, near Esperance. It received $2 million from the state government through the Collie Futures industry development fund to set up a pilot scale processing plant in Collie.

That is part of the government's $600 million program to attract new industries to Collie. We heard criticism today about the lack of housing in Collie, but the growth that is happening in Collie, particularly with new industries, is fantastic. I commend the government on all the work it is doing to support regional businesses. It is great to see how we have grown these businesses.

HON JACKIE JARVIS (South West — Minister for Agriculture and Food) [11.50 am]: I thank Hon Sandra Carr for moving this excellent motion in the house today. I acknowledge the contributions of Hon Sandra Carr and Hon Shelley Payne in which they outlined the hundreds of millions of dollars that the Cook government is investing to build export markets and support our primary industries.

As Hon Sandra Carr mentioned, she very kindly represented me at a dinner with a Japanese delegation. She did so at very short notice; I think I gave her about one hour's notice after I became unwell. She is indeed correct in that WA is the main supplier of the specialist wheat that is used to make udon noodles for the Japanese market. Indeed, the udon noodles that are imported into Australia are generally from Western Australian wheat. The dinner that Hon Sandra Carr attended on my behalf was supported by the Australian Export Grains Innovation Centre. AEGIC is a fantastic organisation that supports the export of grain, which is Western Australia's biggest export. Last year, grains industry exports contributed about $10 billion to the Western Australian economy. I pay tribute to my predecessor, Hon Alannah MacTiernan, who secured for AEGIC $3 million a year from the Western Australian government and ensured that the Grains Research and Development Corporation, the federal body that takes grower levies, contributed the same. AEGIC has received a total of $24 million to ensure that it can keep going through to 2026.

In addition to the hundreds of millions of dollars in funding and grants for individual businesses and programs that my two colleagues mentioned, we also heard about biosecurity, which is the linchpin of our exports. When I am in Perth, I stay near Canning Highway in Victoria Park. Anyone who has stood on Canning Highway in the morning over the last few months would have seen, quite literally, dozens and dozens of DPIRD cars going down Berwick Street towards Canning Highway in their mission to fight Qfly. For those members who are not aware, Queensland fruit fly is not an endemic pest in Western Australia, which means that we have access to horticultural markets that other states do not. A small incursion of Qfly has been detected in Bayswater, near the airport, and as a result, for several months on a daily basis, DPIRD has been sending hundreds and hundreds of staff to knock on the doors of suburban homes and talk to people about their fruit trees. This is about proving our area free of them. If we find one Qfly anywhere in the state, we mobilise to ensure that there is no outbreak so that we can guarantee our markets that there is no Qfly in our fruits and vegetables. That is significant. I am incredibly proud that in my first budget as minister, I was able to secure additional funding for biosecurity to ensure that we are free from not only Qfly, but also things like foot and mouth disease and lumpy skin disease. I am incredibly proud of that.

Earlier today, I was criticised about the submission I made to the panel consulting on the phase-out of live sheep exports. The export of live sheep by sea is an important export market for us. I thank the opposition for acknowledging the significant support that I gave the industry in a motion it moved in March. Hon Steve Martin said that the industry was grateful for my support. Hon Colin de Grussa noted that my commitment to the live sheep export industry was unfailing. The Leader of the Opposition, Hon Dr Steve Thomas, credited me as the minister, the Premier and the government for our support of the industry. I thank them for that.

Hon Dr Steve Thomas: What a cooperative opposition we are.

Hon JACKIE JARVIS: Indeed.

However, there has been criticism about the government putting in a submission to the export phase-out panel. Let us be clear: the panel was consulting on the phase-out of live sheep exports and was seeking consultation to inform how and when the phase-out should occur. I have been criticised for not saying, "No, we're not getting involved in that discussion" and laying out some sort of road map. This is out of our control. The commonwealth government has made it clear that we are exiting live sheep exports. There was criticism earlier today that it was somehow wrong to stand up for Western Australian farmers and say that we need transition funding support if the commonwealth is doing that. The key pillar of my submission to the phase-out panel was that support needs to be provided for the processing sector and export market development. That is clear in the submission that I tabled last week in which I talked about market opportunities. I said —

> … global demand for sheepmeat, and the capacity of WA processors to capitalize on the opportunities to grow export markets and provide strong market signals to WA producers, will be important for the future of the WA sheep industry.

I do not think it is wrong for the state government to say to the commonwealth, "You've imposed this on us. You need to provide some funding. You need to provide some support." I would have thought that the opposition would be congratulating me for outlining to the commonwealth government the economic impact of the phase-out of live sheep exports. The submission states that Meat and Livestock Australia produced an update on market information in May 2023, highlighting the opportunities for the sheepmeat industry. Global sheepmeat import demand is forecast to rise at 2.3 per cent between 2023 and 2027; global sheepmeat prices have remained firm; and there is a forecasted increase in national exports of sheepmeat from Australia between 2023 and 2025, with the export of mutton increasing by 33 per cent and lamb by eight per cent. I appreciate that many, many farmers—myself included—would like the live export of sheep to continue. As I have said before, the WA state government does not control exports; we are not above the federal law in this matter. It is mindboggling that I have been criticised for putting in a submission that outlines the economic impacts and asks the federal government to support this transition. The horse has bolted.

In July at the ag ministers meeting in Perth, Murray Watt, the federal Minister for Agriculture, Fisheries and Forestry, stood next to me and confirmed his commitment to end live sheep exports by sea. I appreciate that the opposition will take this issue to the next federal election in 2025 in the hope of a better outcome. But what is the harm in saying to the federal government that it needs to provide support so that we can build export markets? As Hon Sandra Carr's motion notes, we need to diversify our economy and boost the trade of our primary industries.

In the short time I have left, I will speak about a couple of events I have attended in my short time as the Minister for Agriculture and Food. I have discovered that the job includes a lot of eating and drinking; my waistline is not liking me for it. Recently, I was incredibly fortunate to be part of the Taste WA trade mission, at which there were 25 food buyers from 10 markets. They toured metropolitan areas, the south west and great southern. I had an opportunity to have dinner with them in March. The buyers came from China, Indonesia, Israel, Malaysia, Philippines, Singapore, United Arab Emirates, Vietnam, Hong Kong and Taiwan. The week-long program was facilitated by the Department of Primary Industries and Regional Development. I give a special shout-out to the export and trade team at DPIRD, which is excellent. It is well supported by the export team in the Department of Jobs, Tourism, Science and Innovation. This delegation connected buyers to 84 Western Australian agribusinesses to help them gain insight into their provenance. I had dinner with that group. I sat next to a representative from one of the largest airline catering companies in the world. Many people who travel internationally will know that Singapore is a hub for many international airlines and its catering companies are huge. I also sat next to a representative from one of the major supermarkets and they told me how impressed they were with the quality of food in Western Australia. A delegation from Indonesia was specifically looking for fresh fruit and vegetables from Western Australia. Again, that is why biosecurity is really important.

In the very short time I have left, I want to spruik evokeAG. It is the Australia–Pacific region's premier agfood event, and it will be held in Perth in February 2024. It was announced in April 2023. The other thing I am incredibly proud of from my short time as minister is that I stole this event from Melbourne. We are incredibly proud that in six months we will be hosting evokeAG. It is a conference that will attract up to 2 000 agrifood innovators, farmers, processes, accelerators, start-up businesses, researchers, universities, corporates and government investors. Australia is home to the most innovative farmers in the world. I really believe that. We also have excellent universities. We have some amazing ag science degrees available. That ties into international student exports. With that, I commend the motion to the house.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [12.00 noon]: I would like to make a relatively short contribution to the motion before the house, but I suspect that will depend on the level of interjection. We are probably a little calmer than we were a bit earlier. I do not usually take to motions that congratulate the government from its own side but I note the opposition condemned the government today and we do not generally do that either so I guess we will cut a bit of slack in both directions because it is a Thursday morning and it is the day for it. I think the Minister for Agriculture and Food was quite reasonable in that presentation. I was pleased to hear she recognised the opposition—I do not remember the exact words but she thanked and congratulated or vice versa in her position —

Hon Jackie Jarvis: All of the above.

Hon Dr STEVE THOMAS: That does not happen all that often from someone in her position.

Particularly on the live sheep export trade, I understand that, on occasions, our federal colleagues do us no good and sometimes they are more of an embarrassment than a support. I suspect it is not just the Labor Party in which that occurs but we do our best to provide a team response. It is a fact that the Minister for Agriculture and Food has attempted to outline the position for the state of Western Australia. As I understand it, she has always supported the continuation of the live sheep trade in Western Australia. I have not heard her put an alternative position and, if she has, she will no doubt let us know. It has been a reasonably bipartisan position, at least at the state level. It is certainly not at the federal level and that argument needs to be had. I am more than happy if the incumbent member for O'Connor, Rick Wilson, contests the seat of O'Connor with Hon Kyle McGinn. I am sure we will have a bipartisan ticket on the live sheep export trade —

Hon Kyle McGinn: He got upset about a sticker!

Hon Dr STEVE THOMAS: Hon Kyle McGinn could stand out there and take a stand for the regional communities, unless of course the powerbrokers are going to bump up the ticket a bit. Maybe a haircut would help the rise, but let us not go there. We will see where that ends up. A bipartisan approach could be taken, which is good.

I am relying on the motion as it was foreshadowed. I presume it is the same motion and has not changed from the one that was distributed yesterday. I will move on from congratulating the Cook government. We have said nice things about the minister and that should be sufficient. On developing a more sustainable and diversified economy, particularly supporting and boosting primary industries and trade, I am not sure whether the mover of the motion intended to include the mining sector as well as agriculture. They are slightly separate but both very important areas of trade. In some areas they are both considered primary industries. In other states the minister for primary industries has both areas. It is not so in this state, where we have a separate minister for mining. Obviously the mining

sector is critically important as well. Diversification in the mining sector is more difficult. There are enormous opportunities in rare earth minerals in particular and there is growth. Lithium has finally now beaten gold in royalties collected by the state. The royalties collected by the state are obviously massive and prop up the surpluses this government enjoys. Just as the price of iron ore corrects, we will probably find that rare earth minerals will continue to make this government rich, giving the lie to the position government members put that they are good economic managers. It will reinforce the fact that they have been extremely lucky in their timing. However, diversification is important. It is not just lithium. We will potentially move on from lithium. The Acting President (Hon Dr Sally Talbot) has the best lithium mine in the state and probably the world in her electorate. It will remain important for a decade or two. Other minerals may well take over. Diversification of that industry is also important.

Diversification in the agriculture industry is also difficult. I still miss the debates we had when Hon Alannah MacTiernan was here. I think we got close this morning to the level of forthrightness that we should have on a Thursday morning. That was good. On diversification of agriculture, the former minister was very keen to diversify and move away from the traditional parts of agriculture, which I think she did not support well, to those alternative parts of agriculture that she did support, probably to the detriment of traditional agriculture. I criticised her for it not infrequently. I remain of that position. The current minister takes a much more balanced approach. I think that is a good thing. The diversification of that industry is critical. I accept that, for trade, it is run by the federal government. The trade deal with barley in China was particularly important for the state of Western Australia. There is not much that the government of Western Australia can do around things like that. The tariffs put on things like wine from Western Australia are also critically important. All those things require a national approach and there is not much the state can do except lobby their federal colleagues to make sure that it is an important part of the debate. That is why, unfortunately, the obvious politicisation of the federal Australian Labor Party for things like live shipping are incredibly disappointing and problematic. The federal ALP is more than willing to sacrifice regional industries for its political purposes to pick up green votes and attempt to balance the left-wing spread in major metropolitan areas and heartland Labor seats in central capital cities, which they always thought were their own. I think it is unfortunate because diversification is going backwards. We call it the wheat–sheep industry for a reason. They put in crops and would run sheep. The number of farmers getting out of the sheep component has been massive so the diversification of that industry has contracted. I am not necessarily going to lay blame directly at the feet of the current state government but —

Hon Darren West: I think you'll find there are economic reasons for that.

Hon Dr STEVE THOMAS: Economic reasons are a part of that, absolutely Hon Darren West, but the position of the federal Labor Party is about to make this worse. It has already driven down the sheep price. It has already made it far less economic to run sheep. By undercutting the live export market, the federal Labor Party has undermined confidence in the industry and overseen the slashing of the price returned to farmers. It will drive more farmers out of the industry. It will drive them back into less diversification and more focus on cropping alone. Unfortunately for the mover of the motion, the federal Labor Party is an enemy of the motion, even with the best intent in the world at the state Labor level to try to increase diversification. I accept all sides of government want to increase diversification in the wider economy, the mining economy and in the agricultural economy. In the south west, lots of niche industries are trickling along. The poor old dairy industry continues to suffer. It is probably still a declining industry, unfortunately. Do not start me on the potato industry. We do not have the time for that level of fun! Some of these niche industries are growing and that is a good thing. Ultimately, I suspect they will remain niche industries though. They will not expand to take over from the wider agricultural sector and that is why the support for the wider agricultural sector—what I call traditional agriculture—is absolutely critically important. That is where we want to see a bit more effort.

This government, for example, still cannot tell us whether tier 3 rail lines will or will not be redeveloped years down the track. It will not release business cases or tell us what is going on. Yesterday we learnt that the business case for the Greenbushes rail line will be kept secret as well. This lack of disclosure is incredibly worrying for a government that promised gold-standard transparency. It is not gold-standard transparency. It is lead-standard transparency—even Superman could not see through it! The government's intent in this area of diversification is good. The current Minister for Agriculture and Food is trying, but a bit of transparency and honesty would help the argument, and I urge the government to go down that path instead.

HON KYLE McGINN (Mining and Pastoral — Parliamentary Secretary) [12.10 pm]: Thank you, Deputy President.

Hon Dr Steve Thomas interjected.

Hon KYLE McGINN: I hear that there may be a new member for O'Connor from the honourable member's side. I heard about a very interesting competition involving Hon Steve Martin.

I want to touch on the motion at hand and thank the member for bringing it to the chamber. Talking about our regions and primary industries is integral. I will pick up on something that Hon Dr Steve Thomas said around the sheep industry. When we got into government in 2017, one of the big things that restricted the running of sheep in Western Australia was the total lack of care for the wild dogs issue in Western Australia. In my region, I met with

people who had gone from farming sheep to farming goats because of the challenges they faced from the lack of investment in the dog fence. As soon as Hon Alannah MacTiernan became the Minister for Agriculture and Food, we held a wild dog forum at one of the universities here, which was well attended by pastoralists and interested parties. The forum centred around the lack of investment and the lack of care put into protecting the sheep industry at the time because the wild dog problem was massive. I am proud that this government stepped up; it did some great work in that space, but there is a lot more to be done. That is one way of reviving our sheep industry. When we compare how many sheep we used to produce with what we produce today, the figures are staggering. I have met many people who diversified out of the sheep industry for that exact reason. It is a bit disappointing that that was not put on the record, but it has been now.

I want to touch on the fisheries space quickly. I know that there are other speakers to follow, so I will not take up too much time. In the previous motion I did not get the opportunity to talk about the great things that the government has been doing in the fisheries space, because, once again, the opposition is focusingon the little things that are not completely true and is trying to make it sound like the world is ending. The government has done a lot of work, particularly in the aquaculture space. Aquaculture has been a huge mover in terms of jobs and innovation, and, hopefully, it will have a massive impact in the export space. In this year alone, the WA Labor government has injected $8.5 million to support aquaculture development, which is primarily based in regional WA. The Albany Shellfish Hatchery will be upgraded to keep up with a huge industry demand. The Pemberton Freshwater Research Centre will also be upgraded, which supports regional tourism through trout stocking. The Broome Tropical Aquaculture Park will also be upgraded to support ambitious plans to increase the production of ocean-grown barramundi in the Kimberley. These are great aquaculture projects. I know that Hon Rosie Sahanna gets excited when we talk about aquaculture in the Kimberley because some great innovation is happening in that space. I will also talk about the aquaculture development zones in the Kimberley around the Abrolhos Islands and in Albany to encourage aquaculture development in prime locations that will directly benefit regional areas. Aquaculture is a new space that we are playing in. I know that Minister Punch is very passionate about this area and it will only grow into the future.

I have only a little bit of time left so I will touch on the mining and energy space and talk about VSUN Energy. A vanadium redox flow battery is being used for a long-duration energy storage pilot in Kununurra, which is very exciting. It plays an important role in the Cook government's commitment to achieving net zero by 2050. Horizon Power has invested in the vanadium redox flow battery, and VSUN Energy is a subsidiary of Australian Vanadium Limited that operates in the Murchison and the midwest in Western Australia. The 78-kilowatt/220-kilowatt hour redox flow battery will enable Horizon Power to test the capabilities of providing 100 per cent renewable energy for long periods, with the potential for the energy to be utilised across WA. That is fantastic. I am a huge supporter of hydrogen as well. I could talk all day on this motion. Hon Sandra Carr has brought a very valuable motion to this chamber, but I will leave some time for my two colleagues who I know have already jumped up to speak.

The ACTING PRESIDENT: Member, I recognise that we still have several members wishing to speak, but Hon Sophia Moermond has jumped up every time since the beginning so I give her the call.

HON SOPHIA MOERMOND (South West) [12.16 pm]: Thank you, Hon Sandra Carr, for putting forward this motion. I am all for a more sustainable and diversified economy. I think that is great. I have to say that this session is a wonderful way to learn what the government is doing, and is sometime more effective than question time, so thank you for that.

We cannot talk about sustainability and diversification and not include hemp in the discussion, obviously. I understand that other people wish to talk as well, so I will be very short in my summary of what hemp does. It does not make a person jump over buildings, but we can use it to make fire-retardant hempcrete bricks. One hemp plant takes three months to mature, which allows for four crops a year to be grown. It uses less water than cotton and about five different products can be produced from one hemp plant. The fibre can be used for rope, cloth, insulation or pet bedding. The hurd can be used to make hempcrete, and cannabidiol oil can be extracted from that as well. Bizarrely enough, the farmers over east can extract CBD oil to create a good income stream but Western Australian farmers cannot, unfortunately. The leftovers from the plant can be used as fodder for cattle. The seed or grain from this plant can be used for food, oil or fibre for fabric, and the hurd can be used in building. In the meantime, the root ball sequesters carbon and toxins from the soil as well, so it can be used in the regeneration of farmland. Thank you.

HON DARREN WEST (Agricultural — Parliamentary Secretary) [12.18 pm]: I, too, would like to commend the motion put to the house by Hon Sandra Carr. It gives me an opportunity to talk about my agricultural profession. There has never been a better time to be involved in the agricultural sector. To anyone who is young and thinking about a career, get into "ag". It is fantastic at the moment and presents great opportunities, new technology and security of employment. It is a much different sector now. There is more corporate farming, which, on the one hand, takes away that family-farming dynamic, but it provides an opportunity for those who do not come from a traditional farming background to get into the sector. I would also like to point out the contrast between this very positive motion put forward by a government member and that put forward earlier in the day by the opposition. It lectures us from Perth and it talks us down.

Hon Dr Steve Thomas: You make it too easy.

Hon DARREN WEST: The worst of it, member, is this: I point out that at the last election, the Nationals WA got 2.8 per cent of the primary vote. The vast majority of people are not interested in being lectured from Perth and being talked down to, but it still disappoints me that the rural media swallow whole this negativity that gets put forward to us by the Nationals and is reluctant to take up the good news and positive stories about agriculture in regional Western Australia put forward by the government. Any wonder people are moving from the regional areas to the metropolitan areas. We will possibly lose another seat from the regions because people are moving away. It becomes a self-fulfilling prophecy for the National Party to keep negatively talking about our regions and saying how bad it is there; so, of course, people do not want to live there, but I digress. Before I was parliamentary secretary in the areas of the environment; climate action; racing and gaming portfolios, I had the great pleasure to work with Hon Alannah MacTiernan, the former Minister for Agriculture and Food. As some people were talking, and some people brought these up, I made a list of the positive impacts that she had on the portfolio. Members might remember that when we came to government InterGrain was for sale. It was a distressed seller in the previous government's depressed market, trying to flog off a valuable asset. Our government has kept it and boosted it. It is now producing some of our best barley varieties. RockStar Wheat, which I think was named after the former minister, is one of the highest performing wheats in Western Australia. Maximus CL barley is one of the highest performing barleys in Western Australia. Both are produced and owned by our state government. Our hardworking public servants breed and produce those grains to give better returns to farmers, thus providing a better export market for us.

Alannah brought the Rural Research and Development for Profit program back into the department of agriculture and food. Remember how the coalition decimated it to a shell of its former self? It is now back up and about, and finally organised. This was after countless years of talk from the coalition, which even said the program was underway with new plants. Funding has been secured for the building of new headquarters and I look forward to the new minister overseeing that important development for Western Australia agriculture. Minister MacTiernan worked very hard with the federal government to keep foot-and-mouth disease out of Western Australia. Remember those opposite talking about the sky falling in and the fear in the community because we were going to have foot-and-mouth disease, even though the risk only increased from a nine to 11 per cent chance? However, Alannah MacTiernan succeeded in keeping foot-and-mouth disease and lumpy skin disease out of Western Australia.

There is a new research facility in Katanning. The Muresk Institute closed under the coalition in 2014. It is now vibrant and up and about, with a new trade training centre and shearing shed, which was a great investment. People are back at Muresk thanks to that. There is also carbon farming, regenerated agriculture and as was mentioned earlier, the Esperance dog fence, the Murchison cell fencing, and others.

The biggest story in agriculture is the reopening of the Chinese market to Australian barley. I get the prices every day on my phone and I can tell members that barley prices are up $50 a tonne since that announcement, and only because of that announcement. Nothing else fundamentally in the world grain market has changed, except there is now access to that market with our very good friends and wonderful trading partners in China. The attitude of the former coalition federal government was disgraceful and it cost us millions. Ask anyone who produces wine and crayfish. These products were shut out of China because of that attitude. For some reason, many of those producers still vote Liberal, which I do not understand. Anthony Albanese, Don Farrell and Penny Wong have done an amazing job in getting access back to those markets. I hope that good work continues because we need to have a respectful trading relationship with our good friends in China.

