



# Parliamentary Debates

(HANSARD)

FORTY-FIRST PARLIAMENT  
FIRST SESSION  
2022

LEGISLATIVE ASSEMBLY

Thursday, 18 August 2022



# Legislative Assembly

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**THE SPEAKER (Mrs M.H. Roberts)** took the chair at 9.00 am, acknowledged country and read prayers.

## LEGISLATIVE ASSEMBLY CHAMBER — HEATING

*Statement by Speaker*

**THE SPEAKER (Mrs M.H. Roberts)** [9.01 am]: Not only is it a cold morning outside, it is also a cold morning in here. Unfortunately, the air conditioning has failed again in both the Assembly chamber and the Council chamber. Our staff have kindly rustled up some space heaters and made them available. If members are particularly cold, grab one of the space heaters and hopefully that can be placed somewhere near you. We will do our best to try and warm up this place a little with the space heaters and we have the doors shut at the moment. Hopefully, that will improve things. Obviously, maintenance is aware of the issue and is trying to address it. Feel free, of course, to wear your overcoats or blankets and whatever you feel you need in here.

## LOCAL CAPABILITY FUND

*Statement by Minister for State Development, Jobs and Trade*

**MR R.H. COOK (Kwinana — Minister for State Development, Jobs and Trade)** [9.03 am]: It is with great pleasure that I stand today to talk to members once again about the success of the local capability fund. The LCF continues to play a critical role in improving the capability, capacity and competitiveness of Western Australian small to medium-sized enterprises to supply products, services and works to the Western Australian government, major projects and other important markets. Since its launch in 2011, 32 LCF rounds have resulted in \$19.5 million being committed to 528 SMEs across Western Australia, including 248 regional businesses. This investment has resulted in 1 795 new employment opportunities plus 227 apprenticeships and more than \$870.4 million in contract awards. This represents a leverage ratio of \$45 of contracts won by Western Australian SMEs for every \$1 of LCF funding awarded.

In 2022–23, the McGowan Labor government will provide in excess of \$3 million of grant funding to assist Western Australian SMEs. Three rounds of the LCF worth \$2 million were launched at the Aboriginal Business Forum held in Geraldton on 9 June 2022—namely, the Aboriginal business round, the supplying key major projects round and the national and international standards compliance round.

I am very pleased to announce that a \$400 000 total solar eclipse round of the LCF will be launched in the next few weeks. Applications will be invited from businesses in Exmouth, Carnarvon, Coral Bay and Onslow. Additionally, applicants based across the Gascoyne and Pilbara that will be impacted by and can demonstrate potential opportunities because of the total solar eclipse event will be eligible to apply. Department of Jobs, Tourism, Science and Innovation officers will also be visiting Carnarvon, Coral Bay, Exmouth and Onslow to answer business eligibility questions regarding the LCF.

A further nine individual \$100 000 region-specific rounds will be launched progressively to coincide with the 2022–23 schedule of regional business engagement forums. The regional business engagement forums provide SMEs with an awareness of upcoming state government work packages in their region and promotes LCF support for businesses to be better placed in responding to the state government's \$30 billion annual supply contracts spend. LCF grant funding can be used by SMEs for a number of initiatives, including meeting essential prequalification requirements for supply chain entry, the purchase and upgrade of essential plant and equipment, and consultancy engagement related to a range of expertise in areas such as lean manufacturing systems, cybersecurity measures, occupational health and safety, and marketing and finance.

## PARLIAMENTARY SITTING DATES 2022 — AMENDMENT

*Statement by Leader of the House*

**MR D.A. TEMPLEMAN (Mandurah — Leader of the House)** [9.06 am]: Madam Speaker, we are just installing a heater. That is not my statement, though.

I rise to table an amended parliamentary sitting timetable for the remainder of 2022. So far this year, the forty-first Parliament has passed 21 bills. In addition, a further 24 bills are listed on the combined notice papers of the Legislative Assembly and Legislative Council. Therefore, the Parliament is on track to pass at least 45 bills by the time we rise at the end of the year, noting that more legislation will be introduced as the year progresses. This will mean that this year the Parliament will have passed considerably more legislation than the average 38 bills a year that it has passed over the last decade. It is true that this year the Legislative Assembly has been very efficient in dealing with bills that have been put before it.

Given the speed and efficiency with which Parliament has been dealing with legislation this year, it has been determined that the October sitting for the Legislative Assembly can be reduced. The Western Australian Legislative Assembly will still be sitting for longer than any Parliament in any other state or territory jurisdiction, as noted in the fourth report of the Procedure and Privileges Committee. Members need to be aware, however, that as in previous years, there is a possibility that they may be called back for a day, or part thereof, to deal with amendments from the other place. For the information of members, I table the revised 2022 parliamentary sitting dates that show the change in the October sitting weeks.