The motion is also about diversification of the economy. The condition of the WA economy is strong, and forecasts remain resilient even as we face the challenges of rising interest rates and a global economic volatility. We are set pretty well here in Western Australia thanks to the strong financial management of the McGowan government and now the Cook government. I also point to a lauded speech that the new Premier Roger Cook made to *The West Australian* business breakfast. Anyone who read yesterday's editorial will see that we have a Premier who gets it. He has a vision to diversify our economy, look to new industries and become the powerhouse of the world economy, not just the Australian economy. Western Australia's economy is expected to grow by 4.25 per cent, the strongest growth in nine years, bolstered by strong exports. Western Australia continues to carry the rest of the nation, accounting for almost 18 per cent of the national economy but with only 11 per cent of the population. In fact, Western Australia's real gross state product per capita is by far the highest of any state or territory, and more than 75 per cent higher than the rest of the nation. Western Australia accounts for half the national goods exports, with exports reaching a record $272.8 billion in the year to May. Business investment is expected to rise by more than one-fifth over the forward estimates period to reach $53.7 billion. The government is supporting growth with a record $39 billion asset investment plan.

We have a bright future here in Western Australia. We have the opportunity to do anything we want. We have the minerals, the gas, and the iron ore, and the dedicated people who live in the regions and do the work. I think there are great times ahead for Western Australia. Get out to the regions, people. That is where the action is. That is where the best place to live is. Do not listen to those opposite. It is very positive and very good. I think this is an excellent motion by the hardworking and dedicated member for the Agricultural Region, Hon Sandra Carr. I proudly support it 100 per cent.

Motion lapsed, pursuant to standing orders.

SHIRE OF AUGUSTA MARGARET RIVER CAT LOCAL LAW 2023 — DISALLOWANCE

Discharge of Order

Hon Lorna Harper reported that the concerns of the Joint Standing Committee on Delegated Legislation had been satisfied, and on her motion without notice it was resolved —

> That order of the day 4, Shire of Augusta Margaret River Cat Local Law 2023 — Disallowance, be discharged from the notice paper.

WORKERS COMPENSATION AND INJURY MANAGEMENT BILL 2023

Committee

Resumed from 16 August. The Deputy Chair of Committees (Hon Dr Sally Talbot) in the chair; Hon Matthew Swinbourn (Parliamentary Secretary) in charge of the bill.

The DEPUTY CHAIR (Hon Dr Sally Talbot): Members, we are in committee considering the Workers Compensation and Injury Management Bill 2023. I draw members' attention to supplementary notice paper 99, issue 3, which contains some amendments to clauses.

Clause 149: Commuting compensation liabilities by settlement agreement —

Progress was reported after the clause had been partly considered.

Hon MATTHEW SWINBOURN: At the conclusion of yesterday, I gave an undertaking to table the WorkCover WA guides for the evaluation of permanent impairment. I have that document and I now table it.

[See paper 2446.]

Hon MATTHEW SWINBOURN: Yesterday, Hon Nick Goiran, during the consideration of clause 149, asked whether the government is constraining the ability of parties to settle claims. Reference was made to clause 153, which prevents a settlement agreement including common-law damages. In responding on this issue, he mentioned that a worker may settle a statutory workers compensation claim and then go on and settle a common-law damages claim under a separate process. This is incorrect. Settlement of a workers compensation claim prevents the awarding or settlement of damages, found in clause 420, which is also the case under the current act. The following explanation is intended to clarify the statutory settlement pathway and what the government has done to provide significant flexibility for settlements to be made.

Statutory settlements referred to in part 2, division 12, relate to an employer's liability to pay compensation under the act for an injury from employment. It does not apply to common-law damages, which are dealt with in part 7. There are barriers in the current act to settle statutory claims, which have driven some parties to use what we would describe as a loophole in the current act to settle statutory claims under the common-law pathway. The 2014 WorkCover WA report recommended that this loophole be closed. In response to stakeholder submissions, the bill will provide greater flexibility for parties to settle statutory claims for compensation compared with the current act and what was proposed in the 2021 consultation draft of the bill. Specifically, there is no requirement for liability to be accepted or determined for a claim or for any time period to have elapsed before a settlement can be made. The result is that there would be no advantage to using a common-law settlement pathway to settle statutory claims because the constraints in the statutory settlement pathway will be removed. The common-law settlement pathway will continue to operate as intended for genuine common-law claims where a worker has at least 15 per cent whole person impairment and made an election to pursue common-law damages.

Hon NICK GOIRAN: I thank the parliamentary secretary for the explanation he provided. At the outset, I indicate that it has heightened my concern regarding this area. At the moment, the parliamentary secretary has indicated that there are purportedly some barriers. Due to the existence of these so-called barriers, people have been incentivised to take a different approach to settling through the District Court inclusive of a common-law claim. What are those barriers that the parliamentary secretary referred to that have created the incentive to use the District Court as a pathway for settlement?

Hon MATTHEW SWINBOURN: As they presently exist under the act, the barriers are that a person cannot settle their statutory claim prior to six months passing.

Hon Nick Goiran: Six months from the date of the accident?

Hon MATTHEW SWINBOURN: I understand that part of the issue is that that is difficult to determine under the current act. We can unpack that a little bit more with some further advice, but from advice that I received yesterday, that is where some of the confusion comes in. Under the current act, it is not clear when the clock starts ticking, and that incentivises people to use the District Court process.

The other barrier is that a claim cannot be settled until liability has been accepted or determined. For their own reasons, some parties do not want liability to be determined. If they file in the District Court, they can avoid the requirement to settle the statutory component of the claim, therefore avoiding that determination. The proposed

changes to the act are to remove those barriers, because the practice has been to follow that alternative route to give effect. We are trying to remove that motivation by making the statutory settlement process more flexible to take into account the preferences of the parties.

Hon NICK GOIRAN: I am in agreement that removing those barriers to statutory settlement is a good thing. However, at the same time as removing the barriers, we seem to be shutting down the other alternative because clause 153 says that a settlement agreement cannot apply to common -aw damages. If we are trying to facilitate this and remove those barriers, why is it then necessary to include clause 153 and stipulate that under no circumstances can the settlement agreement apply to common-law damages?

Hon MATTHEW SWINBOURN: As we said yesterday, we are trying to get to the mischief of this so we can get a common understanding here. We are not trying to make it more difficult for people or to take away avenues that people have legitimately used before. We are trying to understand that under the statutory settlement process, there is essentially a gap in which people cannot settle certain kinds of claims—claims that are not more six months old and claims in which there has not been an acceptance of liability. I guess as a matter of policy, the government accepts that people should now be able to settle those claims without those necessary requirements. That process will come in place, and the effect of it is not to undermine any common-law rights of entitlements that people have; people will still be able to elect to pursue their common-law claims in the usual way. Part of the process that happens is when people settle their statutory claims under the current scheme, they forgo their common-law rights, in any event. That is still the effect under the current act if they settle that. We are not creating a system here in which we will allow people to settle one part that they were previously entitled to settle and pursue another part. Again, it is the same.

The other thing from that point of view is there is obviously another group of workers accessing this, but it is not a significant group, so we do not want to overstate that this is a big mischief that needs resolution. Our understanding is that it is not widespread in the system; however, claims are being lodged whereby there is not a 15 per cent whole-body impairment to access this loophole, as we have described it, that would otherwise, if they were to proceed in the court, be seen as an abuse of process. But then the writ would be thrown out because the claimant could not satisfy the 15 per cent element, but it will have given them the vehicle to achieve what they want to do.

I think what we are trying to say is we are trying to meet them by coming to them. Work was done in the initial stages that did not have the degree of flexibility that we have. The current proposed provisions, and I have said it before, have universal support from those who are working on it. I am told that people are quite happy with what is being proposed. I do not want to use that as a mechanism to douse the member's interest in this, but he often asks me what stakeholders have said and what concerns have they raised. Therefore, in this particular instance, stakeholders have said that they are now happy with the state of these provisions and are happy to go forward with them.

Hon NICK GOIRAN: This mischief that the parliamentary secretary says exists at the moment, as I understand it as he described to the committee, is that some workers are accessing the District Court in circumstances in which the government says is undesirable. Is that the mischief that we are saying exists at the moment?

Hon MATTHEW SWINBOURN: Yes; that is correct, member.

Hon NICK GOIRAN: Of course, accessing the District Court is not anything novel, because heaps of workers are accessing the District Court, but, as I say, a cohort that the government says is undesirable is accessing the District Court. Let us just clarify this undesirability a little bit more. In accessing the District Court, what is it that this cohort has done that we say is undesirable? Are they lodging a writ in the District Court without having a medical practitioner determine a percentage of whole-person impairment of at least 15 per cent?

Hon Matthew Swinbourn: By way of interjection, yes, member, you're right.

Hon NICK GOIRAN: Therefore, the mischief is that they lodge a writ with not a single medical report that says they have at least 15 per cent whole-body impairment, and so that is what is described by the government as "mischief", and is therefore, as a consequence, undesirable that these people are lodging these writs in the District Court.

I take it, though, that the converse to that is the government has no problem with a worker who has at least one medical report that says they have a 15 per cent whole-body impairment from accessing the District Court?

Hon Matthew Swinbourn: Again, by way of interjection, no; we have no problem, member.

Hon NICK GOIRAN: I will just wait for the parliamentary secretary to get any further advice.

Hon MATTHEW SWINBOURN: We have no problem with the 15 per cent element and the election to access the common law, just by way of clarity. In the District Court writ, they are making the election.

Hon NICK GOIRAN: All right. That is an important additional element because, of course, the election triggers certain consequences. If a worker has a medical report saying that they have at least a 15 per cent whole-person impairment and they, to use the parliamentary secretary's word, "elect", how do they communicate that election at the present time, and will that process of election continue under the ongoing scheme?

Hon MATTHEW SWINBOURN: They elect to WorkCover WA, and that process is that they must have the report that we talked about from a medical practitioner about a 15 per cent whole-body impairment. Then there is a prescribed WorkCover form that must be filled out, which will of course be updated following the commencement of the act, but the substance of it is not changing. That form is then registered with the director of conciliation at WorkCover, which then gives effect to the election once that happens. That process is not changing under the bill, and so it remains the same.

Hon NICK GOIRAN: Thank you for that, parliamentary secretary. But the point is that there is—shall we describe it as—a paper-driven process that will need to be driven by the worker and facilitated by WorkCover. This is what I would describe as phase 1 of this worker choosing to access the District Court and common-law pathway. After that, having been elected, they will then proceed with the District Court, also paperwork-driven, process.

Under this particular regime, it seems to me that what we are doing is shutting down the possibility of a worker having less paperwork and WorkCover having to do less work. Even though we are saying that we are facilitating this so-called loophole because there was a concern around whether liability must be determined and there is some confusion around what I would describe as the six-month rule—that noble gesture is welcomed—it is not clear to me why we then, effectively, funnel people through the District Court process as a result of that.

If a person wants to lodge with WorkCover a settlement agreement—by its very nature, it is an agreement as between the employer and worker, and, obviously, there is an insurer at the back end of all this—and the parties are agreeable that it includes that component for common-law damages and commutes the new liability, I do not understand why we are standing in the way of that. Why would we not just facilitate the easiest pathway through for all that to happen? Therefore, the justification for it is not clear. Perhaps the best way to address this is if the parliamentary secretary could outline this process? I am not anticipating that my respectful submissions this afternoon will change anything from the government's perspective, and I do not mean that in any derogatory way because I acknowledge, for the record, that the government has been cooperative on a number of clauses. Indeed, there are some amendments that we are looking to address in the future, but I do not realistically expect that we will see any change on that this afternoon. But I think, at the very least, what would be helpful at this point is if the parliamentary secretary could articulate for those workers who want to, in agreement with the employer and the employer's insurer, settle everything, including the common-law component—what will be the process for a worker to do that?

The reason I really labour this point is the mere existence of a common-law claim is probably one of the most contentious elements in all this. People can sometimes be agreeable to settling, even though they might agree to disagree and say, "Let's just wrap up this whole case, once and for all, for X amount of dollars, inclusive of everything and all types of liability." I see no problem with that. I do not see that as mischievous. I do not see that as undesirable. In actual fact, I see it as the opposite. I see it as a good outcome, because there has been agreement, presumably on the basis of neutral legal advice, and it has been facilitated and provides finality for that. I do not imagine there is much dispute about that point, but could the parliamentary secretary articulate what the process will be for a once-and-for-all settlement, including any common-law claim, in light of the existence of clause 153? I think that would be good for all the participants and stakeholders because it would set out a blueprint to say that this is how we will have to do it from here on in.

Hon MATTHEW SWINBOURN: Member, I am going to answer this question, first of all, by dealing with it in two parts, if I can put it that way. We think about a cohort of those who do not want to pursue a common-law claim; that could be a person who has greater than a 15 per cent impairment but the advice of their lawyer might be that there is no common-law basis to pursue that claim notwithstanding the level of injury because there may have been no act of negligence on the part of the employer. Also, there are those with less than a 15 per cent impairment who want to settle their claim. That is done under division 12 of the legislation, which contains the clauses we have been talking about; that is the process by which those claims would be settled.

We then think about those who have a 15 per cent and higher whole-body impairment and have a basis for making a common-law claim. That process is, obviously, the election that we talked about and the medical certificate. In our earlier conversation we talked about someone needing a medical report that details the 15 per cent total-body impairment and that they also need to file the WorkCover election form. They would then need to file their writ in the District Court. Following the filing of their writ, parties would enter into whatever negotiation they wish to enter into. If they can reach a position on a global settlement of all elements of the claim, they are able to do that and that would be reduced to a deed. That deed is then executed by the parties. Under clause 433(3) that deed will be required to be lodged with WorkCover. WorkCover will not approve the deed or anything like that. It will be used to ensure that there is no double-dipping at a later date. That would then resolve all elements of that person's claim lodged in the District Court. Obviously, when negotiations do not result in a settlement, it will proceed to a judicial determination of that particular worker's requirements and whether their claim succeeds.

Hon NICK GOIRAN: The process that the parliamentary secretary has outlined is the process that exists at the moment and will continue under the scheme.

Hon Matthew Swinbourn: Yes.

Hon NICK GOIRAN: For the large proportion of workers, nothing will have changed here. If they want to pursue a common-law claim, they can do that. There is a process. Certain hoops and hurdles need to be gone through. Certain paperwork needs to be filed. Ultimately, the jurisdictional body is the District Court. None of that will change. As the parliamentary secretary says, they can reach agreement, finalise a deed and then register that also with WorkCover. Are settlement agreements under the existing scheme being registered with WorkCover that include the discharge of common-law damages claims?

Hon MATTHEW SWINBOURN: I am advised not statutory settlements, only common-law deeds, which is I think what I referred to at the end of my last response to the member.

Hon NICK GOIRAN: The type of statutory settlement agreement that gets registered with WorkCover does not include a discharge of a common-law damages claim and, therefore, the government would say that clause 153, which prevents that from happening into the future, has no material difference because that is not happening at the moment anyway.

Hon Matthew Swinbourn: We agree with what the member has just said.

Sitting suspended from 1.00 to 2.00 pm

Hon NICK GOIRAN: Prior to the luncheon interval the parliamentary secretary was helpfully setting out the arrangements as they sit at the moment for a settlement agreement and what those arrangements will be moving forward. In particular, we were considering the scenario when a settlement agreement, however described or defined, might include a component for discharging any liability arising under the common law. The indications were that at present statutory settlement agreements are not being registered at WorkCover, which include the discharge of common law damages claims, but settlements that do include the discharge of common law claims are being registered at WorkCover through deeds. Those two different scenarios, if you like, or different types of agreements, will continue to exist moving forward. We have been ranging over division 12 through the use of clause 149, but specifically clause 149(5) seems to make clear that a worker who redeems his or her claim will not extinguish a claim for their dependants. That seems pretty clear on the face of the wording in clause 149(5). Is this consistent with the current act?

Hon MATTHEW SWINBOURN: It is consistent with the current act.

Hon NICK GOIRAN: Is that in the sense of a specific provision in the current act or because of an understanding, interpretation or manner of practice under the current act?

Hon MATTHEW SWINBOURN: There is no provision in the current act that is comparable with subclause (5) that makes it that clear, but in practice the settlement does not settle the claims of any dependant. I make reference in the current act to section 72I, "Manner of payment of lump sum compensation", and section 72J, "Manner of payment of child's allowance". Those sections deal with dependants' circumstances and, as it was put to me, they are protected by order of the arbitrator at that time. Under the current regime, a settlement does not resolve a claim of a dependant. It is not as clear as it is in the new bill, but in effect they replicate the same outcome.

Clause put and passed.

Clauses 150 to 162 put and passed.

Clause 163: Duties of worker —

Hon NICK GOIRAN: We are now in part 3, division 2 of the bill, dealing with a return to work and, in particular, the duties of an employer, insurer and a worker. Clause 163 deals specifically with the duties of a worker. It has been put to me that when read in conjunction with clause 164, the consequences of refusal or failure to comply with a proposed section 163 duty, this clause could be described as harsh and unnecessary. Irrespective of one's assessment of the harshness or necessity of the provision, it has been expressly put to me that it will be open to interpretation. For the sake of the record, is the parliamentary secretary in a position to clarify why the government says it is appropriate to place these particular obligations on a worker?

Hon MATTHEW SWINBOURN: I think the member's question was: can we clarify why it is appropriate to place the obligations on the worker? I might try to give the member a more global answer about the two clauses he has referred to. If he needs to unpack what I say further, obviously, we can proceed on that basis. The first thing is that clause 163 will provide almost all the duties that currently arise under the existing act, in addition to the way that the courts or arbitrators have interpreted those duties. We would say that the primary work we are doing here is codifying the workers' duties, rather than creating a new set of obligations that did not previously apply to them, with the caveat that clause 163(5) will provide —

> The worker must comply with any requirement to attend a return to work case conference under section 165 and must participate and cooperate in the conference.

That does not currently exist. This provision was ventilated with stakeholders. I do not know that it would be fair to say that there was a uniform position on it, but we think it is a reasonable imposition in the circumstances if a worker is not complying with their duties. There is that element. As a further clarification, we have given an undertaking that we will regulate the subject matter of those conferences, so that they do not go into areas that are considered inappropriate or expansive and beyond the issue that gave rise to the need for the conference in the first place.

The other additional caveat is that clause 163(6) will provide a positive duty on a worker to provide the progress certificate to the employer within seven days. Workers have no current time frame to provide their progress medical certificates. I think that the member would probably agree with me that that kind of guidance is helpful because, obviously, that is a reasonably fair thing to do unless some intervening event makes it impossible for a worker to meet that obligation. It is not a penalty provision, and not complying with that will not affect the worker's entitlement to ongoing compensation; it will create a positive duty to do that. The consequences of noncompliance with the duties that will arise from clause 163 are detailed in clause 164(4), and they reflect the current consequences.

In summary, I guess that although we are placing an additional duty on workers to participate in the compulsory case conferences and a duty to provide their medical certificates, we are comfortable with our policy decision to do that in both instances. We are not going beyond what is currently required expressly in the act or has been interpreted as being required by the arbitrators and courts, particularly under the power that has arisen from the current act's section 156B, "Arbitrators' powers as to return to work programs", and the line of authority that has developed and essentially created those duties.

Hon NICK GOIRAN: One of the new provisions is that the worker must give to the employer or the insurer each progress certificate of capacity issued to the worker within seven days after the certificate is given to the worker. I anticipate that that provision will not infrequently fail to be adhered to. I do not think it is necessarily going to happen on a routine basis by any stretch of the imagination, but I can easily foresee circumstances in which there will be some confusion about whether that has happened, in part because of the existence of clause 163(7), which says that we will not need to worry about this if, essentially, the doctor has provided the progress certificate. I can foresee circumstances in which one will think that one has done it and another one will think that they have not and so on. That will just have to be managed in the fullness of time.

Firstly, can the parliamentary secretary confirm that the employer, who would have a right on the eighth day to make an application under clause 164, would not simply be able to cease payments? Secondly, can the parliamentary secretary also confirm that although the employer might make their application very enthusiastically on the eighth day, if at any time between the application being made and the matter coming on before the arbitrator, the worker complies and provides the missing progress certificate, would that —

Hon Matthew Swinbourn: I think you want to say defeat the application.

Hon NICK GOIRAN: Yes—defeat or invalidate the application in any way?

Hon MATTHEW SWINBOURN: The member's first question was about whether the insurer could cease the compensation payments. The answer is no; they will need a substantive application in which to cease compensation payments. Noncompliance on its own will not give rise to an automatic right to cease payments. In the example the member gave in which the employer makes the application on the eighth day and the worker subsequently furnishes them with a medical certificate, it would not have the effect of voiding or defeating the application. The application could still proceed.

However, if the subject matter of the dispute had essentially been resolved, the anticipation is that the conciliator's first comment would be, "What steps have you taken to resolve it?" and the second would be, "The certificate has been furnished to you; why are we here?" Conciliators will have the capacity to dismiss the application on that basis. An employer, or an insurer in their place, could essentially take that dispute to an arbitrator, but given that the subject matter would have been resolved, I imagine that it would be folly to do that and it would be a rare circumstance. There might, however, be legitimate circumstances in which a worker had persistently failed to provide it or did it for improper purposes, and that matter could be subject to genuine attempts to conciliate in the first instance. I think that covers all the questions the member had.

Hon NICK GOIRAN: In any of those scenarios that the parliamentary secretary has helpfully painted, to what extent will there be discretion on the costs of the applications?

Hon MATTHEW SWINBOURN: There will be no application for costs at the conciliation stage. However, if they go to arbitration, there will be capacity for costs. Yes, we could contemplate a situation, because it is not a cost jurisdiction. I suspect that for employers and insurers, there would be a time and resource cost. Obviously, there would also be a time and resource cost for workers, as well as a stress cost, but in terms of party-to-party or legal costs, there will be no capacity at the conciliation stage.

Hon NICK GOIRAN: Clause 163(5) is also said to be a new provision. It stipulates that the worker must comply with any requirement to attend a return to work case conference. Who will be eligible or entitled to attend the work case conference that the worker must attend and participate and cooperate in?

Hon MATTHEW SWINBOURN: Who will be able to attend those conferences is set out in clause 165(1). It states —

> An injured worker who has an incapacity for work may be required to attend a conference (a ***return to work case conference***) arranged by the worker's employer, the employer's insurer, the worker's treating medical practitioner or an approved workplace rehabilitation provider for the purpose of supporting the worker's recovery and enhancing opportunities for the worker's return to work.

Subclause (3) states —

> Regulations may provide for the following —
>
> …
>
> (d) the persons who may attend or participate in a return to work case conference;

I know what question the member is going to ask next.

Hon NICK GOIRAN: The parliamentary secretary has helpfully set out that who will be able to attend these return to work case conferences is very broad. In fact, it could easily be read into this that, in essence, anyone the employer would like to attend the work case conference could attend. The question that then arises is: what protections will be in place in the event that, concurrent with the injured worker making progress with their workers compensation claim and their attempts to return to work, there is an allegation of bullying that the worker is dealing with? The very last thing that they would want is the alleged bully to be in attendance at the work case conference. What protections will be in place to address that scenario?

Hon MATTHEW SWINBOURN: In the circumstances that the member has described in which a bully might be the subject of this —

Hon Nick Goiran: Alleged bully.

Hon MATTHEW SWINBOURN: Yes, an alleged bully. I will first go back to the point that all of this is in the context of employment and working. The Work Health and Safety Act provides an express obligation on employers or persons conducting a business or undertaking not to cause harm or injury to either a worker or other person. When there is a clear stressor that could cause further injury, including a stress-related injury, to a worker, my advice to the worker would be to raise those concerns and have discussions about who was and was not involved because there is an obligation not to cause that harm. That is not an express thing in this particular structure, and a lot of workers perhaps would not have had the benefit of advice before being compelled.

To address some of those potential concerns, we will ensure that the regulations are made to protect workers against the misuse of return to work case conferences by regulating the conduct and frequency of return to work case conferences, who can attend and what can and cannot be discussed. This has not yet been fully settled because it will be subject to further consultation with relevant stakeholders to ensure that those regulations provide the protections to which the member has alerted us as being needed so that workers are not potentially further injured in some way as a consequence of being required to attend.

Hon NICK GOIRAN: That is excellent. In any event, will the worker be entitled to legal representation at a work case conference?

Hon MATTHEW SWINBOURN: I am advised that there is not a capacity for the worker to be legally represented in the case conference because it is not a legal proceeding. I am sure that the member can take issue with some of that, but it is not the intention to legalise the arrangements. They are supposed to be at a lower level than that.

Hon NICK GOIRAN: Further to that, will the worker be entitled to have a support person present with them at a work case conference?

Hon MATTHEW SWINBOURN: I am advised that yes, they will be entitled to have a support person, but I have also been advised that they would not be appearing in a union representative capacity.

Hon Nick Goiran: Sorry, would or would not?

Hon MATTHEW SWINBOURN: It would not include a union representative.

Hon NICK GOIRAN: Honestly, it is so helpful that we go through this. I know that for members this has been a tortuous process. It is a 700-plus clause, monster bill that has been with governments of various persuasions for more than a decade. Here we are now, getting to the end of the process—I say that noting that we are only at clause 163, although we are dealing with clauses 163, 164 and 165 as somewhat of a package. I find it extraordinary that we have a situation in which an injured worker—incidentally, this might interest members who have an interest in workers—is required to attend a case conference. They do not have an option; as a matter of law they must comply and they must attend. In fact, the employer can say to the injured worker, "This will be the time and place. I'll tell you whether you will have to attend in person or by video link, and, by the way, as we are trying to get you to return to work, you must participate." Members should think about that for a moment. If a worker must participate, how is it intended that that be interpreted? But we go beyond that in this legislation. We say that they must not only participate, but also cooperate in the conference, and, by the way, they are not allowed to have a lawyer representing them at those proceedings. For those who dislike lawyers, that is fine, but maybe some people like union officials. We are saying in here apparently that they will not be able to have a union official represent them at these proceedings, but in all of that, we are saying that it is okay to have a support person present. What could possibly be wrong with an injured worker choosing to have a person sitting by them in what could be a highly stressful case conference, particularly if there are allegations of bullying, which, believe it or not, happen from time to time in the workplace?

We are saying to this worker that they can have a support person, but if that person has a law degree or has been admitted as a barrister and solicitor in the Supreme Court of Western Australia, they are an ineligible support person. We would not want them to have that level of support. We also do not want someone who is a union official either, who has presumably given most of their career to representing workers and that is why they are there as a union official looking after the worker in a variety of contexts, including in industrial relations claims and the like. No, we definitely would not want that person to be there, but we want some other innocuous, unspecified person with no particular qualification other than that they are a nice person to maybe hold the hand of the worker and pass them a box of tissues from time to time. I do not understand why we are doing that.

I am not trying to shoot the messenger here. I accept that the parliamentary secretary is here in a representative capacity, but I want to say in the strongest possible terms that I cannot make a case for us restricting who a worker can have present with them. I would not mind so much if we said that a worker cannot bring in with them 15 lawyers and 15 union officials to crowd out the room and make the whole thing unworkable. I can understand there may be some form of limitation there, but I do not understand what the case is for restricting the human being who is standing or sitting next to the worker to provide some level of support in what could be a highly stressful situation. Perhaps the parliamentary secretary can help me.

Hon MATTHEW SWINBOURN: Member, I want to make it clear at the first instance that that is not prescribed in the act or in the bill. It is not the case that it will be excluded; there is a regulation-making power. The member's points are well made. The government will consider what he has said when the regulations are being formulated. I am not suggesting that we are conceding his point and will allow union officials and legal representations under the proposed regulations, but the member has made a strong point. Further stakeholder engagement will be held around what class of people will be included in the conferences. It will be up to, for example, the unions, stakeholders and plaintiff law firms that will be engaged to make the point that the member has made. The only assurance that I can perhaps give the member is that the act does not exclude that. We were just giving an indication about where the government is at in terms of its intentions on the class of people that could be included in regulations.

Hon Dr STEVE THOMAS: I feel that I am in a dangerous situation. I think I have been asked to compare union officials and lawyers, and that might be a place where angels fear to tread.

Hon Nick Goiran: Imagine if the person is both!

Hon Dr STEVE THOMAS: Perhaps it would be safer if we did not go down that path. I indicated to the deputy chair that my clause was 165, which was the substantive clause. I do not have much to add. I was listening to —

Hon Matthew Swinbourn: I am happy to deal with your issue so long as the deputy chair is happy with that.

Hon Dr STEVE THOMAS: It will not take very long.

The DEPUTY CHAIR: I will allow it.

Hon Dr STEVE THOMAS: Clause 165 states that the injured worker who has an incapacity to work "may be required" to attend a return to work case conference. Is it the drafting position that, on occasions, the powers under the regulations would effectively change "may" to "must"? As read directly, I presume that the regulations would enforce attendance. Is it therefore open to the government that because this is a whole new clause and a whole new empowerment that the government might change the regulatory intent and not require attendance at a return to work case conference?

Hon MATTHEW SWINBOURN: I would not interpret the "may" as a "must" in this particular section as a form of statutory interpretation, because that creates the circumstances when this may occur. When there is to be a case conference, clause 163(5) states —

> The worker must comply with any requirement to attend a return to work case conference under section 165.

That is crystallised once the worker's compulsory participation in a case conference has been called on.

Hon Dr STEVE THOMAS: Again, it is probably an issue of legalese. The empowerment clause is clause 165, when it states the worker "may be required". Yes, under clause 163, the duty of the worker is to comply with the obligations under proposed section 165, but the requirement does not necessarily exist, as I read it, until the regulations are potentially written to state that attendance is required, unless "may" is changed to something else, so I am not convinced. It may be that, in practice, it is impossible to get out of, but I suspect the government wants to make sure that the regulations in this particular case are watertight. I support the role of conferencing to get workers back to work. I think that is good and I think it was widely supported in the submissions. I take on board Hon Nick Goiran's comments around who a worker can attend with, but that will come under the regulations. I do not know how to phrase that differently apart from I am not convinced that without formal recognition of the regulations, there is no authority to require the worker to attend. However, if I am told that it is, I will take the parliamentary secretary at his word. In which case, at what point —

Hon Matthew Swinbourn: By way of interjection, it is definitely there. The language in this clause and the earlier clause provides the imperative for that to happen.

Hon Dr STEVE THOMAS: I take the parliamentary secretary at his word. The only way that gets disproved is through some future court case down the path. At what point do the regulations expect to be in place and at what point do we get some feedback on the regulations to give us that level of detail, because at this stage, as Hon Nick Goiran says, who attends under what circumstances? All of that has to be regulated. We do not know that, so when can we expect to know that?

Hon MATTHEW SWINBOURN: All of the previous points that I made about regulations will apply in these circumstances. I cannot say what month we will get the regulations, because it depends on when this bill is passed. There are amendments to this bill, so it must go back to the Legislative Assembly as well. The regulations will commence when the bill commences, and at this stage, we would like that to be 1 July 2024. That is not locked in because it is dependent on the necessary level of consultation with stakeholders to get the regulations in there. I want to make clear to anybody who is following the debates that a commencement date for this bill of 1 July next year is our aspiration, but it will depend on things such as the finalisation of the regulations and the consultation with the stakeholders progressing to the point at which we can do that.

Clause put and passed.

Clauses 164 and 165 put and passed.

Clause 166: Employer must provide position during incapacity —

Hon NICK GOIRAN: We are now on subdivision 3, employment obligations relating to return to work. I am dealing with clauses 166, 167 and 168 as a package. Can the employer dismiss a worker during the employment obligation periods?

Hon MATTHEW SWINBOURN: The current act is somewhat vexed by this particular provision. I impressed my advisers, as I remembered which section it was because I have had to deal with it on multiple occasions. Section 84AA provides for similar arrangements. Can an employee be terminated during the employment obligation period? Yes, in fact, they can be terminated. However, they cannot be terminated for reasons of injury or illness. There are still some circumstances when an ill or injured worker can be dismissed, so this clause does not provide cover-all protection. Most obviously, if the employee engaged in serious misconduct following their injury—whatever form that might take—the employer still retains its right to terminate the employment relationship. That obviously has flow-on consequences, but this section does not provide a complete protection for workers to do whatever they wish following an injury or an illness that is compensable under the act. However, it does seek to protect them from being dismissed as a consequence of anything arising from that injury or illness.

Hon NICK GOIRAN: Does that protection last for 12 months?

Hon MATTHEW SWINBOURN: Yes. It is 12 months, which is what it is under the current act.

Clause put and passed.

Clauses 167 and 168 put and passed.

Clause 169: Issue of certificate of capacity —

Hon Dr STEVE THOMAS: We are on division 3 entitled "Certificates of capacity". Clause 169(2) will direct who may issue a certificate of capacity. Subclause (2)(a) is obvious—the "worker's treating medical practitioner". However, subclause (2)(b) directs that another health professional may be permitted under the regulations to issue the certificate. What is the government's intent? Will it be the same group of people who may do it under the current act or will this be a change? Who is intended to be the alternative health professional who may sign a certificate?

Hon MATTHEW SWINBOURN: There is no intention at this stage to provide for anyone other than the worker's treating medical practitioner to issue a certificate of capacity. That might then give rise to the question: why include a regulating power to expand that? However, we think that inclusion is important so that the legislation going forward can respond to demands or challenges in the future. I have a good example for Hon Dr Steve Thomas as a regional member: it might be necessary to permit nurse practitioners to issue certificates for minor injuries or for registrars in remote or regional hospitals in circumstances in which a worker cannot be treated by their treating medical practitioner. Unfortunately, I think we would prefer it not to be the case, but access to a medical practitioner is not uniform across the state. Therefore, we contemplate that there might be appropriate and reasonable circumstances in which it would be beneficial for everybody to increase the scope in those who can issue certificates for minor treatment and medicines that do not last for a very long time. If we were to regulate further, there would be consultation with the health professionals and industry stakeholders prior to any regulations proceeding, but as it currently stands, we do not have any intention to expand it. If I can put it this way, we have tried to futureproof it for what might happen in the future. I guess that is what all futureproofing does.

Hon Dr STEVE THOMAS: Thank you, parliamentary secretary. That is a pretty good response. I appreciate that. The distribution of medical practitioners will get worse, not better, in regional Western Australia over the fullness of time. Medical practitioners, like a few other similar professions, will not put up with the same isolated situation that people did back in my day, if you will. I feel like a dinosaur.

Can the parliamentary secretary confirm that there is no intention at this point of putting allied health professionals onto that list? I could understand the argument for that in some circumstances—a physiotherapist, for example. At this point, is the intent only for nurse practitioners to replace a general practitioner when one is unavailable? The second half of my question is: did the parliamentary secretary consider alternative telehealth options as part of that or is that too difficult to do and the nurse practitioner model is more practical?

Hon MATTHEW SWINBOURN: As to the first part of the member's question, we have no intention at this point to extend this provision to allied health professionals. As for telehealth, I do not know that we had any further consideration of it. The reality is that it would probably be available for injured workers at this point. They can access telehealth with their GP. It would certainly mitigate further need if they have access to telehealth to expand the scope of who can sign a progress medical certificate.

Clause put and passed.

Clause 170 put and passed.

Clause 171: Employer, insurer and agent of insurer must not be present at examination or treatment —

Hon Dr STEVE THOMAS: We have probably ventilated most discussion around this issue in clause 1. For members avidly following, it is a pretty short clause. Clause 171 states —

> **171 Employer, insurer and agent of insurer must not be present at examination or treatment**
>
> A worker's employer, the employer's insurer or an agent of the insurer must not be present while a worker is being physically or clinically examined, or treated, by the worker's treating medical practitioner.

This was the protection the government committed to put in place. From memory, it was an election commitment.

Hon Matthew Swinbourn: Yes. It was.

Hon Dr STEVE THOMAS: Yes—to not have an employer's rep.

I will not spend a long time on this, but let us get to the technical details. As this will be an absolute law, will this apply exclusively within the clinical examination room or within the building, hospital or ambulance, for example? At what point will the employer be breaking this law if they were personally taking an employee for a clinical examination?

Hon MATTHEW SWINBOURN: The first thing to note is that if a worker was in an ambulance following an accident and the employer was also in there, that would be considered the rendering of first aid rather than what is contemplated here, which is physical or clinical examination or being treated. That situation is a response to the immediate circumstances and is not what is being contemplated by this clause. Ambulance officers, or sometimes police officers, would probably be well suited to managing what happens in the back of an ambulance, and an employer getting in the way would probably be dealt with with short shrift—I think is the phrase.

I am not going to be able to explain every scenario, but the wording of the clause states —

> A worker's employer, the employer's insurer or an agent of the insurer must not be present while…

It is a temporal thing —

> a worker is being physically or clinically examined, or treated, by the worker's treating medical practitioner.

One, it is a temporal thing, and, two, it is a proximate thing. It has to be in the space in which the person is being treated. We cannot give a comprehensive view. If, for example, the treatment occurred in a very large room partitioned off by screens, that would not be argued. That would come down to the factual circumstances. The point is when the employer, insurer or agent of them is actually in a position to be a part of the process, if the member wants to think about it in that way. Medical facilities in regional areas are not always just sole rooms. There are other things like that. Essentially, if the employer was in the space, but was not a part of what was happening, could not observe it or interact with it, it would be understood that they were never a part of it.

The other thing to understand here is that it is a temporal thing; therefore, it is only for whilst the actual examination or treatment is being undertaken. For example, a worker might attend the doctor's surgery with their rep because the rep took them there. The employer rep or insurer may sit in the waiting room whilst the worker had their examination, treatment and that sort of thing. A doctor can say when it is over, "Hey, come in. We want to have a chat about how this worker can return to work", and things like that. It is not designed to prevent any interaction between the medical practitioner and the employer or insurer; it is designed to protect the worker's dignity; right to bodily autonomy; privacy about their personal information; and modesty; and to give regard to any cultural practices important to them and to give any gendered considerations and those sorts of things. I hope that gives the member a better understanding of what the government is trying to achieve here.

Hon Dr STEVE THOMAS: I think the parliamentary secretary and I and probably everybody in the chamber are at one in terms of its intent. I do not have a problem with that. However, I am a little concerned that the reading of the legislation and its intent might be slightly different. It will lead to another question in a bit.

I want to clarify what I think I heard the parliamentary secretary say—as my wife keeps telling me, "Repeat back what I said"—to make sure that we are all in the same place.

Hon Matthew Swinbourn: I don't want to be compared to your wife.

Hon Dr STEVE THOMAS: I am just offering you her advice. I think the parliamentary secretary is saying the intent is that an employer can take an injured worker to the hospital, drive them there and sit in the waiting room with them. In most small businesses, your employees are your friends so employers are certainly going to want to take them there and make sure they are okay. I think the parliamentary secretary said if the doctor then invites the employer or an insurance agent or another agent in, that is allowable. Under the act, if any form of examination is occurring, the employer must not be present while a worker is being physically or clinically examined. At that point, using the parliamentary secretary's words—if I have misquoted him, can he please correct me—how does he delineate between them? I take my employee in and I sit in the waiting room, because I am very concerned that they were injured in my workplace. The employee goes in and has their clinical examination, and the medical practitioner of their choice says, "Come in and let's discuss this." The clinical examination does not necessarily require the employee to disrobe and be checked out. It can be as much psychological as anything else. It is probably most pertinent in the psychological examinations. If the treating medical practitioner is doing the psychological stuff, how does the bill therefore delineate at what point the employer finds themselves in breach of clause 171? I say that because, in the first instance, it might be with the best of intent that an employer and employee go to the medical practitioner. The employer sits outside; the employee gets treated. The practitioner calls the employer in, and then six months down the track, when it all turns to mud and everybody is angry with each other, there is suddenly an accusation of a breach of clause 171. How is that point recorded and measured for the protection of both parties?

Hon MATTHEW SWINBOURN: We are not going to get to an iterative point of view in which we have excluded all possibilities. A lot of this will depend on the circumstances of any particular case, which is probably not a satisfactory answer for the member. It is incumbent on the medical practitioner to make that call. The medical practitioner will know whether they are continuing to engage in a clinical examination, or whether they are treating a particular worker. Doctors are generally overwhelmingly pretty smart people, and they will have an understanding of it. Remember, those are the workers' doctors, not somebody else's doctor, so their obligation is to their patient, not the employer. They will be better placed to try to protect the interest of their own patient. They have both ethical and professional obligations to do that. It may give the member some comfort that this clause, whilst it is drafted in a mandatory way and it creates a right something not to happen, is not a penalty provision. An employer or insurer will not later be prosecuted for having not complied with it. It may go to other matters in terms of the settlement of the cases, in the consideration of the reasonableness of the behaviours of the employers if they are in dispute, but is not something an employer will be prosecuted for if it is breached.

The other thing to take into account is that WorkCover will produce guidance around this particular provision, both for the benefit of workers, the benefit of medical practitioners in this situation and employers—probably not so much insurers because they are very large and sophisticated. That information will be available to give guidance about what that means. It will not be buried away in the act and nobody will know about it except when they have to front up to court to be prosecuted. As I say, it is not a penalty provision, it does not provide an avenue for someone to be prosecuted for not complying with it. I do not want to understate its importance as a statutory right and, if it passes the Parliament, about people giving due regard to it, but it is not one for which there is a big stick involved at the end of it.

Hon Dr STEVE THOMAS: The parliamentary secretary is right; I am not entirely satisfied with the answer but I am not opposed to the intent to the point that I have an alternative or oppose the clause. I presume nobody else has that intent either. I think it is a case of me making sure that the concerns are put on the table. I am pleased that there will be guidance from WorkCover, because I think that is critically important. I think it could cause issues. There is not a direct penalty involved, but it does potentially impact on future court cases. It is like most issues I find in law: the parties often start out with a reasonable intent to work together harmoniously—it is probably nothing like family law—then it all falls apart. Suddenly there are accusations thrown about for things that happened six months ago—or, in family law, six years ago, or 16 years ago. There are a set of circumstances here in which both the medical practitioner and the employer find themselves potentially in breach of the legislation. That does not necessarily mean that there is a financial penalty imposed, but it does potentially have a reputational impact going forward. I think it is critical that we look at and address the circumstances around the involvement of the employer and the representative of the insurance agent—I think it would be more an employer, to be honest. I suspect it would be quite rare that there would be an insurance company and its representative, unless there is conflict around the diagnosis made by a medical practitioner. We will deal with that in a couple of clauses time.

I think there is an issue here that there may inadvertently be a breaking of the law. Can I ask whether consideration was given to slightly changing this clause so that it would be illegal unless the worker involved endorsed and wanted that to happen? If they said, "I want my employer to come in during this examination", was consideration given to those circumstances in which the employee might want the employer in there, and was there an option to make this a voluntary rather than a mandatory and exclusive clause?

Hon MATTHEW SWINBOURN: This was an election commitment on our part, so, obviously, while there was consultation around it, our commitment to give effect to our election commitment was strong. It is already voluntary. Employers can already voluntarily not involve themselves in the clinical treatment and examination of workers by their medical practitioner—that is the current state of affairs. There is not an express right for an employer to come in on those things, but some assert that there is. I think in relation to the member's point—we will probably not agree whether there should be a consent provision—fundamentally, when an employer is insisting or wanting to be involved in someone's medical treatment or examination, there is a power imbalance. There is always a power imbalance between employers and employees, and there is a whole range of complications when we start talking about consent, how informed the consent is, whether there is undue pressure or some unconscionable conduct, particularly when the employer is the person who pays their wages and says, "Oh, I would like to be in there." That is the contemplation.

It is not an excuse or a defence under the act if a worker, for example, has the employer there of their own free will. This is not a strict liability or penalty provision. WorkCover is the prosecuting agency, if we can describe it as that, and it has no power to prosecute this particular provision. We are not going to have a situation in which everybody who, in a good-natured and good-intentioned way, went ahead with this because they are all from the same town and they all went to school together and this mate works for that mate, and that kind of thing. It is not a defence for breaking the law, but we must think about the work we are trying to do here, the mischief that we are trying to attend to, which is those circumstances when workers are pressured into having somebody in the space when they are receiving medical care from their doctor. I think the member has already acknowledged that he agrees with the general principle. He is obviously looking for the circumstances that might sit outside of it. As I said, we committed to this at the election, and we are sticking with it. I am happy to answer further questions, but I am not sure I can take it a lot further.

Hon Dr STEVE THOMAS: That is probably right. Potentially, I think we should agree to disagree on the value of voluntary inclusion. I raised it. I put it on the table. That is my job. I am not talking about an employer who says they want to be present for the medical examination. Personally, I would find that highly inappropriate. I am talking about the employee who says, "I don't want to be alone; I want this person to come with me", potentially because they would be the only person they know during the examination process. There is an option available for that to occur on a voluntary basis. It could have and should have been looked at. I accept that that is not the government's position, and I am not in a position to change it.

I want to finalise my comments on this clause. It relates specifically to a medical practitioner. I think we said earlier that the ambulance officer who attends an emergency will not be caught up in this. I think the parliamentary secretary said earlier that the employer could be present when the ambulance turns up because they are not the medical practitioner.

Hon MATTHEW SWINBOURN: It is the treating medical practitioner. Obviously, in an emergency situation, that person might be one of those specialist doctors who comes in the ambulance, the air ambulance or those sorts of things. That is an emergency first aid response rather than a clinical-type setting. We are not contemplating those circumstances. If someone is involved in a very serious accident and the boss is holding their hand because they need support, nobody is suggesting that is what we are talking about in this circumstance.

Hon Dr STEVE THOMAS: I think the parliamentary secretary pre-empted my question. Therefore, if a medical practitioner attends—it is not as uncommon as people may think; it certainly occurs—they may not be the employee's choice of medical practitioner that would be picked up under clause 171. The employer would say that it is not appropriate for them to be moved aside, but almost any other employee of the business could potentially be considered to be the employee's representative. I might ask the parliamentary secretary to check that. Would the rest of the employees theoretically be the employer's representatives under clause 171?

Hon MATTHEW SWINBOURN: Let me give the member some advice on that. Clause 171 uses the term "treating medical practitioner", which is defined in clause 158 to mean —

> … in relation to a worker, means the medical practitioner who is the worker's treating medical practitioner under section 170.

Clause 170 states —

> (1) An injured worker is entitled to attend a medical practitioner (a ***treating medical practitioner***) of the worker's own choice to perform the functions set out in subsection (3).

It has to be of the worker's choice. If I use the example of an emergency situation, there is not likely to be a choice; even in an emergency department, the worker is not likely to have a choice of medical practitioner because they get what they are given. I will not get into a broader debate about the exercise of free will and all those sorts of things. This is a positive choice made by a worker about their treating practitioner. Most of this stuff does not necessarily relate to the very first incidence of medical treatment; this usually comes into play with the ongoing stuff. There are mechanisms under the act, with compulsory case conferencing for return to work and things like that, that would probably fundamentally reduce the motivation for employers particularly to be involved in those situations in any event.

Hon Dr STEVE THOMAS: That is a good response, although I think the parliamentary secretary opened the door a little when speaking about emergency departments because patients are not necessarily attended to by a doctor of their choice. Does that mean that the emergency department doctor examining a worker immediately after an incident would not be caught up under clause 171 because they are not the worker's chosen doctor?

Hon MATTHEW SWINBOURN: An emergency department situation is not what we are contemplating under this clause. I can be pretty sure that if an employer was trying to push their way into a clinical setting in an emergency department, they would probably be dealt with by security officers and the police because they are very controlled environments; they are not open to any old soul. If the medics are providing emergency treatment, they are not likely to permit someone to be there, firstly, because the person who is receiving that treatment does not want them to be there; and, secondly, the medics would not see any clinical or family reason for them to be present.

Hon Dr STEVE THOMAS: Thank you. That is quite comforting. In summation, the government does not intend to pick up emergency department doctors or any other medical personnel in clause 171. I understand that it is much more focused on appointments down the track as workers go through the process. It is quite comforting, as the parliamentary secretary just said, and will hopefully confirm that clause 171 is not intended to pick up the emergency response people, whether they be emergency department doctors, nurses, ambulance officers et cetera. I think the parliamentary secretary is right that that treatment level would occur. Any employer trying to get into the emergency department just to watch and observe would be given short shrift. I take comfort from that. Hopefully, the parliamentary secretary will confirm that that is the case and we can move on.

Hon MATTHEW SWINBOURN: Essentially, yes, this clause is limited to the worker's treating medical practitioner. That is a defined term, which is further explained in clause 170.

Clause put and passed.

Clause 172: Approval of workplace rehabilitation providers —

Hon BEN DAWKINS: Was any consideration given to including in clause 171 a provision to ensure that an injured worker could have a choice of rehabilitation provider? I understand that is sometimes the case currently but it would make sense given what the parliamentary secretary said about empowering the worker and respecting the worker's rights for such a provision to be included so it is enshrined in law. I am sure the parliamentary secretary is aware that within the jobactive space under the federal government, in the first instance individual employees got to choose which job network or jobactive provider they used, whether it was Forrest Personnel or any other providers. Was consideration given to that?

Hon MATTHEW SWINBOURN: The first thing I note for the member is that the questions he asked do not really relate to this clause or division 4. Although it deals with workplace rehabilitation providers, it only deals with recognition, registration and processes. It does not deal with the worker's workplace rights with respect to worker rehabilitation. For the sake of being helpful, the question was whether workers have a right—I am essentially paraphrasing the member—to choose their own workplace rehabilitation provider. They do have that right under the current legislation and they will continue to have the right to choose their own workplace rehabilitation under this legislation.

Hon BEN DAWKINS: I am not necessarily sure; the parliamentary secretary may well be right. There may be a more appropriate clause at which to raise this point. However, at first glance, it seems that a clause to include such a provision would be about here. Why would the parliamentary secretary not enshrine that right, as in the preceding clause, clause 171, to take away the doubt about whether an employee has that opportunity?

Hon MATTHEW SWINBOURN: I do not have anything to add.

Hon NICK GOIRAN: I must say, I had the same question at this point as Hon Ben Dawkins, and the parliamentary secretary, helpfully, indicated that that right currently exists under the act and will do into the future. Is there a clause or provision that enshrines that existing right?

Hon MATTHEW SWINBOURN: It is clause 93(3).

Clause put and passed.

Clauses 173 to 179 put and passed.

Clause 180: Power to require medical examination of worker —

Hon Dr STEVE THOMAS: We are at now at part 4, so we are doing remarkably well. We are into the medical assessment component of the bill. Clause 180 reflects the power to require a medical examination, whereby the insurer or self-insurer can effectively require an employee or a worker to undergo what presumably at that point would be another examination and to receive a report of that under clause 180(2). Can I just check that under clause 180(2), all parts of a report that an insurer or self-insurer receives from the medical examiner of their choice will have to be provided to the worker? Effectively, whatever has gone into the paperwork, all of it in its entirety will go to the worker as well as to the insurer or their representative?

Hon MATTHEW SWINBOURN: If we think of the report as a discrete thing, everything that is in the discrete report must be provided. For example, there would be correspondence to and from the insurer's chosen medical practitioner that might relate to costs, or even the instructions that led to the report. If that is not part of the actual discrete report, that is not provided. I do not know whether that is where the member was going; I just want to make that clear. The people who work in this space are overwhelmingly very familiar with what a medical report constitutes. As I say, it will be a discrete document, and whatever is in that document will be furnished to the worker within 14 days.

Hon Dr STEVE THOMAS: I thank the parliamentary secretary; that is exactly what I was looking for. As my final question on clause 180, obviously, again, we will have a set of regulations, hopefully, by 1 July next year, which may provide for lots of things such as the conditions and the conduct et cetera. The regulations may provide for the maximum number of times a worker may be required under this section to undergo an examination. I presume this is for medical conditions that are repeat or chronic et cetera. Is there any indication of how often and over what period this is likely to be set? Again, this happens now; it is not new, so there must be some indication of where the line in the sand is likely to be drawn.

Hon MATTHEW SWINBOURN: It is currently two weeks and it will continue to be two weeks after the commencement of the new —

Hon Dr Steve Thomas: By interjection, every two weeks, potentially?

Hon MATTHEW SWINBOURN: Yes, that is the maximum—every two weeks.

Hon Dr Steve Thomas: Will it be, for example, every two weeks for 26 weeks? Is there a line in the sand?

Hon MATTHEW SWINBOURN: It will go on the period of the person's claim. Once the claim is finalised, the requirement to attend medical appointments disappears, because there is no longer a claim, but there is no outer limit. It will always turn on the individual circumstances of the case, but it will be two weeks.

Clause put and passed.

Clause 181 put and passed.

Clause 182: Assessments to which Division applies —

Hon NICK GOIRAN: Clause 182 is at the start of division 3, "Assessing degree of permanent impairment", in part 4 of the act. Once again, it seems convenient that I address my questions at this first clause in the division, notwithstanding that the division flows through to clause 199. It could arguably also be put when we are dealing with the permanent impairment guidelines at clause 187.

The parliamentary secretary might remember that we took up this issue momentarily at an earlier clause—I think we touched on it during the debate on clauses 97 and 98—and then the parliamentary secretary kindly earlier today tabled the fourth edition of the *WorkCover WA guidelines for the evaluation of permanent impairment*. The date is 17 October 2016 in the *Government Gazette*, notwithstanding that the date at the bottom of the document of the fourth edition is December 2016, for whatever reason, but that is not important at this particular juncture. Suffice to say, the document that was tabled earlier today is the guide that has been in place since late 2016 until the present day for assessing permanent impairment and the degree of permanent impairment.

The parliamentary secretary might recall that when we discussed this at clauses 97 and 98, I touched on the use of the American guides, and, in particular, the use of the fifth edition of the *AMA Guides to the evaluation of permanent impairment*. Before we embark too heavily upon this, can the parliamentary secretary confirm that Western Australia uses the fifth edition of the *AMA Guides to the evaluation of permanent impairment* for the evaluation of permanent impairment subject to any modifications that are outlined here in the WA guide?

Hon MATTHEW SWINBOURN: Yes, member.

Hon NICK GOIRAN: One of the various elements here is the spine, which is found at page 31 of the current guide. If the parliamentary secretary turns to page 31, he will have it conveniently at his disposal. It says there at the commencement —

> Chapter 15, AMA5 (page 373) —

That is the reference to the American guides —

> applies to the assessment of permanent impairment of the spine, subject to the modifications set out below. Before undertaking an impairment assessment, users of the WorkCover WA Guidelines must be familiar with the following —

It sets out —

- The Introduction in the WorkCover WA Guidelines
- Chapters 1 and 2 of AMA5

- The appropriate chapter/s of the WorkCover WA Guidelines for the body system they are assessing
- The appropriate chapter/s of AMA5 for the body system they are assessing

The WorkCover WA Guidelines take precedence over AMA5.

This particular provision deals with the spine, which, of course, includes the back. It starts at page 31 of this guide and goes for a number of pages through to page 38. These are the determinative guides for assessing permanent impairment when it comes to the back. I do not suppose the parliamentary secretary has the *AMA5* at his disposal?

Hon MATTHEW SWINBOURN: We do not have it at the table. The member is indicating that is okay, but I want to make it clear that we would not be in a position to table it—he has not asked for that—because there are complicated copyright issues. I understand that parliamentary privilege does not apply to that, but there is obviously a reluctance to potentially have an argument at a later date over those copyright issues.

Hon NICK GOIRAN: That is okay. I am glad the parliamentary secretary put that on the record. It will at least clarify for those who are interested in this particular topic why no such document has been tabled. It is not my intention at this time to request that. I appreciate the reasons that the parliamentary secretary gave.

Nevertheless, in order to press the matter a little further, we do at least have the WorkCover WA guidelines at our disposal. I know that the parliamentary secretary has a copy of it, as he tabled it earlier today. If I could get the parliamentary secretary to turn to page 98 of that guide, it is part of the appendices to this guide. It sets out a number of case studies. This particular case study deals with thoracic pain. It is not necessary this afternoon for us to regurgitate everything that is set out on page 98, but it is a case study of a 28-year-old woman who is a forestry worker. The context is thoracic pain. I should confirm that this is a hypothetical case. It sets out her history and the current symptoms and diagnosis and then it deals with the impairment rating. In particular, it says that the whole-person impairment is assessed using *AMA5* table 15-4 at page 389. This is a page of that document that cannot be tabled, for copyright reasons et cetera. It goes on to say —

> This leads to an assessment of 20–23% WPI. In this case the lower figure of 20% is appropriate due to the good recovery of function of ADL.

The pertinent point here, which we will see if we get to look at this mysterious American guide, is that there is a range. The range is 20 per cent to 23 per cent. In this particular scenario, it is saying that the lower figure is to be used. Can the parliamentary secretary clarify whether it is always the case with these ranges—in this case, the range of 20 to 23 per cent—that the assessment always falls to the lowest figure in the range?

Hon MATTHEW SWINBOURN: It is not always the case and neither should it always be the case, because it should be a matter of clinical judgement about where it sits.

Hon NICK GOIRAN: Excellent. It is the case that there is this range, and one of the options for these assessors, doctors, specialists and experts, with an injured person before them with impairment to their back from a workplace injury, is to assess this person in that range of 20 per cent to 23 per cent. As the parliamentary secretary said, it is a matter of clinical judgement about whether the person is 20, 21, 22 or 23 per cent. Are there other ranges with the back? There is clearly a range; we know from the WA guide in this hypothetical scenario for the 28-year-old woman, the forestry worker, that there is a range for the back of 20 per cent to 23 per cent whole-person impairment. Are there other ranges?

Hon MATTHEW SWINBOURN: The first thing I have to say is that we do not have any clinical people at the table, so it is not our area of particular expertise. We cannot give a definitive answer to the member's question, but we can reasonably deduce, if that is helpful to the member, that there would be other ranges. If it assists—I am sure the member has seen it—other scenarios are detailed that give different ranges. That would lend to it, but I am sorry that the advice cannot be more precise.

Hon NICK GOIRAN: I thank the parliamentary secretary. That is okay, we can continue to make progress on the basis that there is at least a meeting of minds and other ranges are applicable. One of those ranges, as we have already identified and confirmed with regard to the back, is 20 per cent through to 23 per cent. We have also agreed that it is up to the clinical judgement of the doctor at that point in time that if they have assessed this person as being suitable for that range, they then have to work out what percentage within that range is applicable. The other alternative for the specialist is of course then to say, "No, this person falls under one of the other ranges." Again acknowledging that the parliamentary secretary does not have those ranges in front of him, so perhaps he will have to trust me on this one, one of the ranges apart from 20 to 23 per cent is 25 per cent to 28 per cent. There is this range of 20 to 23 per cent, then the next option for the specialist is to say, "No, actually this person's back injury is more severe than that. They warrant being in the 25 to 28 per cent category." What is the threshold that entitles a person to—if they can, of course, identify negligence on the part of the employer—lodge a common-law claim?

Hon MATTHEW SWINBOURN: It is the notorious 15 per cent whole-body impairment.

Hon NICK GOIRAN: There is the threshold of 15 per cent, but I think there is also a 25 per cent threshold?

Hon MATTHEW SWINBOURN: Yes, 15 per cent to 25 per cent is capped and 25 per cent and above is uncapped.

Hon NICK GOIRAN: Excellent. In those two scenarios that I gave earlier with the range with regard to the back of 20 per cent to 23 per cent, the clinician will make a judgement about where the person fits in that 20 to 23 per cent category, or they will say the back injury is more severe than that and warrants going in the next category, which is 25 per cent to 28 per cent. For the purposes of a common-law claim and access to the unlimited cap, compared with the range of 15 to 25 per cent, which has the capped scenario, the clinician will not be caught in any particular dilemma because, of course, if the person's back injury will fall into that higher range of 25 to 28 per cent, it will not materially matter. The point is that if a person has at least 25 per cent impairment, they will have access to the unlimited common-law gateway. The other threshold is, as the parliamentary secretary has described, the 15 per cent category. I just draw to his attention—again, I acknowledge that he does not have this documentation in front of him—that these guides, which cannot be tabled for the reasons he has identified, have this range of 25 to 28 per cent for the back. They also have the category of 20 to 23 per cent. What the parliamentary secretary might not be aware of is that the category below that is 10 to 13 per cent. Again, the scenario is that the person with the injured back will appear before the clinician, and the clinician will have to work out which of these categories the person fits into. If they say that the person is in the 25 to 28 per cent category, there will be no problem. If they say that the person is in the 20 to 23 per cent category, again there will be no problem, insofar as the person will still be able access their common-law rights because it is more than 15 per cent. But what will happen if the clinician says that the person does not fit into the range of 20 to 23 per cent, but they do fit into the 19, 18, 17, 16 or 15 per cent category? There is not even a provision in the table of American guides for that scenario. The physician will be left in the intolerable situation of having to select the 20 to 23 per cent category for the severity of the back injury or, if it does not meet that, the best that they could do for the person is select the 13 per cent category, which would automatically exclude a worker from the lower threshold for common law.

I am not identifying this as a new issue with the bill specifically. This is a longstanding, unacceptable situation that has ensured that a whole stack of workers have missed out on their common-law rights. It is not the fault of the doctor. The doctor has to choose one of these categories. The doctor cannot unethically manufacture that the person has a 20 per cent impairment of their back. They have been in a situation in which they have had to effectively choose between 13 per cent and 20 per cent, and then the legislators well before our time invented this 15 per cent threshold. It has been an entirely unsatisfactory situation for far too many years than I care to think about.

All of which is to say that I am grateful that the parliamentary secretary has indicated that a new set of guidelines will be published. Is this something that the government will take up to ensure that practitioners and injured workers with a back injury will no longer be left in this untenable situation of trying to access the 15 per cent threshold?

Hon MATTHEW SWINBOURN: As the member can probably tell by the level of discussion at the table, we are taking what he has raised seriously. As he has indicated, it is already the regime and nothing we are doing in the bill proposes to change that. I think he understands that. That is not a point of contention. He has raised what he has raised. The CEO of WorkCover WA is sitting at the table and he has heard what the member has said. A process will be undertaken, and I have already identified that we will do that when the new bill comes in and these guides are reissued. The best I can do is to say that what the member has put on the parliamentary record will be taken into consideration as we move forward. I cannot give any greater commitment than that because, as has been put to me at the table, it is a very complex thing. There are a lot of medical and legal matters that go into all these things. If I can be so bold as to say it, I think that is the fairest I can do for the member from the table now.

Hon NICK GOIRAN: Thank you for that, parliamentary secretary. It provides some level of comfort and assurance. I am glad that these opportunities get to be presented from time to time. This is my final question. In due course, if the WorkCover WA guides that will be published under the new regime, which will be on or after 1 July next year, prove to be objectionable by any person, including a member of Parliament, will the guides be a disallowable instrument?

Hon MATTHEW SWINBOURN: The member will like this answer. Yes, they will be.

Clause put and passed.

Clauses 183 to 192 put and passed.

Clause 193: Approval of permanent impairment assessors —

Hon NICK GOIRAN: We are now dealing with division 4, "Permanent impairment assessors". Has the language changed here? At the moment is it an "approved medical specialist" but from here on in —

Hon Matthew Swinbourn: By way of interjection, the name has changed.

Hon NICK GOIRAN: Yes, but is there anything else of great substance other than the name change?

Hon Matthew Swinbourn: I am advised no.

Hon NICK GOIRAN: Okay. It is important to compare apples with apples here. Have there been any complaints received by WorkCover WA about approved medical specialists?

Hon MATTHEW SWINBOURN: I am advised we are aware of one case where formal action was taken. It was about 10 years ago.

Hon NICK GOIRAN: There has been only one about 10 years ago. That makes redundant my next question, which was to ascertain whether any had had multiple complaints put in against them.

Hon Matthew Swinbourn: By interjection, no.

Hon NICK GOIRAN: With respect to that one where action was taken 10 years ago, would that person be refused approval under this legislation once it has passed?

Hon MATTHEW SWINBOURN: Obviously we are talking about a single individual. My instructions are that that individual is not currently a —

Hon Nick Goiran: An approved medical specialist.

Hon MATTHEW SWINBOURN: Yes—under the regime. They could make a new application. I cannot prejudice that application by saying it would be refused as a matter of fact because it would still have to be judged on its merits and all the necessary antecedents that go with that. So I do not want to take it any further than that.

Hon NICK GOIRAN: That is understandable. Under clause 193(4) —

> WorkCover WA must make the criteria applying for the time being publicly available on the WorkCover WA website and in any other manner it considers appropriate.

On the criteria that WorkCover will use, will any involve consideration of complaints from stakeholders?

Hon MATTHEW SWINBOURN: The member has not quite defined "stakeholder" so I am not really sure what he might be contemplating because that is a very broad thing. As we know, the Australian Health Practitioner Regulation Agency is the regulator for health practitioners. I can confirm if there are notations on its record, they will certainly be matters taken into consideration. If the member wants to be more specific about the kind of stakeholders he is contemplating, because I do not think AHPRA quite falls into the definition of a stakeholder because it is the regulator, we can go further than that.

Clause put and passed.

Clause 194 put and passed.

Clause 195: Minister may fix scale of fees and charges for permanent impairment assessment —

Hon MATTHEW SWINBOURN: I note the amendment in my name on supplementary notice paper 99, issue 3 at 6/195. I move —

> Page 153, lines 25 and 26 — To delete the lines.

I want to give an explanation, which is essentially identical to an explanation given in previous circumstances. The amendment is required due to the commencement of the Legislation Act 2021 on 1 July 2023, which, amongst other things, provides for publication of certain subsidiary legislation on the Western Australia legislation website rather than in the *Government Gazette*. Note 1 currently contained under clause 195(3) refers to the publication of the order fixing scales of fees and charges for permanent impairment assessor services being published in the *Government Gazette*. The Parliamentary Counsel's Office advises it is likely the fee order will be prescribed under the Legislation Regulations 2023 because the fee order is specifically identified as subsidiary legislation. PCO advises that the simplest approach is to delete note 1 to clause 195.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 196 to 201 put and passed.

Clause 202: Requirement for employers to be insured —

Hon NICK GOIRAN: If this were a cricket match, the parliamentary secretary would be entitled to raise the bat to the crowd for the second time having passed 200 now. Clause 202 comes under part 5 of the bill, "Division 2 — Employer obligations", "Subdivision 1 — Insurance requirements for employers". Is any adjustment made to the premium paid by an employer for workers whose remuneration exceeds the capped amount?

Hon MATTHEW SWINBOURN: There is nothing under the statute that requires that to take effect, so the answer is no.

Clause put and passed.

Clauses 203 to 209 put and passed.

Clause 210: Insurer may recover underpaid premiums from employer —

Hon Dr STEVE THOMAS: I am a little intrigued by this provision under which the insurer may recover underpaid premiums from an employer. This is a warning about the employer providing deliberately false and misleading

information—that is, if the insurer discovers that the employer has underestimated the cost et cetera and provided incorrect information. If the insurer goes back and seeks full payment, will the insurance remain valid during that period of time?

Hon Matthew Swinbourn: By way of interjection, yes, the insurance remains valid.

Hon Dr STEVE THOMAS: Okay, so an unpaid or partially paid workers compensation insurance bill will not void the insurance to the point at which the worker then has to sue the employer. Is that validity implied or is it explicitly explained in legislation or by information distributed by WorkCover?

Hon MATTHEW SWINBOURN: Insurers can cancel a premium only with the approval of WorkCover. The circumstances the member has identified, in which the employer has either knowingly or unknowingly provided false or—not that the member provided this, but these are the terms—misleading premium information to their insurer, or simply has not paid their bill, do not give the insurer the entitlement to cancel the insurance. The insurer has to go to WorkCover and seek for that to be done. Obviously, WorkCover does not do that willy-nilly, and for good reason, but it would be fair to say that at some point, if an employer is not paying their bills to the insurer, WorkCover will approve cancellation of the policy. That does not leave workers unprotected because there is a default safety mechanism, which is dealt with later in the bill, that will protect them. It certainly gives rise to a number of consequences for employers, because there is a continuing obligation to have workers compensation insurance, and if they do not have that, they can and will be prosecuted.

Hon Dr STEVE THOMAS: Obviously the intention is to make sure that workers are covered, and I understand that. How often do we see this occurring? How often is there an underpayment or a lack of provision of proper insurance, and how often has WorkCover actually allowed the cancellation of workers compensation insurance?

Hon MATTHEW SWINBOURN: I can only be as precise as this: it is not uncommon. We do not have figures here. If the member insists, we can provide him with figures, but we would have to come back to that, and I hope that it would not hold up the clause. The issue of WorkCover cancelling insurance is not dealt with specifically under this provision; I am trying to deal with things in a roundabout way because it is on this topic. It would not normally cancel the insurance premium until new insurance is in place with the employer, so that way there would not necessarily be a gap. The provision is mostly about creating a course of action for insurers to be able to go to court to recover moneys against an employer—that they have insured and continue to have obligations towards—for which they are not being paid the appropriate amounts. That is what we are trying to achieve here. It is largely a commercial consideration. How often this happens is a matter between insurers and employers. It is not data that WorkCover collects. Insurers might conduct audits of their client's figures and take issue with them and probably put a claim on them for increased amounts. I suspect that on most occasions, the employer will probably meet the additional amount. In other cases, they might be able to commence legal proceedings to recover what they think is a fair amount.

Hon Dr STEVE THOMAS: I was going to follow up on clause 211, because part of that process is that employers are audited. However, the parliamentary secretary probably does not have the numbers on that either, so I will let it go. I might briefly jump to clause 215 before we do a fairly big jump after that.

Clause put and passed.

Clauses 211 to 214 put and passed.

Clause 215: Both principal and contractor taken to be employers —

Hon Dr STEVE THOMAS: Clause 215 has a compensation break up between the principal and contractor. They are both taken to be employers. How is liability proportioned? I presume that the arbitrator or the courts will proportionally attribute liability in those circumstances, but does WorkCover get involved in that? Is it a standardised process or case-by-case?

Hon MATTHEW SWINBOURN: WorkCover does not get involved in determining what happens regarding who is responsible and for how much. This provision is to protect workers from subcontractors principally when the subcontractor does not have insurance or perhaps does not have as much insurance as they should—I suppose it does not really work like that in this system. A contractor either has insurance or does not; it is a binary thing.

The worker is then able to claim against the principal's workers compensation because they are jointly and severally liable. Following that, the worker would not be affected by the claim. What would happen is that they would go to their subcontracting employer, find out that there is no insurance, and then be able to make the claim against the principal. The principal would then be able to go to take whatever legal action it wishes separate from the whole process—it does not concern the worker at all—to say that "The contract I entered into with you provided that you would provide workers compensation. Now I am suing you for that amount". To be honest, it is probably the insurer suing on behalf of the principal rather than the principal themselves, because they are the one making the payouts and those sorts of things. It is a safety net measure for workers so that they are not left uninsured.

Clause put and passed.

Clauses 216 to 290 put and passed.

Clause 291: Limits on claims for declared acts of terrorism —

Hon Dr STEVE THOMAS: We are at part 5, division 9, "Acts of terrorism". We could have dealt with this anywhere, but I picked this clause. I do not think this is a new provision. What is the substantiation for limiting claims? What sorts of limits are we looking at? Why is it for acts of terrorism? Is it simply because the potential liability is so massive? Is compensation available under other mechanisms?

Hon MATTHEW SWINBOURN: The first thing to say is that these provisions are not new. The cap is to ensure that insurers can get insured and reinsured themselves. Otherwise, if there were unlimited liability, given the potential damage from a terrorism claim being almost limitless, it could sink the system. It is probably telling that the provisions came into effect in 2001, for obvious reasons. I think that explains it. To be up-front, in the current act, $25 million is the cap, and it has been that amount since 2001. Under the new act, the limit will be prescribed by regulations so that it can be more appropriately changed. The proposal is to increase the limit when the regulations are issued, from $25 million to $100 million, which is an industry standard retention amount for comparable catastrophic events. That has been flagged to stakeholders and it will not be a surprise to anyone that I have just dropped $100 million on the table, so it is out there. The $25 million is viewed to be woefully inadequate and $100 million is more in posit with comparable standards.

Clause put and passed.

Clauses 292 to 296 put and passed.

Clause 297: Terms used —

Hon NICK GOIRAN: As the parliamentary secretary rapidly moves to his third century under this bill —

Hon Matthew Swinbourn: I need a boundary.

Hon NICK GOIRAN: Yes. This might be the one that gives it to the parliamentary secretary. I have one area to cover under division 11, "Contributions to Motor Vehicle and Workplace Accidents (Catastrophic Injuries) Fund", which is dealt with at clauses 297 to 302. The current act extinguishes a worker's common-law rights if he or she accesses the extension of $250 000 of medical expenses under clause 18A(1C) of schedule 2 of the Workers' Compensation and Injury Management Act. Will accessing the catastrophic injuries fund have any impact on a worker's common-law rights?

Hon MATTHEW SWINBOURN: No.

Clause put and passed.

Clauses 298 to 347 put and passed.

Clause 348: Decisions generally —

Hon NICK GOIRAN: This clause comes under subdivision 3 of part 6, division 4 of the bill, which deals with arbitration. Currently, an interim payment or suspension order by a conciliation officer cannot be reviewed. Why is it considered necessary to now introduce this review by an arbitrator?

Hon MATTHEW SWINBOURN: We might need some clarification from Hon Nick Goiran. The advice I am getting is that the arbitrator has this power under section 211, "Decisions generally", of the current act. Section 211(2) states —

> An arbitrator may confirm, vary or revoke a direction under section 182K(2) or (4) or 182L(2).

That is dealt with at section 182K, "Weekly payments etc., conciliation officers may direct etc.". Section 182K(2) provides —

> The conciliation officer may direct that weekly payments of compensation be made by the employer to the worker if the conciliation officer considers that it would be reasonable to expect that the resolution or determination of the dispute under this Part would result in weekly payments of compensation becoming payable.

Subsection (4) states —

> The conciliation officer may direct that a payment be made by the employer in respect of a compensation entitlement under clause 17 …

It goes on; I do not want to read it all out. Unless we are not on what the member is on, it is our understanding that we are not changing the current regime.

Hon NICK GOIRAN: To be clear, the government says that under the current act, if a conciliation officer orders an interim payment, that can be reviewed by an arbitrator.

Hon MATTHEW SWINBOURN: Yes, member.

Hon NICK GOIRAN: Equally, if a conciliation officer makes a suspension order, that can also be reviewed by an arbitrator.

Hon MATTHEW SWINBOURN: Yes, member.

Clause put and passed.

Clauses 349 to 357 put and passed.

Clause 358: Interest on sums to be paid —

Hon Dr STEVE THOMAS: Subdivision 4 is headed "Interest", so it does not matter which clause we do this under. Clause 358(2) states —

> Interest payable must be calculated at a rate prescribed by or determined under the regulations.

I presume that an interest rate currently exists. How often is it reviewed, what is it currently sitting at and how is it determined?

Hon MATTHEW SWINBOURN: Members would think this would be straightforward, but, apparently, it has not been amended since 2005, and it is currently six per cent.

Hon Dr Steve Thomas: Luckily the official interest rate has gone up so we can justify it.

Hon MATTHEW SWINBOURN: Yes. It is because it is very archaic, in the sense of the time that it was done. I believe that these sorts of things have a connection to the rates that are often set by the courts in terms of penalty interest and those sorts of things, but I would not want the member to necessarily quote me on that, because obviously it has not been changed since 2005.

Hon Dr STEVE THOMAS: So it does not change very often. Is there a set calculation that the parliamentary secretary is aware of, because the answer sort of indicates that it is a bit arcane? Is there a set calculation?

Hon MATTHEW SWINBOURN: The current act does not prescribe or dictate a methodology for determining that. I do not have the advice at the table on what was used to determine the six per cent figure. Six per cent is a very familiar figure because that is the amount that courts use on judgement debts and those sorts of things. As I say, I do not want to but if I had to guess, I suspect that is how it was benchmarked. I have been advised that we are happy to have a look at the rate going forward when we review the new regulations that will come in. As I say, it is probably not a satisfactory answer, but we just do not have that information here. We could probably, at another time, dig through and find out for the member, if he is super interested in knowing, but I suspect it is just benchmarked to this figure across government and the courts.

Hon Dr STEVE THOMAS: Okay. Thanks, parliamentary secretary. I suspect we will not quite finish the bill today, but we will not be as far off as people think. Maybe, if that is the case, the parliamentary secretary can come back in the next sitting week, or just behind the chair at some point, and give us some sort of indication. In which case, I am happy to move on to clause 365.

Clause put and passed.

Clauses 359 to 362 put and passed.

Clause 363: Functions conferred by this Division —

Hon NICK GOIRAN: This clause deals specifically with conciliators and arbitrators. Why is it deemed necessary to separate those functions as set out at clause 363(1) and (2)?

Hon MATTHEW SWINBOURN: I am advised that the current act contains separate provisions for arbitrators and conciliators but that in large part they mirror each other. The point of the drafting in this bill was to bring them together under the one division, but to make clear that in other parts it does not import the arbitrators' powers to conciliators and conciliators' powers to arbitrators. It is not creating anything new from the current act other than to amalgamate the provisions.

Hon NICK GOIRAN: In other words, although one person may be a conciliator and an arbitrator, while they are wearing their conciliator's hat, they do not have the powers of an arbitrator at that moment in time?

Hon MATTHEW SWINBOURN: What the member said is correct, but I note that currently there is no-one who is both a conciliator and an arbitrator. We can concede that it is possible that someone could have both those functions but exercise them separately when they have different hats on.

Hon NICK GOIRAN: Are those conciliators and arbitrators statutory officers?

Hon MATTHEW SWINBOURN: Yes, they are.

Hon NICK GOIRAN: By virtue of that, they are not judicial officers?

Hon MATTHEW SWINBOURN: No, they are not.

Clause put and passed.

Clause 364 put and passed.

Committee interrupted, pursuant to standing orders.

[Continued on page 3951.]

QUESTIONS WITHOUT NOTICE

ROLL ON, ROLL OFF VEHICLE FACILITIES — BUNBURY PORT

881. Hon Dr STEVE THOMAS to the Leader of the House representing the Minister for Ports:

(1) As at 17 August 2023, what is the totality of Southern Ports landholding at Bunbury port?

(2) Of this land holding, as at 17 August 2023, how much of this land is currently activated under the Bunbury port landlord model?

(3) Within the three specific concept studies since 2017 undertaken by Southern Ports Authority investigating the suitability of Bunbury port infrastructure to facilitate roll on, roll off vehicle trade, has the volume or area of land required for successful RORO deployment been determined?

(4) If yes to (3), what is the area of land deemed suitable to deliver RORO at Bunbury port?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question. If I had been paying attention, I would have drawn this to his attention earlier, so I am sorry about that.

(1)–(4) An answer to the questions asked cannot be provided in the time frame given and they are requested to be put on notice.

GRIFFIN COAL — LIQUIDATOR

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

This question was asked a week ago, so it should still be relevant. I refer to my questions without notice 584, 665 and 686 of June 2023 that revealed the staggering 20 per cent blowout in liquidator grants in addition to the unprecedented $19.5 million grant to the receivers and managers of the insolvent Griffin Coal.

(1) As at 8 August 2023, what additional taxpayer money in excess of the original $19.5 million grant have been provided to the receiver and managers of the insolvent Griffin Coal?

(2) On what dates did the drawdowns occur, what were the specific amounts, and for what purpose and to what entities, individuals, businesses or contractors were the payments made?

(3) In the last 10 months and as at 8 August 2023, how many financial assistance agreements have been executed between the state and Griffin Coal, and what are the financial values and variations of the additional FAAs and on what dates were they executed?

(4) What is the total amount of payments the government has paid to the receivers and managers of Griffin Coal?

Hon STEPHEN DAWSON replied:

I thank the Leader of the Opposition for some notice of the question. This answer is current as at 8 August 2023.

(1)–(2) Consistent with the answer to Legislative Council question without notice 584 asked on 13 June 2023, the government has provided a total of $23.2 million to the receivers and managers of Griffin Coal. This is comprised of $7.3 million in March 2023, $9.7 million in May 2023 and $6.2 million in June 2023 in order to support continued mining operations.

(3) Two financial assistance agreements have been executed between the state and the receivers and managers of Griffin Coal. They were executed on 11 January 2023 and 19 May 2023 respectively.

(4) The payments totalled $23.2 million.

SOUTH COAST MARINE PARK

883. Hon COLIN de GRUSSA to the parliamentary secretary representing the Minister for Environment:

I refer to the minister's response to my question without notice 857 asked on 16 August 2023 regarding the proposed south coast marine park.

(1) What agencies, community groups or private organisations were consulted in the Department of Biodiversity, Conservation and Attractions' consideration of prospective facilities related to the export of hydrogen and other green energy products?

(2) If consultation took place, on what dates did it occur?

(3) Did consideration of these facilities form part of the draft zoning plans submitted to the sector advisory groups and community reference committee?

Hon DARREN WEST replied:

I thank the member for some notice of the question. On behalf of the Minister for Environment, I provide the following answer.

(1) The Department of Jobs, Tourism, Science and Innovation, the Southern Ports Authority, Fortescue Future Industries and Western Green Energy.

(2) Consultation has also occurred with industry representatives through various forums since December 2021.

(3) Yes.

JURY TRIAL COURTROOMS — FEASIBILITY STUDY

884. Hon TJORN SIBMA to the parliamentary secretary representing the Attorney General:

I refer to the two-year feasibility study conducted by the Department of Justice into overcoming an urgent shortage of criminal trial courtrooms.

(1) Does the Attorney General support the Law Society's recommendation of 15 April 2021 that a minimum of four, but preferably seven, new courts be built as soon as possible?

(2) If yes, why has no practical outcome been achieved as yet?

(3) If no, what measures does the Attorney propose?

Hon JACKIE JARVIS replied:

I thank the honourable member for some notice of the question. The following response, which I provide on behalf of the parliamentary secretary, has been provided by the Attorney General.

(1)–(2) As per my advice to the member on 16 August 2023, the complexity of the work on the feasibility study includes the operational requirements across numerous sites in the Perth central business district and how these facilities are currently used. Any potential solution, put to cabinet, needs to fully consider the number of courtrooms required, movement of judiciary and all other participants in the criminal jury trial process. Of particular importance is the movement of persons in custody. The department is working to resolve this significant issue as a priority and continues to liaise with stakeholders.

(3) Not applicable.

NORTH EAST METROPOLITAN LANGUAGE DEVELOPMENT CENTRE — SPEECH PATHOLOGIST PILOT PROGRAM

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

I refer to the North East Metropolitan Language Development Centre and the speech pathologists in schools pilot for 2021–23.

(1) Is it intended that the pilot will be extended beyond 2023?

(2) If yes to (1), for how long will the pilot be extended?

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

Hon SUE ELLERY replied:

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

(1) Yes.

(2) It will be extended until the end of the 2024 school year.

(3) Not applicable.

BROOME REGIONAL PRISON

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

I refer to Broome Regional Prison.

(1) What was the total allocated FTE on 1 January 2022 and 1 January 2023?

(2) What was the actual FTE on 1 January 2022 and 1 January 2023?

(3) How many staff resigned in 2022 and 2023 to date?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. The following information has been provided to me by the Minister for Corrective Services.

(1)–(3) The Department of Justice advises that manual extraction of data records needs to be undertaken and it is not possible for an answer to be provided within the required time frame. It is requested that the honourable member place this question on notice.

MP BIOMEDICALS — RAPID ANTIGEN TEST KITS

887. Hon JAMES HAYWARD to the Leader of the House representing the Minister for Health:

I refer to the stock of MP Biomedicals branded rapid antigen test kits.

(1) How many MP Biomedicals RAT kits are in stock in Health Support Services warehouses?

(2) How many of the MP Biomedicals RAT kits are due to expire in September 2023?

(3) Noting that the end of September is less than eight weeks away, can the minister advise how MP Biomedicals RAT kits that are due to expire in September will be utilised?

Hon SUE ELLERY replied:

(1) There are 8.6 million.

(2) There are 0.9 million.

(3) As Health Support Services does not distribute RAT kits with less than eight weeks remaining before expiry, the MP Biomedicals RAT kits that are due to expire in September cannot be utilised and will form part of the disposal strategy currently under development.

PLANNING — DEVELOPMENT CONDITIONS

888. Hon BEN DAWKINS to the minister representing the Minister for Planning:

I refer to the answer to question without notice 863 regarding guiding development schemes and the attached town planning scheme 12 Shire of Harvey guided development scheme text, the associated scheme/golf course map and a letter from the Western Australian Planning Commission dated 23 July 1997. I seek leave to table these documents.

The PRESIDENT: Are they part of the answer to the question that you asked?

Hon BEN DAWKINS: No, they are part of my question; I submitted them with the question.

[Leave granted. See paper 2447.]

Hon BEN DAWKINS: I ask —

(1) As the minister suggested in her answer to question without notice 863, enforcement depends on the scheme, and clauses 7.2 and 7.3(c) state that implementation and enforcement is the responsibility of the Shire of Harvey. Can the minister confirm that this is also the department's legal position?

(2) Can the minister confirm that, to use her words, the proposal is the subdivision of 200 home sites, and the conditions are set out in TPS 12 and the letter from the WAPC, which refers to development conditions?

(3) I agree that proposals do not have to be completed; however, once they have, as in this case whereby subdivision has been completed and 200 families have bought land and homes in the golf course estate, does the minister agree that the conditions associated with the proposal of the subdivision have now become crystallised conditions with which the developer must comply?

(4) Does the minister agree that clause 5.5.1 of TPS 12 contains the following words verbatim —

The Community Open Space shall be vested in the Community Association …

The PRESIDENT: Before I give the call to the minister, honourable member, there are a number of points in that question that I would like to bring to your attention in relation to standing order 105. Firstly, from what I understood of the question, there were several parts to the question that sought a legal opinion. Standing order 105 requires questions not to seek a legal opinion. Secondly, from what I heard, the question also seeks an opinion of the minister separate from a legal opinion. Thirdly, it seeks to receive an amount of information that might not be able to be applied within the very brief window that the minister and the departments have in the turnaround of the question. I have concerns in relation to standing order 105, but I will ask the minister whether she is able to respond to the question, and then consider anything, if needed, after that.

Hon JACKIE JARVIS replied:

Thank you for your direction. The Minister for Planning has advised that given that the member has tabled a significant number of documents, the minister is not able to provide a response in the time available. However, the minister will endeavour to provide a response on 29 August 2023.

The PRESIDENT: I will leave in that question at the moment, but I strongly advise the member not to seek a legal opinion or an opinion in the text of questions without notice.

NATIONAL RENTAL AFFORDABILITY SCHEME

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

I refer to the national rental affordability scheme established under the Labor Rudd government, which is due to expire soon and is responsible for thousands of already-built affordable homes for pensioners, disabled people, families and other Western Australians.

(1) How many NRAS-subsidised properties are there in WA?

(2) How many of those properties are due to have their subsidy expire this year?

(3) Given the effectiveness of this scheme and the number of Western Australians who rely on it to stay housed, has the state government considered cost-sharing the scheme with the federal government to save Labor's own NRAS?

(4) If no to (3), what, if any, other rental subsidies is the state government considering to replace the affordable homes that will be lost when NRAS ends?

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)–(4) The national rental affordability scheme is a commonwealth initiative. NRAS properties are privately owned and when sold on the private market, the seller will not always disclose that the property was formally under NRAS. The Department of Communities will work with existing NRAS tenants on a case-by-case basis, including housing support and transitional arrangements, and provide information on their housing options and appropriate support services. The Cook government remains committed to increasing social housing supply and is investing a record $2.6 billion over four years to improve the quality and accessibility of social housing and homelessness services in Western Australia. This investment will see the delivery of 4 000 new social homes and refurbishment and maintenance work done to many thousands more. Since this record investment, nearly 1 500 new social homes have been delivered with 1 000 more currently under contract or construction.

RESIDENTIAL TENANCIES — NO-FAULT EVICTIONS

890. Hon WILSON TUCKER to the Minister for Commerce:

I refer to my previous question without notice 838 regarding the government's decision not to implement a ban on no-fault evictions. The minister's response indicated the decision was supported by the *Housing affordability in Western Australia 2023: Building for the future* report. I note that the same report states —

> Tenancy reform to improve security of tenure and enable renters to make a house feel more like a home … is critical to establish a fair and stable sector and to support community wellbeing.

In the absence of a ban on no-fault evictions, what is the government doing to improve security of tenure?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question. As announced in May 2023, the state government will improve security of tenure and make tenants feel more at home by amending the Residential Tenancies Act 1987 to limit rent increases to once every 12 months instead of six-monthly, as currently applies; ban rent bidding; allow tenants to make minor modifications to premises with the lessor's consent and limit the circumstances in which a lessor can refuse to consent; allow a tenant to keep pets with the consent of the lessor and limit the circumstances in which the landlord can refuse to consent; and empower the Commissioner for Consumer Protection to determine disputes over bond payments, disagreements about pets and minor modifications. In addition, as announced in the 2023–24 state budget, funding of $4.5 million a year over the next two financial years will go to tenancy advocates and community groups to provide WA tenants with advice and support. The 35 per cent increase in funding will be distributed via the Tenant Advice and Education Service.

INDUSTRIAL HEMP — FREMANTLE TRAFFIC BRIDGE

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

My question is to the Leader of the House representing the Minister for Transport. I refer the minister to ongoing work to build a new bridge across the Swan River in Fremantle, noting that construction work is scheduled to commence this year.

(1) What was the life span of the old bridge, and what is the projected life span of the new one?

(2) Is the minister aware that bridges incorporating hemp concrete were constructed in France during the sixth-century Merovingian dynasty and are still standing and in use today?

(3) Was any consideration of hemp-based building materials entertained during the planning stages of this project; and, if not, why not?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. I, in fact, represent the Minister for Transport, so I will provide the answer. The short answer is no, but the answer provided by the minister is as follows.

(1)–(3) The Fremantle Traffic Bridge was opened in 1939 with an expected 40-year life and has served its function well beyond that. The new traffic bridge will have a design life of 100 years. Planning, development and design for the new traffic bridge is ongoing but will use more-traditional building materials.

CANNABIS — OFFENCES

892. Hon SOPHIA MOERMOND to the minister representing the Minister for Police:

I refer to the NSW Bureau of Crime Statistics and Research's report *Why are Aboriginal adults less likely to receive cannabis cautions?* released in June 2023 that showed around 78 per cent of Aboriginal people proceeded against for a cannabis offence were ineligible to receive a caution, compared with 45 per cent of non-Aboriginal people under NSW's cannabis cautioning scheme.

(1) Is there a similar level of inequity of cautioning decisions received by Aboriginal people in the Western Australian justice system?

(2) Is there any data available that shows the ethnicity of individuals receiving a cannabis intervention requirement under the Misuse of Drugs Act; and, if not, why not?

Hon STEPHEN DAWSON replied:

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

The Western Australia Police Force advises the following.

(1) No. The WA Police Force's application of drug diversion for cannabis and other illicit drugs allows for intervention requirement notices to be issued, not cautions. Issuance of these notices has been analysed in the past and did not reveal inequity.

(2) Yes. The WA Police Force captures the stated ethnicity and ethnic appearance of persons processed for an offence with a cannabis intervention requirement. This data is captured within the WA Police Force's incident management system.

TEMPORARY ACCOMMODATION — KALBARRI

893. Hon MARTIN ALDRIDGE to the Minister for Emergency Services:

I refer to reports in *The Geraldton Guardian* of 1 August that the Shire of Northampton and the Department of Fire and Emergency Services are progressing with developing a temporary caravan accommodation facility in Kalbarri.

(1) What aspect of this development is being supported by DFES?

(2) What is the anticipated financial cost of this project to the state government?

(3) What is the time frame for delivery of this project, and how long is the temporary facility expected to be in place?

(4) Why did the state government not fulfil its election commitment to establish a permanent workers accommodation facility in Kalbarri?

Hon STEPHEN DAWSON replied:

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

(1) The temporary workers caravan accommodation facility is a Shire of Northampton–led initiative that is funded through the disaster recovery funding arrangements. The Department of Fire and Emergency Services state recovery team provides the Shire of Northampton with ongoing support and advice to enable the shire to access eligible funding under the arrangements.

(2) The Shire of Northampton has advised DFES that the anticipated financial cost for the development of the site is approximately $800 000. The state will claim 50 per cent of all eligible costs from the commonwealth through the DRFA.

(3) The Shire of Northampton is progressing with the work to have this facility operational as soon as possible.

(4) The Department of Planning, Lands and Heritage is the lead agency for this project.

KING EDWARD MEMORIAL HOSPITAL — INFANT SURVIVAL RATES

894. Hon NICK GOIRAN to the Leader of the House representing the Minister for Health:

I refer to the answer to my question without notice 788, which confirmed that infants born from 22 weeks' gestation have survived, courtesy of the world-class health care provided at King Edward Memorial Hospital.

Have any infants survived when born at —

(1) 20 weeks; and

(2) 21 weeks?

Hon SUE ELLERY replied:

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

(1) No.

(2) No.

HOUSING INDEMNITY INSURANCE SCHEME — PAYOUTS

895. Hon STEVE MARTIN to the Minister for Commerce:

I refer to the doubling of the housing indemnity insurance payouts?

(1) How many HII payouts have been made due to builders being unable to complete since the policy was announced on 19 October 2022?

(2) What is the total value that has been paid out in HII since 19 October 2022?

(3) Where has the government publicly advertised that the doubling will be applied to insurance issued from 1 June 2020, other than in answers to parliamentary questions?

Hon SUE ELLERY replied:

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

(1) There have been 137.

(2) It is $21 648 755.32.

(3) Following the change, QBE advised policyholders who were eligible for new payout limits about the change to their insurance policies.

COLLIE FUTURES FUND AND
COLLIE INDUSTRY ATTRACTION AND DEVELOPMENT FUND

896. Hon Dr STEVE THOMAS to the parliamentary secretary representing the Minister for Regional Development:

(1) How many permanent full-time positions have been directly created by the Collie Futures fund to date?

(2) How many permanent full-time positions have been directly created by the Collie industry attraction and development fund to date?

(3) For each of those funds, under what applications have funding for those jobs been created?

Hon KYLE McGINN replied:

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

(1) As at 30 June 2023, projects funded through the Collie Futures fund are anticipated to create 481 jobs in construction and operational stages.

(2) As at 30 June 2023, projects funded through the Collie industry attraction and development fund are anticipated to create 539 jobs in construction and operational stages.

(3) I table the attached copy.

[See paper 2448.]

PRIVACY LEGISLATION

897. Hon TJORN SIBMA to the parliamentary secretary representing the Attorney General:

I refer to the government's stated commitment to introduce legislation to reform personal privacy protections and the accountability of information sharing within government?

(1) When can the Parliament expect to see a bill introduced?

(2) What guarantees can the Attorney General give to Western Australians that their private information is currently being handled responsibly?

Hon JACKIE JARVIS replied:

On behalf of the parliamentary secretary representing the Attorney General, I thank the member for some notice of the question. The following response has been provided by the Attorney General.

(1) In December last year, the state government announced that drafting was underway on landmark legislation to reform personal privacy protections and the accountability of information sharing within government. The drafting of that legislation remains underway.

(2) When agencies are operating under legislation that contains specific provisions about the use or disclosure of personal information, they must comply with those protections. More generally, the interim privacy position for the Western Australian public sector is that agencies should ensure that their actions are consistent with the Australian privacy principles set out in schedule 1 to the commonwealth Privacy Act 1988. Notably, this includes Australian privacy principle 6, which deals with the use and disclosure of personal information.

MOTHER AND BABY UNITS — FTE

898. Hon DONNA FARAGHER to the Leader of the House representing the Minister for Health:

I refer to mother and baby units, which provide specialist perinatal support and treatment services.

Will the minister provide a staffing breakdown, by headcount and FTE, of the number of clinicians employed within the mother and baby units at King Edward Memorial Hospital for Women and Fiona Stanley Hospital in 2022–23?

Hon SUE ELLERY replied:

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

At King Edward Memorial Hospital for Women, the headcount is 63 and the full-time equivalent is 23.3. At Fiona Stanley Hospital, the headcount is 21.8 and the full-time equivalent is 28.

POLICE STATIONS — INFRASTRUCTURE

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

(1) What new police stations are due to open in Western Australia in 2023, 2024 and 2025?

(2) What major improvements to police stations in Western Australia are scheduled to be completed in 2023, 2024 and 2025?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. The following information has been provided to me by the Minister for Police.

The Western Australia Police Force advises the following.

(1) It is anticipated that the Armadale courthouse and police complex and the Baldivis and Forrestfield Police Stations will open and that construction will commence on the Fremantle police district between 2023 and 2025.

(2) The Cannington and Joondalup police complexes and the Canning Vale, Gosnells, Hillarys, Jigalong, Kensington, Kununurra, Manjimup, Meekatharra and Mt Magnet Police Stations are anticipated to have improvement works undertaken between those years.

FOREST PRODUCTS COMMISSION — FIREWOOD SUPPLY

900. Hon JAMES HAYWARD to the Minister for Forestry:

I refer to firewood supplies in Western Australia.

(1) Has the minister received a briefing about the availability and cost of firewood to residential customers?

(2) If yes to (1), will the minister table any briefing documents that relate to firewood cost and availability?

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

(4) Does the minister acknowledge that increased firewood prices following the announcement of the native forestry ban have significantly impacted Western Australians who are already struggling with the cost of living?

Hon JACKIE JARVIS replied:

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

(1) No.

(2) Not Applicable.

(3) I receive regular verbal briefings on volume produced by the Forest Products Commission.

(4) The FPC continues to supply all contractual commitments for firewood. There has been no increase in the price of wholesale firewood supplied by the FPC following the historic decision of the Cook Labor government to end logging in native forests. Wholesale and retail prices of firewood are set by the market.

PLANNING — DEVELOPMENT CONDITIONS

901. Hon BEN DAWKINS to the minister representing the Minister for Planning:

I refer to the answer to question 863 about guided development schemes, attached town planning scheme 12, Shire of Harvey guided development scheme text, the associated scheme/golf course map and letter from the Western Australian Planning Commission dated 23 July 1997, which was tabled previously today.

President, I do not think what I am about to ask is asking for an opinion.

The PRESIDENT: Order, member. Please ask your question. If you wish to dissent from the ruling of the chair, there is another way to do that. There is no need to defend your question now. Please ask your question. I may make some suggestions and/or I may refer it to the minister.

Hon BEN DAWKINS: I will need to seek advice from the clerks on this going forward. I ask —

(1) Does the minister agree that condition 28 in the Western Australian Planning Commission letter regarding the vesting of land to the community association and paragraph (i) in the WAPC letter regarding developer compliance with TPS 12 have not been complied with?

(2) Does the minister agree that town planning schemes and guided development schemes have statutory force given that the heading of TPS 12 is "Town Planning and Development Act 1928"?

(3) Does the minister agree that clause 6.2 of TPS 12 states—it is quite simple to say yes or no to this—that "The Developer shall carry out the development of the Golf Course" and "provided so that the Golf Course can function effectively at least at the level of an 18-hole international standard Golf Course"?

(4) Given that the minister has demonstrated uncertainty over whether there has been enforcement of TPS 12 by the Shire of Harvey and enforcement of development conditions by the Western Australian Planning Commission and the Shire of Harvey, is it not appropriate to refer TPS 12 to the State Administrative Tribunal under section 211 of the Planning and Development Act in accordance with aggrieved person, community association committee member and resident on the closed seventh fairway, Fred Flanagan and his email to the minister of 22 June 2023? I just need a yes or no answer.

The PRESIDENT: I also refer to standing order 105 in relation to concise questions. I will see whether the minister is able to provide a concise answer. Minister for Agriculture and Food.

Hon JACKIE JARVIS replied:

The Minister for Planning has advised that given that the member has tabled a significant number of documents, the minister is not able to provide a response in the time available. However, the minister will endeavour to provide a response on 29 August 2023.

GAS CONNECTIONS

902. Hon Dr BRAD PETTITT to the minister representing the Minister for State and Industry Development, Jobs and Trade:

I refer to the Victorian Labor government's announcement that gas connections will be banned in new homes from 2024.

(1) Is the minister aware that —

  (a) gas in homes is responsible for up to 12 per cent of childhood asthma;

  (b) homes that are fully electrified save an average of $1 200 a year compared with homes using gas;

  (c) on average, fully electrified homes save 11 tonnes of greenhouse gas emissions a year compared with homes using gas?

(2) Given the overwhelming health, economic and environmental benefits of fully electrified homes, is the state government investigating following Victoria's lead and banning gas connections in new homes?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. Honourable member, I have not seen that question. It did not appear in my pack earlier in the day. If for some reason it was lodged and an answer is available, I will ask somebody to bring it in and provide it at the end of question time.

RESIDENTIAL TENANCIES ACT — AMENDMENTS

903. Hon WILSON TUCKER to the Minister for Commerce:

My question is entirely without notice. In response to a question I asked earlier in the week, the minister mentioned a second tranche of changes related to the Residential Tenancies Act. Could the minister please give the house an indication of what changes to that act may be included as part of the second tranche?

Hon SUE ELLERY replied:

Consultation was done some time ago now, before I was the responsible minister, and out of that, the decision was made to separate the matters stakeholders had raised into two tranches. Work is being done now, and I have not received advice on what will be in the second tranche. Stakeholders have been advised that all the issues raised in the consultation that occurred very early on that were not dealt with in our May announcement will be dealt with in the second tranche. A range of things were canvassed in that. The member would appreciate that I do not have a list of them in front of me now. Work is being done. If the member wants to track it back before we meet again,

he would look at the consultation material that was put out, I am pretty sure, on the Consumer Protection division website. He would then be able to see what was divided off. The stakeholders are well aware of how things were separated. I do not have a list here. I am waiting for the department to provide me advice on what we will do in each of the matters.

SOCIAL CONNECTIVITY — CANNABIS SOCIAL CLUBS

904. Hon Dr BRIAN WALKER to the minister representing the Minister for Community Services:

I refer the minister to recent longitudinal studies published as part of the Household, Income and Labour Dynamics in Australia survey and widely publicised by the ABC that suggest that Australians are having less social contact than ever before, and are also reporting increasing rates of loneliness.

(1) Does the minister share the concerns raised by her federal colleague Assistant Minister for Competition, Charities and Treasury, Andrew Leigh, who suggested that Australians have shrinking social circles, and risk "becoming a nation without friends"?

(2) What active steps and/or programs is the Department of Communities taking to counter this worrying trend?

(3) Since many western countries, including Spain, France, Belgium and the Netherlands, have allowed the formation of cannabis social clubs, will the department consider that as one possible way in which social circles might be widened for Western Australians; and, if not, why not?

Hon JACKIE JARVIS replied:

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

(1) The Minister for Community Services has suggested that question (1) is out of order under standing order 105(1)(b) as it seeks an opinion.

(2) We all have a role to play in engaging with and supporting family, friends, neighbours et cetera who are lonely. Some of the initiatives supported by the state government through the Department of Communities to strengthen community connectedness include the following. It supports and funds Linkwest, the Western Australian peak body for neighbourhood and community resource centres. The 146 centres contribute to vibrant, inclusive and connected communities and anchor a range of services that can be delivered locally. The department also provides youth engagement grants and funding to support the age-friendly communities social connectivity grants program. Community garden grants assist with the planning, development and implementation of community garden projects across Western Australia. There is funding and administration of Cadets WA for more than 9 500 young people who participate in over 190 cadet units throughout the state and involving around 1 100 volunteer instructors. It also partners with the community services sector to develop volunteer opportunities and encourage and assist people to become involved in volunteering, including delivering the WA Volunteer Service Awards, and providing funding and grant programs and developing resources to assist volunteering organisations. It also supports and funds men's shed initiatives and projects.

(3) It is not a priority of the Cook Labor government to modify the existing laws and penalties in place regarding cannabis possession and use.

Hon SUE ELLERY: I ask that business of the house be resumed.

Questions without Notice — Standing Orders — Statement by President

THE PRESIDENT (Hon Alanna Clohesy) [5.04 pm]: Before I resume the business of the house, I have two points to make. Firstly, I advise members to consider the use of questions without notice of which no previous notice has been provided and the impact they have on the system of questions without notice and the fairness of that in relation to other members. Secondly, I invite members to consider standing order 105 and the brevity of questions and answers. I thank members. If they need advice, the Clerk is always available.

The business of the house is resumed.

COMMUNITY CHILD HEALTH NURSES

Question without Notice 874 — Answer

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.04 pm]: I would like to provide an answer to Hon Donna Faragher's question without notice 874 asked yesterday. I seek leave to have the response incorporated into *Hansard*.

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

(a) 25.15

(b) 21.08

YOUTH DETENTION — SUICIDE AND SELF-HARM ATTEMPTS
MISUSE OF DRUGS ACT — CANNABIS INTERVENTION REQUIREMENT

Questions without Notice 828 and 854 — Answer

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services) [5.04 pm]: I would like to provide answers to Hon Dr Brad Pettitt's question without notice 828 asked on 10 August and Hon Sophia Moermond's question 854 asked on 15 August. I seek leave to have both responses incorporated into *Hansard*.

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

Question without notice 828 —

I thank the Honourable Member for some notice of this question. The following information has been provided to me by the Minister for Corrective Services.

(a) Answer (1)(a)

Table 1. Banksia Hill Suicide and Self-Harm Instances by Month between 1 June and 7 August 2023

	June 2023	July 2023	August 2023 (as of 7 August)
Attempted Suicide	4	3	0
Self-Harm – Serious	1	0	0
Self-Harm – Minor	31	26	3

Table 2. Unit 18 Suicide and Self-Harm Instances by Month between 1 June and 7 August 2023

	June 2023	July 2023	August 2023 (as of 7 August)
Attempted Suicide	0	0	0
Self-Harm – Serious	0	0	0
Self-Harm – Minor	10	15	1

(b) Answer (1)(b)

June 2023:

- Banksia Hill – 7 hours and 46 minutes
- Unit 18 – 2 hours and 27 minutes

July 2023:

- Banksia Hill – 9 hours and 10 minutes
- Unit 18 – 2 hours and 16 minutes

August 2023 (as of 7 August):

- Banksia Hill – 9 hours and 27 minutes
- Unit 18 – 2 hours and 24 minutes

(c) Answer (1)(c)

June 2023:

- Banksia Hill – 504
- Unit 18 – 329

July 2023:

- Banksia Hill – 129
- Unit 18 – 320

August 2023 (as of 7 August):

- Banksia Hill – 33
- Unit 18 – 85

Question without notice 854 —

I thank the Honourable Member for some notice of this question. The following information has been provided to me by the Minister for Police.

The Western Australia Police Force advise:

(1) 1465

(2) 1041

(3) 787

(4) 550

YOUTH DETENTION — STAFF

Question on Notice 1473 — Answer Advice

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services) [5.05 pm]: Under standing order 108(2), I wish to inform that house that the answer to question on notice 1473, asked by Hon Steve Martin, MLC on 13 June 2023 to me, the minister representing the Minister for Corrective Services, will be provided on 29 August 2023.

WORKERS COMPENSATION AND INJURY MANAGEMENT BILL 2023

Committee

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Sandra Carr) in the chair; Hon Matthew Swinbourn (Parliamentary Secretary) in charge of the bill.

Committee was interrupted after clause 364 had been agreed to.

Clause 365: Representation —

Hon Dr STEVE THOMAS: The parliamentary secretary probably should have been expecting this question. We are going to combine discussion on clause 365 with clause 366. Clause 365 is about representation in conciliation and arbitration procedures. The bill introduces a change from the existing legislation. Clause 365(2) states that representation can include "an authorised agent" but clause 365(4) reads "A prohibited person cannot represent a party" and clause 366 provides the meaning of a prohibited person in terms of the legal profession. This has been a bit controversial. Most of us have probably received correspondence from people who have been agents in the past and who will, upon the passing and implementation of this legislation, no longer be authorised to do those things because they are not legal representatives. Can the parliamentary secretary justify the removal of authorised agents who have been doing that job for some years and who will no longer be able to continue in that role?

Hon MATTHEW SWINBOURN: In WorkCover WA's *Final report* in 2014, the recommendation was to discontinue the regime, with independent registered agents to be transitioned out of the scheme over a two-year period. That period will start only on the commencement of the act—not two years from its passage through Parliament, but on the commencement of the act. This position is based on the following reasons. First, it is our view that it is an inappropriate use of government resources to maintain a comprehensive regime of registration, oversight and audit on an ongoing basis for five individuals, because that is currently how many are registered. The state bears the responsibility for creating a regime, as I say, to register, oversight and audit them. The report states —

> There is no unmet need in the scheme which necessitates continuing a regime for non-legally qualified agents to represent parties. There is a sufficient availability of law firms and unions operating in the workers' compensation scheme to assist injured workers.

Should there be an unmet need in the future, a regime for five individuals would not be the appropriate response. Second, the five independent agents are unable to provide a complete service to injured workers without contravening the act. It is no longer the Legal Profession Act 2008, but the Legal Profession Uniform Law Application Act 2022, if I remember rightly; Hansard will help me to correct the reference. For example, they cannot provide advice on common law matters or claims against third parties. Legal practitioners are also trained in the more complex arbitration proceedings, including cross-examination. Those are our reasons for doing it. As I say, the two-year clock will not start ticking until the act commences. That is our position.

Hon Dr STEVE THOMAS: Is it the government's position that these consultants or agents have been giving de facto legal advice to date and that is why they have to be removed from the system, or is there a role for an agent who is not providing legal advice to be engaged in the system and bring in a lawyer as required?

Hon MATTHEW SWINBOURN: We are not going to stand here and make an allegation that these individuals have engaged in uncertificated legal practice; that would not be an appropriate thing to do, and that is not —

Hon Dr Steve Thomas: But you're just about to ban them.

Hon MATTHEW SWINBOURN: They are not being banned in the sense that there are still ways for these individuals to work within the system. They can work for a law firm; there are roles within firms where people who are not legal practitioners take on workers compensation work. They could also work for a trade union. I have no idea what their particular view is on different things, but it is not the case that their skill set will not be transferable and maintainable within the workers compensation system. It is just the fact that we have to maintain a register and supervision, and that there is an administrative cost to the taxpayers of this state for the provision of that. With regard to legal practitioners, they are registered by the Legal Practice Board, and the Legal Services and Complaints Committee, as it is now called, deals with any matters that relate to the ethical and professional performance of lawyers. There is a regime of supervision for trade union officials as well—perhaps not to the same degree as legal practitioners. I am also reminded of section 66 of the Industrial Relations Act. Union officials are also covered by the federal legislation, which provides other mechanisms for people to address their concerns.

The original recommendation was made back in 2014; it has consistently been adopted by the government since we have been in power that this was going to be the outcome. As I say, that will not take effect for two years after the commencement of the legislation. I am not trying to be unsympathetic to the five individuals concerned, but we have made a policy decision that we do not want to have them in the system, and we will be phasing them out.

Hon Dr STEVE THOMAS: I thank the parliamentary secretary. It is absolutely the case that this is no secret; the parliamentary secretary has been open and upfront, and I absolutely grant him that. I suspect the legal profession might be a little concerned about his comparison of the performance management of the legal profession and union officials in the same breath, especially if we go back to the Builders Labourers Federation! Let us be a bit cautious about that. I think the point has been made. A small group of people in the system will not be able to do some of the things they have done previously. I am not going to get a change from the government. This is government policy. We have ventilated the issue, and I think I will let it pass.

Hon NICK GOIRAN: I refer to clause 365, which contains three categories of people who will be able to represent a worker. The first is a legal practitioner, which needs no further scrutiny or explanation. The second is a class or person described as an "authorised agent". In order to understand what an authorised agent is, one must go back to clause 303, which we have already passed. The clause states —

> ***authorised agent*** means —
>
> (a) a registered independent agent; or
>
> (b) a person who is a member of a class of persons who are authorised by the regulations to provide agent services;

What is the difference between the second class of person found in clause 303 and the class of person listed in clause 365(2)(c)?

Hon MATTHEW SWINBOURN: Member, we are going to assert the right we have to take this one on notice and come back to the member when we get back to this bill at another time.

Progress reported and leave granted to sit again, on motion by Hon Matthew Swinbourn.

PERTH KOREAN WAR MEMORIAL

Statement

HON TJORN SIBMA (North Metropolitan) [5.19 pm]: I will keep my remarks brief. On 27 July, I had the privilege of attending a dedication service to the unveiling of a memorial dedicated to the Korean War, and in particular the Australian service personnel who served in that conflict. The date 27 July is significant because it signifies the seventieth anniversary of the armistice of that conflict. Unfortunately, prior to 27 July, Western Australia was noted for not having a dedicated memorial to that conflict. That conflict has had a signal influence on the geopolitics of the twentieth century and the twenty-first century. It is also a conflict in which more than 1 900 Western Australians served. It was a great privilege to see the culmination of the very quiet and very determined advocacy of a small group of people who comprised the Perth Korean War Memorial committee. I want to use this opportunity to identify them by name because their endeavours, certainly in the early stages, were not necessarily easy. I want to identify Honorary Consul to the Republic of Korea, Fay Duda; Bill Munro; James Rhee; Jin Kil Lee; Peter Heeney, Brett Dowsing; Clive Robartson; Duncan Warren; Jack Hwang; and Nigel Earnshaw.

Some 340 Australians gave their lives in Korea, many of whom are buried in the United Nations Memorial Cemetery at Busan. Regrettably, lamentably and inevitably, as a consequence of conflict some remain unrecovered inside the demilitarised zone. I can attest that many Western Australians served in that conflict. Thirty-four Western Australians were killed, six were classified as missing in action and five died post that conflict. It was pleasing to see this new memorial dedicated to their memory and that of their surviving comrades. I think it is worth reflecting upon the fact that the gentlemen who served in that conflict who are still among us are now in their 90s. It was a deep and humbling privilege to be in their company. It was also a moment, I think, of significant poignancy for their families. If people took the time to read some of the dedications in the cards that accompanied the floral wreaths, they would have seen that it was a truly humbling and privileged opportunity to discern that the reverberations of that conflict continue to this day. They are echoed in many Western Australians families.

I also want to absolutely give credit to the Western Australian government and the federal government for funding the memorial and indeed to a number of Australian and Korean companies. It is easy for us to consider something like this as part of the historical ephemera, but this conflict is obviously the daily reality of our Korean partners. The centrepiece of this memorial is a 10-tonne rock gifted by Gapyeong county in South Korea. It, of course, echoes the signal battle—the battle of Gapyeong—in which the Australian forces and, I think, particularly the 3rd Battalion of the Royal Australian Regiment, were significantly outnumbered but were able to thwart the opposition's recapture of Seoul.

Western Australian companies, including Roy Hill and its Korean partner POSCO, made enormous private contributions that have enabled the establishment of this memorial. I urge everybody to go and visit the memorial in Kings Park. If a memorial can be beautiful and serene, I think this absolutely captures that. It is a unique blend

of Australian service history and Korean culture. It was a privilege to be part of the ceremony. Again, I wish to highlight the supreme diplomatic and persistent efforts of that committee and the efforts of my colleague in the other place Hon Peter Tinley and a minister here, Hon Stephen Dawson, who played an enormous role, frankly, in cutting through the Gordian knot of bureaucracy to make it happen. It is absolutely to the credit of those two gentlemen that we have this memorial in Kings Park.

HOUSING

Statement

HON WILSON TUCKER (Mining and Pastoral) [5.24 pm]: I will spend some time talking about the housing crisis in Western Australia and rental reform, as the two topics go hand in hand. There has been a national conversation on the two issues this week during the national cabinet meeting, but I think it is important that we put this into the Western Australian context because we are, after all, the WA Parliament. I use the word "crisis" in relation to housing. I know that term is overused in this place, but I think it is very telling and apt when we talk about a housing crisis, given the situation affecting a lot of Western Australians right now. We know that the housing crisis affects groups disproportionately. A wealth gap is growing between different age cohorts in Australia, and certainly in Western Australia. In particular, the housing crisis is affecting young Western Australians more so than older generations. A young family that is buying a home for the first time might be feeling the pinch from the increased cost to service their mortgage. This is the case for renters as well, who are really at the bottom end of the social contract in a lot of cases, as increased mortgage costs are basically being passed on to them in full, translating into increased rental payments.

A few areas have contributed to the housing crisis that we are facing in Western Australia. In the eight minutes that remain, I will certainly not have time to go into them in great detail. Broadly speaking, decades of policy at both the state and federal level have treated the property market like an investment pool as opposed to an essential service for a lot of Western Australians. The cost of living is a massive issue at the moment. Some inflationary pressures have not quite eased after the pandemic and are certainly still being felt in the community in the form of cash rate rises, mortgage rate increases and everything else that is attributed to those pressures. There is also a lack of housing supply. A lot has been said about this nationally. The state government will certainly need to overcome some barriers to deliver its social and affordable housing commitments. If we put all these together—policy, cost-of-living pressures and the housing shortage—in a Venn diagram of life, in the middle will be young Australians, who are certainly doing it tough at the moment. That translates into their ability to save for a home loan—the 10 or 20 per cent deposit they need to put down. When the monthly cost to service mortgages increases, it makes it harder to get a deposit together. We know that wages have not kept up with the increase in property prices. More and more of a person's income is being directed at trying to pay rent, as opposed to saving a deposit and building equity in a home.

In the time remaining, I will focus on the rental aspects. We are not talking about a small subset of the community. Just under 30 per cent—almost one-third—of the Western Australian community is renting. There is a growing cohort of young Australians and Western Australians who feel like the dream of property ownership is unattainable and there is no reality that we live in where they can actually afford a home. A peer-reviewed report—I will not go into it in any great detail—conducted by the Australian Housing and Urban Research Institute, titled *Young Australians and the housing aspirations gap*, says that nearly one-third of young, emerging adults in Australia do not feel that the dream of putting a mortgage together in the next five years is attainable. Equally, another one-third says that they do not think that is attainable in the next five to 10 years. Very sadly, the last one-third of young Australians do not feel like the dream of saving up for a mortgage is attainable at all and they are going to be living in a rental spiral in perpetuity. In a sense, the Australian dream of owning a home is effectively dead for one-third of young Australians. As morbid as that sounds, it is the reality that we are facing in this country and certainly in Western Australia.

Recently, the Cook government made rental reform announcements, and some of it is actually quite good. There is talk of limiting the number of rental increases each year, and there are also some provisions around pets. There are some good bits that have been endorsed by a number of different groups. But the one key element that is missing, and the one thing that renters want the most that is clearly absent from this reform that is coming—it will actually put WA in a strange bedfellows situation with the Northern Territory—is that the state is not planning to scrap or completely remove no-grounds evictions. The Prime Minister made some comments earlier this week that mentioned some laggards in this space, and of course he was referring to WA along with the Northern Territory, which are not banning no-grounds evictions.

What are no-grounds evictions? It is the ability for a landlord to cancel a rental tenancy agreement essentially for no reason. It is basically a catch-all. The landlord can cancel the rental agreement at any time and does not have to provide a reason. The reality is that landlords use this provision in only five per cent of cases. In most cases, landlords are not actually aware that this is an option, and a lot of the time they are not exercising it. Obviously, with any process or system, there are some bad actors, so there are certainly landlords who get around the provisions to limit rent increases or the frequency of rent increases by just cancelling the rental tenancy agreement altogether and then reissuing it at a higher price.

In most cases, landlords are doing the right thing. They are not actually using this provision, or they are not aware of it, but it is something that renters in Western Australia are keenly aware of and feel. This is essentially a proverbial axe hanging over the heads of a lot of renters, because it does not provide the security and safety that renters would like. Given that right now the rental market is not functioning as expected and we are seeing historically small percentages of availability in the rental market, people can find themselves out on the street, and the landlord does not need to give a legitimate reason for doing that.

The Cook government's position on this is that removing no-grounds evictions would spook the investment market or de-incentivise investment, and we would see a shortage of housing. From what the evidence is saying and from what I could find, there is no evidence to suggest that is the case in Australia, WA or any other jurisdiction on this planet. If somebody is listening or if the minister is paying attention and there is more evidence to support the government's position on this, I am certainly listening and I would like to understand what is the basis for this position.

A number of reports refute the government's position and back the statement that there will be no disincentive in the property market for removing no-grounds evictions. I will not go into them in the 25 seconds I have remaining. I will have more to say on this topic in the future. I conclude my remarks by saying that it is disappointing that no-grounds evictions have not been removed in this first tranche of reforms that I hope we will deal with very soon.

UBER DRIVERS

Statement

HON SHELLEY PAYNE (Agricultural) [5.35 pm]: First, I want to acknowledge the candlelight vigil on Tuesday evening for Tiffany Woodley and pass on my condolences to her family. It was quite emotional and came only 11 days after the tragedy involving Georgia Lyall, which was also suspected to have been domestic violence. I acknowledge the work the government is doing is this area. The 16 Days in WA campaign is coming up later this year along with the Premier's commitment to talk with the Centre for Women's Safety and Wellbeing. Domestic violence cannot be tolerated. I commend the local governments, such as the Shire of Katanning, that do a lot of work to address domestic violence. It is a tragedy that nobody wants to see happening in our community. I wanted to make sure that the house acknowledged that.

On a different note, today I want to talk about my Uber drivers. I try to take public transport often. On Monday, I took a train from the airport. It cost me $4.50. It is a great way to come in at 8.00 am on a Monday when it is rush hour. Today I had a meeting on St Georges Terrace and I took the bus when I was finished. I was in the free transit area so it did not cost me anything. However, sometimes I need to take an Uber. I have noticed that my Uber drivers are all quite young and savvy and well educated. I started chatting with some of them. First I met Shabib. He was from Pakistan and was an electrical engineer. He had come over here to do his two years' master's degree. When he finished he had a one-year contract. He was designing electrical and ventilation systems for big office buildings, but once his one-year contract was up he could not find a job. Interestingly, on Seek there are 1 475 jobs for electrical engineers. I then met Shaik, who was also from Pakistan. He had an accounting degree. He also came here to do his two years' master's degree at Southern Cross University and is also looking for a job. Interestingly, there are 771 accounting jobs in WA on Seek.

The other day I met Mawutorli from Ghana. He did his environmental science degree in Queensland. His previous degree was not recognised so he did a second environmental science degree at Queensland University of Technology. The Pakistanis I met had their degrees recognised so they came over here as students to do their master's degree. He had a one-year contract when he came to Perth but since then has struggled to get a job. While I was in the car I looked up Seek and there were 212 jobs for environmental scientists in WA. I mentioned to him that I noticed a job for an environmental scientist at Fortescue Metals Group and he said that he had applied for it. I wished him good luck with that. I had a bit of a chat with him and told him about the accountant I had met just the day prior who was also trying to get a job. He told me that if he did it again, he would not do environmental science or accounting. He would have done computer science or health because, in his view, we hire a lot of his type of people in health, as he put it to me. I told him that he had to do what he enjoyed and wished him good luck getting his job.

We were talking today about building and growing the economy. I have been thinking about a lot of these highly educated people who are looking for jobs. There are probably quite of lot of people out there who can help us build and grow our economy with all the diversification we are doing.

I will tell members another story. I met Sherez this morning. I took an Uber to my meeting because it was not convenient for me to take any kind of public transport. He was also from Pakistan. He did his master's degree in accounting in Sydney over two years. He came over here with permanent residency, like a lot of these people who have to live in a regional town for three years. He has come here but he will work for only three months until he goes back to Pakistan and gets married. He will then come back. I asked him how long he has to stay in WA. He said he needs to stay here for three years. He said he really likes Perth and is keen to come back and have a great future here in Western Australia. When he gets back with his lovely wife after getting married, I hope he will be able to get a great job in the accounting field.

CORPORATE MISCONDUCT

Statement

HON BEN DAWKINS (South West) [5.40 pm]: Today I wish to speak about the unacceptable cost of corporate misconduct affecting Western Australian individuals and families. I am talking about unethical, harmful and unlawful corporate conduct. Corporate misconduct is allowed to occur and continues to occur because of a lack of government regulation, in effect. Sometimes government initiatives exacerbate and encourage corporate misconduct. I am talking about the building industry today. I am not professing to be able to demonstrate any wrongdoing of a criminal standard or even a civil standard of proof. It is not about that. Some matters within this sphere may well come under the Building Commission or the State Administrative Tribunal; I do not know for sure. Obviously, that is a matter for them. I am not a judge. As I said, my role is to expose corporate misconduct for the electors who come to me.

John Whinnen is an Afghanistan veteran. Members may have seen reference to him in the paper. He is a father of one. He has been waiting 960 days for his house to be built. His builder is BGC. Hundreds of other people are affected. "Sarah" from Hammond Park has just ticked over 1 000 days waiting for her home to be built. Other clients have waited 1 200 days—well over three years—for their house to be built by BGC. I do not need to tell you, President, or anyone in the chamber about how that is affecting them. Obviously, they are paying rent somewhere else. They already pay a mortgage on the portion of the house that has been built, and they have drawn down against their mortgage. Obviously, they do not have anywhere to live, so they have an incentive to get their houses built within the contract time.

Why I do say that BGC has engaged in no misconduct? I have visibility of the evidence behind what I am saying today. I am not necessarily under any obligation to prove anything I have said today but, for the sake of completeness, I have seen documents. The BGC sales team was incentivised to sign up people, with promises of new cars and overseas holidays. BGC broke the all-time building sales record in June 2020. In one month, basically 1 000 new clients were signed up to building contracts. The question is whether the salespeople could realistically deliver within the time frame specified and whether they knew they could not deliver. They were effectively signing people up to fail. In June 2020, the number of contracted sales for that month was 2 400-odd, so of that, 1 000 were signed by BGC—somewhere near half. To achieve sales targets, the sales teams were providing contracts for signing at an initial meeting, pushing clients to sign rather than miss out on building bonuses and other perks. When clients voiced their displeasure on social media, the sales teams would find the clients' personal phone details and text them, in some instances calling them liars. That was what occurred when individuals expressed their displeasure at the delays. In John Whinnen's case, BGC delayed providing his building contract until 29 December 2020, two days before the stimulus package deadline, despite him making weekly calls to BGC in order to have time to review the terms. He did not get to look at the contract. He was assured by the sales team that it would be a standard contract, and not to worry: "Trust us, we're the good guys." I should mention that the sales team that signed up John had a house and land package around the corner with BGC; unsurprisingly, while John has waited 960 days and his house is still not completed, the BGC employee's one is well advanced.

BGC claims that the delays were out of its control. However, there has been a fair amount of contention about whether the delays were foreseeable. Early in the pandemic there is evidence to suggest that it was foreseeable that delays would ensue. If delays were foreseeable, it was not valid to extend contracts and keep people waiting. As early as March 2020, the CEO, Daniel Cooper, and executive general manager, Michael Bartier, are on the record talking about the impact of the pandemic on build times. To put it simply, BGC Housing Group was at all times aware that there would be delays to builds, and it signed up a record number of clients in any event on the false promise of a 10 to 12–month building schedule. In some instances, those contracts have been delayed for three years. The bad part of this is that, obviously, companies were allowed to take full advantage of the state and federal governments' stimulus packages. Also, BGC is not taking any responsibility and is basically avoiding the legal process as much as it can. There are also reports of intimidation and effectively threats to withdraw bonuses or discounts if the company is taken to the Building Commission or the State Administrative Tribunal. We can call that what we want, but it is certainly threatening behaviour.

An active group of my constituents are saying that BGC must come to the negotiating table with humility and transparency in order to bring confidence back to thousands of clients who are without a home more than three years after signing a contract. We say that BGC has hidden behind internal processes to avoid giving clients full information.

I refer to the government's COVID building incentive. That has almost encouraged this behaviour. That is not really anyone's fault, except that maybe some of this behaviour of signing up too many clients in a short period could have been foreseen and some regulation put in place. The situation with the government incentives for COVID is essentially that these people cannot sell their house. Even though the house is still not built and they are not able to live in it, they cannot sell without losing the incentive, because they have to live in their house for 12 months to get that incentive package. That is limiting people from being able to get out of the situation. People are calling for—this is a federal issue—potentially some relief on capital gains taxes if they have to sell to get out of these toxic contracts, if I can call them that. That is what I am saying. Basically, they are stuck with the situation. The way that BGC has operated has caused a lot of anguish for clients and families out there in the community.

The minimum that the government could do would be to protect the thousands of vulnerable Western Australians preyed upon by the state's largest and slowest builder, BGC. I say preyed upon because the circumstances surrounding it sound predatory. We do not necessarily associate predatory behaviour with the building industry; it is more something we talk about with lending, but there is evidence that that has happened and affected a large number of constituents. I call for BGC to come to the table and assist those people in hardship.

MEDICAL CANNABIS — UNITED IN COMPASSION CONFERENCE

Statement

HON SOPHIA MOERMOND (South West) [5.49 pm]: I had the honour last weekend to go to the United in Compassion conference in Brisbane, which is a conference entirely about medicinal cannabis. There were experts from all around the world there. I learnt a lot and it was quite amazing. One of the main insights I received, which I really quite like, I will discuss here tonight.

When a person with a medical cannabis prescription is swabbed at a random roadside drug test, they are in fact not caught with the presence of an illicit substance in their bloodstream or saliva. If they were driving normally and taking their medication as prescribed by their healthcare professional, they are unlikely to be impaired as well. Since many classes of medication may affect cognition, yet people take them daily as prescribed without issues, the same right should be applicable to those on medicinal cannabis.

ENERGY — DOMESTIC GAS POLICY

Statement

HON DR BRAD PETTITT (South Metropolitan) [5.50 pm]: My member's statement tonight is about energy and a couple of announcements this week that might have gone under the radar. I start with one around the domestic gas policy. An announcement was made this week on domestic gas and how it impacts on fracking in our area. Peter Milne wrote an article in WAtoday a couple of days ago titled "WA quietly shuts door on onshore gas". It states —

> There was no government media announcement for the policy change, just a low-profile "public notice" … by Premier Roger Cook …

That in many ways might seem uncontroversial, and the idea that we are going to stop exporting gas from the Perth Basin I think we all agree is a sensible decision. The bit that concerns me and I want to bring to people's attention is that we might read from that that only offshore gas in territory waters is what gets exported. That is not true. The Canning Basin is the one domestic onshore exception to this. This came to light when Environs Kimberley, which does great work in the Kimberley in this space, wrote to the domgas policy team to ask the very question: has there been a policy change, because the 2020 policy prevented the export of local gas to the eastern states and overseas, and what does the new policy mean? I got a response back that I will read verbatim. It reads, according to my notes —

> *Hi Martin,*
>
> *As the Canning Basin is not connected to the existing pipeline network a normal application of the WA Domestic Gas Policy applies, meaning exports are permitted on the basis 15% of these volumes are made available to the domestic market.*
>
> *The application of the Policy to the Canning Basin is same as the application to offshore developments.*
>
> *Kind regards,*
>
> *WA Domgas Policy Team*

On one level, we might ask what is the concern around that. But if the export of gas was previously banned from the Canning Basin, which is certainly understood by Environs Kimberley, and by the export of gas, I mean fracking was previously banned in the Canning Basin, now all of a sudden there has been a change in policy that has largely gone under the radar that could have serious impacts for that region. On one level one might say that this is just an environment group stirring up a bit of concern around fracking in the Kimberley, but I draw members' attention to a press release that came out today from Buru Energy, which, interestingly, was the very first company to have a fracking well in the Kimberley. It was quite excited by this change to the WA gas policy. In fact, the press release is called "Buru welcomes WA Domestic Gas Policy". I will quote a few little bits from it —

> Western Australian Domestic Gas Policy update by Government further enhances Rafael resource development pathway by confirming the potential for export of onshore gas from the Canning Basin with 15% reserved for the domestic market.

Buru's CEO, Thomas Nador, goes on to say —

> "Buru welcomes the added certainty the updated Domestic Gas Policy brings to its Rafael gas and condensate development.

> The Canning Basin is not connected to an existing pipeline network. By confirming the project is able to export gas in the future provides Buru with strategic optionality to develop Rafael, and significantly enhances the attractiveness of the project to potential development partners.

This week, kind of under the radar, it appears that we have moved one step closer to fracking in the Kimberley. To me, that feels like a pretty significant shift in energy policy in this state. It should not be merely buried not even in a media statement but on a website. It came out only through the Australian Securities Exchange announcement by Buru Energy and some well-asked questions by Environs Kimberley.

This is of real concern because, if it goes ahead, it will have really severe consequences for the Kimberley. Let me give members an example. Black Mountain, another company up there and a Texan fracking company, has proposed a pipeline to the Kimberley, most likely to Woodside's Burrup hub, but to make that work, it will need 1 200 fracking wells, which would need to go from the heart of the Kimberley through the Fitzroy River, through the National Heritage List area and through a registered Aboriginal heritage site. That is what will need to happen. The green light appears to be on for the first time to open up this amazing area. I think that anyone who has been to the Kimberley would see it as extraordinary. The idea that that area will be opened up to thousands of oil and gas fracking wells should concern us all.

So far there have been only three wells. They have all had problems and they have all been pretty poorly monitored. A question asked in this place during the Barnett government showed that the Department of Mines, Industry Regulation and Safety did no well inspections for seven years. The idea that the WA government is in a position to regulate hundreds, if not thousands, of wells is of grave concern. My vision for the Kimberley is that we build on the amazing Aboriginal cultural heritage and the amazing $500-million tourism industry that should be based in that place, and we do not turn it into an industrial landscape that not only destroys the place, but also adds to destroying our climate.

The climate part is really important here. Some work has been done by Climate Analytics, an extremely credible climate research organisation. If fracking in the Kimberley were to proceed, Climate Analytics has said that this development would lead to the equivalent of 2.5 gigatonnes of CO_2 over 20 years, compared with Australia's Paris agreement budget of 3.6 gigatonnes. It would be 70 per cent of Australia's entire carbon budget. To put that another way, it would actually be the equivalent of doubling Western Australia's emissions every year if we let this proceed. Despite all the hard work we are doing around essential emissions reductions and bringing our emissions down, we will do this so we can destroy the Kimberley, open up fracking and export things through this place. It is a bad idea on so many levels. This government did the right thing by banning fracking in the south west, Perth, Peel and the Dampier Peninsula. Why is it still all right in the Kimberley? It should be banned there as well for many, many reasons.

In the last 50 seconds I have left, I will mention a second part to this energy story. This week, of course, we saw an announcement that Muja power station will stay open a while longer. It was an interesting announcement that somehow managed to avoid mentioning at any point that Muja is a coal-fired power station. We will see a coal-fired power station staying open for an extra summer. That comes back to something I have said again and again in this place: it is because we are not investing quickly enough in renewable energy. I note that Hon Dr Steve Thomas —

Hon Dr Steve Thomas: It is staying open until a month after the next state election, honourable member, funnily enough. Pardon my cynicism.

Hon Dr BRAD PETTITT: It is to stay open longer. We should make sure that we are investing in wind and transmission, and speeding up that transition. The fact that we are now dragging out how long our coal-fired power stations are staying open is another reason that we are not doing this energy transition right.

ABORTION LEGISLATION REFORM BILL 2023

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Sue Ellery (Leader of the House)** read a first time.

Second Reading

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.59 pm]: I move —

> That the bill be now read a second time.

The Western Australian community provided its overwhelming support for this government to make important reforms to abortion laws. The bill before us today will place healthcare access and patient experience at the centre of those reforms. This bill will contemporise Western Australia's statutory framework, remove clinically unnecessary barriers to care, streamline care pathways and align WA with other Australian jurisdictions when it is in the best interest of WA.

Western Australia's laws pertaining to abortion have remained unchanged for 25 years. Many members will remember that in February 1998, two doctors were charged under the Criminal Code for conducting an abortion.

It was the first time in 30 years that such charges were laid and for many people it was a stark reminder that abortion remained largely illegal in Western Australia. In response, Hon Cheryl Davenport, then Labor member for South Metropolitan Region, introduced a private member's bill in the Legislative Council, the Criminal Code Amendment (Abortion) Bill 1998. The bill sought to repeal sections of the Criminal Code that made it a criminal offence to procure an abortion. That bill then became the Acts Amendment (Abortion) Bill 1998, introducing amendments to the Health Act 1911 on the performance of abortions. This major reform forms the basis of WA's abortion provisions currently in the Health (Miscellaneous Provisions) Act 1911.

The 1998 abortion bill was groundbreaking at that time. I give thanks to those women and all those who supported them, whose dedication and hard work in this Parliament saw Western Australia become the first place in Australia to remove most criminal penalties for seeking and providing an abortion.

In the 25 years since the 1998 reforms, other Australian jurisdictions have caught up with WA and, in many cases, provided for more compassionate access to abortion that better reflects contemporary clinical practice. It is high on this government's agenda to ensure that Western Australians have access to abortion services in line with that provided in other jurisdictions. Members of the public, as well as health professionals, have provided clear feedback that our abortion laws are restrictive in the national context and prohibitive to the provision of the best healthcare services to the Western Australian community. Consequently, there have been some cases in which patients have chosen to travel interstate to access care that is either not lawful in Western Australia or immensely challenging to access locally.

This work is never done. We have seen what happens when opponents of reproductive justice chip away at the rights that generations of women have fought for. The overturning of Roe v Wade and Planned Parenthood v Casey in the US was a major setback for reproductive rights in that country, which refocused global attention on the varying legalities related to abortion access, including local attention on WA's outdated laws. It is now time to further enshrine access to abortion in our state's legislation.

Access to abortion is not only about legal barriers. The recent community consultation highlighted that persons living in regional communities or on lower incomes are disproportionately affected due to restricted access to a range of healthcare providers or lack of resources to travel interstate. This bill seeks to remedy many of those issues. This is something that I am extremely proud of and that this government should also be exceptionally proud of. It is my view that this bill reflects something that the majority of our community has wanted for a very long time.

I would ask members to remember that it is not the purpose of this bill, nor any consultation or stakeholder engagement, to review or debate arguments for or against abortion. Abortion has been lawful in Western Australia since 1998 and will remain so. This bill requires each and every member of Parliament to think beyond themselves and their own interests and to reflect the needs and wants of the community. This bill is the culmination of a thorough consultative process to ensure the specific needs of the community are addressed and to enable safe and compassionate processes for people seeking an abortion in Western Australia.

In September 2022, cabinet gave approval to draft the bill and commence public consultation regarding the provision of abortion care in Western Australia. On 21 November 2022, the Department of Health commenced a four-week public consultation on key abortion-related issues through the release of a discussion paper. The purpose of the discussion paper was to promote discussion and generate suggestions to help inform the policy settings for abortion reform. The bill reflects the outcome of the consultation process with all key issues largely supported by stakeholders.

In addition to the issues canvassed in the public consultation process, several additional positions were developed with the Department of Justice and key stakeholders. Those include the role of registered health practitioners other than medical practitioners in the provision of abortion care services, the collection and management of abortion information while ensuring the privacy of patients and practitioners, and a care model for adults and minors without capacity to provide informed consent.

The bill will introduce a new framework relating to abortion under the Public Health Act 2016, and will repeal all provisions related to abortion within the Health (Miscellaneous Provisions) Act 1911. This is to better reflect that abortion is a public health matter and the Health (Miscellaneous Provisions) Act 1911 is essentially a repository of residual provisions. This new framework will better align with clinical practice and will contemporise the practice of abortion care by practitioners by aligning disciplinary action to conduct requirements set out in their national registration.

The bill directly addresses clinical barriers to abortion, including time frames for patients accessing abortion, the use of multiple medical practitioners and a ministerial panel for late-term abortions and mandatory counselling requirements. The bill will remove the requirement for a referral for most abortions, increase the gestational limit at which additional requirements apply from 20 to 23 weeks, provide a clear framework outlining the rights and obligations of health practitioners who are unable to assist in abortion care, and abolish the ministerial panel process, instead providing for two medical practitioners to determine whether an abortion after 23 weeks is appropriate.

The new framework will consider the model of care for adults and minors without capacity to provide informed consent, including a substitute decision-making process. It will improve the information collection and management model for abortion by affording more protection to the patient and registered health practitioner, while still allowing the Chief Health Officer to collect information that will enable the provision, monitoring, planning and evaluation of health services, amongst other matters. Amendments will be made to the Freedom of Information Act 1992 to protect the privacy of individuals and health practitioners accessing and providing abortion services.

The bill will repeal the current offence in the Criminal Code leaving only an offence in the Public Health Act 2016 when an "unqualified person" performs an abortion. This will complete the decriminalisation of abortion in WA while ensuring that dangerous backyard abortions remain illegal.

The new framework recognises that the care and wellbeing of the patient should be placed first and foremost in the abortion process. Mandatory reporting to the coroner of live births following an abortion will be removed, as it obliges the coroner to investigate, including contacting the patient who underwent a lawful medical procedure. This can be unsettling and traumatic for the patients and their families. Clinicians involved in this process similarly report that the experience is distressing and unnecessary.

I turn to the specifics of the bill and the abortion process. The bill will introduce a new section 202MB that will set out the actions that constitute the performance of an abortion—namely, when a person acts with the intention of causing the termination of a patient's pregnancy. This includes when the person prescribes, supplies or administers an abortion drug to the patient or carries out a surgical or other procedure on the patient. This is a clearer definition than currently in the Health (Miscellaneous Provisions) Act. It was drafted in a way that reflects that the type of action required for an abortion will differ depending on the gestational age of the fetus and the patient's requirements, and may include oral medication, a surgical procedure or a combination of both.

It should be noted that abortions up to nine weeks' gestation can be conducted in a primary care setting with patients not required to attend hospital. Abortions after nine weeks will occur in a hospital setting, including at licensed private day hospitals, sometimes referred to as clinics.

The bill, at part 1, division 2, will reflect a change to the current gestational age limit for additional medical oversight for the termination of a pregnancy from 20 weeks to 23 weeks. The provision of general abortion access up to 23 weeks will better align Western Australia with other jurisdictions and ensure fewer patients feel they have no option but to travel interstate for medical care. This change will provide Western Australian families time to consider all options available and ensure greater continuity of care in often very difficult circumstances.

Community consultation reflected the overwhelming view that a 20-week limitation was manifestly restrictive. Importantly, key stakeholders with experience in the medical care of patients seeking and accessing termination of pregnancy were unanimous in their support to increase the gestational limit, with a 23-week gestational limit deemed most reflective of Western Australia's needs.

The bill will remove the requirement for an abortion to be considered by two medical practitioners, the medical practitioner performing the abortion and another. Rather, proposed section 202MC will authorise one medical practitioner to perform an abortion on a patient who is not more than 23 weeks pregnant. The community consultation showed that a majority of respondents are in favour of allowing access to an abortion after consulting with one health practitioner. This was supported by several key health stakeholders and addresses a key barrier to access faced by people living in regional, rural and remote communities.

Seeking a later term abortion is extremely rare, with abortions after 20 weeks accounting for less than one per cent of all procedures. It occurs most often due to the discovery of a serious fetal anomaly or because of a serious risk to the person's own health. It is almost always a very difficult decision to make and a challenging process for families to endure. The bill will remove the constraint that currently exists under the Health (Miscellaneous Provisions) Act on patients seeking late-term abortions. Currently, a patient must both seek approval from their original medical practitioner and then obtain joint authorisation from another two medical practitioners who are members of a statutory panel appointed by the Minister for Health. Instead, proposed section 202ME will enable the patient to access the abortion when a primary medical practitioner has consulted with another medical practitioner and they both agree that performing an abortion is appropriate in all the circumstances, including the person's relevant medical circumstances, and their current and future physical, psychological and social circumstances. The community consultation showed that a majority of respondents supported the removal of the statutory panel requirement, many viewing it as a significant barrier to accessing abortion care at later gestations.

The bill will introduce proposed section 202MD into the Public Health Act to allow other registered health practitioners, termed the prescribing practitioner, to perform a medical abortion on a fetus of no more than 23 weeks by prescribing, supplying or administering an abortion drug to the patient. A prescribing practitioner must be of a class prescribed by regulations and authorised under the Medicines and Poisons Act 2014 to prescribe the drug. The prescribing practitioner will be bound by the regular restrictions attached to prescribing abortion medication. For example, at not more than nine weeks of pregnancy, the medication may be taken at home, and at more than nine weeks, a hospital setting is required.

Currently, the abortion drugs mifepristone and misoprostol have been prescribed only by medical practitioners. The proposed provisions take into consideration ongoing discussions at a commonwealth level regarding the appropriateness of this limitation. Enabling classes of registered health practitioners to prescribe will futureproof WA's statutory framework, pending decisions from the commonwealth and the Therapeutic Goods Administration, and facilitate greater access for regional and remote Western Australians. It will provide the opportunity for trained nurse practitioners and endorsed midwives to prescribe medication conducive to abortion care.

The bill will introduce proposed section 202MF into the Public Health Act to enable a registered health practitioner other than a medical practitioner to perform a medical abortion upon the direction of a directing practitioner. When the fetus is not more than 23 weeks, either the medical practitioner or prescribing practitioner may give the direction. When the fetus is at more than 23 weeks, only a medical practitioner may give the direction. Under proposed new section 202MF, pharmacists will be authorised to perform a medical abortion by supplying the patient with an abortion drug. The pharmacist must act in accordance with the Medicines and Poisons Act to dispense the drug under a prescription issued by the directing practitioner or otherwise supply the drug to the patient on the direction of the directing practitioner. Other registered health practitioners will also be authorised to perform a medical abortion by supplying or administering the drug, in accordance with the Medicines and Poisons Act, on the direction of a directing practitioner.

The bill will introduce proposed section 202MG into the Public Health Act to authorise both registered health practitioners and students in a relevant health profession, acting in the course of the profession, to assist a medical or prescribing practitioner in the performance of an abortion. This provision has been included to offer a clear, explicit ability for persons to assist with the abortion and avoid any doubt that they may be considered as performing the abortion themselves. Assistance by a student can be given only under proper supervision and in the course of their study or clinical training. The new provision will also make clear that assistance is not authorised when the registered health practitioner or student knows that the abortion is not properly authorised.

The bill will introduce proposed sections 202MH and 202MJ into the Public Health Act to make clear that both registered health practitioners and students may refuse to participate in an abortion. Fundamental to the abortion process is that health practitioners have the right to not participate for any reason; whether due to a conscientious objection or otherwise. As such, referral may occur for reasons including the inability to meet essential requirements, such as qualifications or mandatory training, or unwillingness or inability to perform the duties. A practitioner who has a conscientious objection to abortion must immediately disclose their objection to the patient; in the case of a student, they must disclose to their supervisor. In any case, the bill makes clear that a refusal does not negate the duty to provide abortion care in an emergency.

Proposed section 202MI will place an obligation on certain practitioners to transfer care of the patient to a registered health practitioner or health service facility that the refusing practitioner reasonably believes can provide abortion services or provide information approved by the Chief Health Officer to enable the patient to access treatment elsewhere. This will ensure that a patient will still be able to access an abortion service, even when the original practitioner has refused. This approach was modelled on similar provisions in WA's Voluntary Assisted Dying Act. The Chief Health Officer will be required to ensure that the approved information is kept up to date.

At proposed section 202MK, the bill makes clear that the discipline and management of complaints relating to registered health practitioners who assist in or perform an abortion will fall to Western Australia's Health Practitioner Regulation National Law or the Health and Disability Services (Complaints) Act. There is a strong regulatory framework governing registered health practitioners, with serious consequences for unprofessional conduct or professional misconduct. Currently, section 199 of the Criminal Code provides that it is unlawful to perform an abortion unless by a medical practitioner performed in good faith and with reasonable care and skill and the abortion is justified under section 334 of the Health (Miscellaneous Provisions) Act. In turn, section 334, links back to the Criminal Code.

The bill before us today will repeal both the Criminal Code offence and the corresponding provision in the Health (Miscellaneous Provisions) Act. The bill will introduce proposed section 202MM into the Public Health Act to create an offence for an unqualified person to perform an abortion, with the penalty being seven years' imprisonment. The bill further makes clear at proposed section 202MN that it is not an offence for a person to perform an abortion on themselves. I inform the Western Australian community that these reforms will complete the decriminalisation of abortion, aligning Western Australia with other jurisdictions.

The bill will remove provisions in the Health (Miscellaneous Provisions) Act requiring patients to receive counselling in order to provide informed consent to an abortion. Currently, an assessing medical practitioner must provide the patient with counselling about the medical risks of a termination, continuing a pregnancy to term and the availability of ongoing counselling. This requirement does not reflect contemporary practice, and removing it will align Western Australia with other Australian jurisdictions and reduce barriers to accessing abortion in WA. Instead, medical practitioners will be able to obtain informed consent in line with existing standards of care and professional obligations. Clinical guidelines will provide further clarity on appropriate pathways for counselling.

Providing patients with information about a procedure or treatment and associated risks is standard medical practice, underpinned by professional standards and guidelines. Community consultation showed that a majority of respondents supported the proposed approach. Multiple key health stakeholder groups took the view that abortion should be treated like any other healthcare matter and should not be subject to additional requirements that may delay access to care.

The bill recognises that with the repeal of the informed consent provisions in section 334 of the Health (Miscellaneous Provisions) Act, a new model of care is required to address decision-making for abortion for persons without the capacity to provide consent.

The bill will introduce a substitute decision-making scheme into the Guardianship and Administration Act for these circumstances. Currently, under the Health (Miscellaneous Provisions) Act, an adult who is unable to give informed consent for an abortion is unable to access abortion except in emergency situations. The bill will enable relevant parties to apply to the State Administrative Tribunal to make the decision on behalf of a patient who is unable to make reasonable judgements in respect of an abortion proposed to be performed on them. In situations in which the patient has a guardian, an application to the SAT will still be required. This model is consistent with that in other Australian jurisdictions in which the consent of the guardian is replaced with that of a tribunal for certain medical procedures.

The bill will remove statutory provisions in the Health (Miscellaneous Provisions) Act and the Children's Court of Western Australia Act that require parental involvement when a dependent minor seeks an abortion. Under the existing legislation, a dependent minor is a person under 16 years of age who is supported by a parent or guardian. Currently, Western Australia is the only jurisdiction in which minors, regardless of their maturity, are required to meet a higher standard of informed consent for abortions compared with other medical care. The Health (Miscellaneous Provisions) Act prohibits dependent minors from giving informed consent unless their parent or guardian has been informed of their intent to access abortion and has been given the opportunity to participate in counselling and decision-making processes. Currently, the only pathway to access care for a dependent minor who is unable or unwilling to inform their parent or guardian is by making an application to the Children's Court. The bill will remove this statutory limitation, recognising the concept of the mature minor, also referred to as Gillick competence, whereby a young person has sufficient understanding and intelligence to consent to their own medical treatment.

Medical practitioners are well versed in processes to determine the decision-making capacity of children. Removal of the statutory limitation will ensure that WA's settings are aligned with those in other jurisdictions in which informed consent and decision-making capacity is considered for mature minors. It also recognises that there are a range of circumstances in which parental notification poses a safety risk to the child or is inappropriate or impractical. In the event that there is doubt about a child's competence to make a decision regarding abortion, the child will be able to choose to include their parent or guardian in the decision-making. The registered health practitioner or hospital involved will be able to obtain consent from the child's parent or guardian, pursuant to proposed section 202MM. Currently, parents are able to provide consent for a child for most medical procedures; however, this ability is confirmed in the bill to avoid any doubt that may arise due to an unsettled position in the common law with regard to abortion. In situations in which the child does not wish for parental involvement, or the practitioner is of the view that the parent or guardian is not acting in the best interests of the child, the registered health practitioner can make an application to the Supreme Court or Family Court to determine the course of action. This is consistent with other jurisdictions.

Information management protection: The bill will introduce a new framework for the collection, use, management and disclosure of abortion information. Proposed sections 202MP and 202MQ of the Public Health Act will enable the Chief Health Officer to direct certain persons to provide information pertaining to abortions. The old reporting provisions under the Health (Miscellaneous Provisions) Act will be replaced with the new model, which will more appropriately reflect that although the collection of abortion information is necessary for certain purposes, it is not a means by which parties who are neither patients nor service providers can attempt to seek personal health information. It is intended that the information collected will be used to enable the provision, monitoring, planning and evaluation of health services; compile and publish general or statistical information relating to abortion; enable health research or education and training relating to abortion, including the use of abortion drugs or services; and monitor and enforce compliance with the Public Health Act. Under the new provisions, the Chief Health Officer may approve the type of information and means for the collection of information. Identifying particulars of the patient or registered health practitioner cannot be provided. The information would avoid specific details, with any demographic and medical criteria collected being broad so that patients and doctors cannot be identified.

The bill will amend the Freedom of Information Act to create an exemption from disclosure regarding the identity of a person on whom an abortion has been performed, or a person who has performed or assisted in the performance of an abortion. The amendment will preclude neither a patient from accessing their own health information, including the identity of the health practitioner who performed the abortion, nor a health practitioner from obtaining information about the procedure that contains their own identifying information. The purpose of these amendments is to

guarantee exemption from disclosure without relying on the personal information exemption in clause 3 of schedule 1 of the Freedom of Information Act, which requires a decision to be made on whether disclosure is in the public interest and does not provide an exemption for health practitioners performing an abortion.

Reportable deaths: The bill will amend the Coroners Act to clarify that when a baby is born alive following a lawful abortion and then dies, the death will not be a reportable death under the act. It is not appropriate to require a coronial or police investigation of an expected and closely planned death, risking further traumatisation of families.

The reform of abortion laws in WA is long overdue. It is very important to not only me, but also, as the consultation shows, the people of Western Australia. I would like to add my thanks to those expressed by the minister to thank the public servants who have worked incredibly hard to develop this bill. I extend particular thanks to officers, almost all of whom are women, at the Departments of Health and Justice, Parliamentary Counsel's Office and the State Solicitor's Office.

This bill addresses a genuine and often incredibly difficult and personal choice. I ask each member of Parliament to keep the wishes of their constituents in mind when voting on this bill.

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.

With that, I commend the bill to the house and table the explanatory memorandum. I also table a copy of the *Abortion legislation reform: Community consultation summary report* of April 2023, which was the outcome of the discussion paper proposal for reform of abortion legislation in WA.

[See papers 2449 and 2450.]

Debate adjourned, pursuant to standing orders.

House adjourned at 6.29 pm