[See paper [1344](#).]

## HERITAGE GRANTS PROGRAM

*Statement by Minister for Heritage*

**MR D.A. TEMPLEMAN (Mandurah — Minister for Heritage)** [9.08 am]: I rise today to inform the house of the opening of the 2022–23 heritage grants program. The heritage grants program supports both physical conservation works and community engagement activities and interpretation projects that provide opportunities to engage with and learn about our history in new and creative ways. More than \$1 million is available for owners of state-registered heritage places to undertake vital conservation works, as well as supporting community engagement and interpretation projects.

In this round, the state government is offering grants of up to \$40 000 for heritage works projects when supported by matched funding from the property owner. Grants for up to 80 per cent of the cost of documentation projects to a maximum of \$16 000 are also available. This could include conservation management plans, cultural landscape plans or feasibility studies. Major conservation project funding is available again this year, offering grants of up to \$100 000 for large-scale projects that deliver strong heritage outcomes. Such projects include those that aim to enliven heritage places, encouraging people to rediscover and enjoy their history, as well as projects that proactively respond to natural disasters, support economic recovery and create jobs.

In the last round of grants, we were able to assist 38 heritage places with conservation and heritage planning works. The Bowes Homestead in the Shire of Northampton, in the member for Moore's electorate, was a recipient of major conservation project funding, receiving just over \$89 000 to assist in essential heritage works to make the homestead habitable again.

Now in its third year, the community heritage grants stream supports community engagement activities and interpretation projects that promote or celebrate the state's heritage places. This program offers up to \$20 000 in matched funding. It supports small local history groups, local governments and businesses in undertaking interpretation projects and events, employing graphic designers, local historians, artists and heritage interpretation specialists.

In the last round of community heritage grants, we were able to provide \$20 000 for the preparation of an interpretation plan for the Cossack town site precinct, in the member for Pilbara's electorate. This long-term strategy will provide a framework for the storytelling of this historic town and deliver positive benefits for tourism.

Over 25 years, the Heritage Council of Western Australia has provided more than \$23 million in grant funding towards the conservation and celebration of state-registered heritage places. I encourage owners of state-registered heritage places who need assistance with financing urgent conservation works and local heritage groups that are keen to tell our state's story to review the grant information and apply for funding through this year's program.

## PERFORMING ARTS WA AWARDS

*Statement by Minister for Culture and the Arts*

**MR D.A. TEMPLEMAN (Mandurah — Minister for Culture and the Arts)** [9.11 am]: I would like to share with the house that in 2022 the annual Performing Arts WA Awards were held at the State Theatre Centre of Western Australia on Monday, 8 August. The awards are a celebration of the outstanding achievements of Western Australia's performing arts industry, recognising our actors, directors, producers, theatre and dance makers, designers and musicians. Hosted by the Artist Relief Fund WA, 46 awards were bestowed across theatre, dance, musicals and opera.

The Artist Relief Fund is a benevolent association that provides confidential targeted financial assistance to members of the Western Australian entertainment profession. The fund is managed by a volunteer board chaired by Monica Main. Members of the Artist Relief Fund work tirelessly to support performing artists in Western Australia. This year saw the return of Artist Relief Fund WA student endowments, which are supported by the Minderoo Foundation and provide support to six promising second-year WA Academy of Performing Arts students, enabling them to focus on their studies.

The awards are Western Australia's peer equivalent to interstate awards such as the Green Room Awards in Victoria and the Sydney Theatre Awards, which have been running since 2000. The judging process is managed by CircuitWest and involves a large pool of judges drawn from industry, media and the community.

Over the last two years, the state government has provided significant support to the recovery of the sector. For much of the pandemic, we have been fortunate to be able to continue with performances and tours around the state. Despite this, we recognise that there has been an impact on many of the artists and workers in the creative industries. The awards celebrate excellence in the local performing arts sector and the tremendous spirit shown during adversity. It is a clear reminder of how important the performing arts are to our community. It was great to see such a range of nominees—from organisations that are supported by government funding, to independent companies and individual artists. They all form part of the ecosystem that supports arts and creativity within our state.

I would like to take this opportunity to thank the volunteer committee for organising yet another fabulous event and pass on my congratulations to all the winners and nominees of these awards.

### VIETNAM VETERANS' DAY

*Statement by Minister for Veterans Issues*

**MR P. PAPALIA (Warnbro — Minister for Veterans Issues)** [9.13 am]: I rise to bring to members' attention that today, on the anniversary of the Battle of Long Tan in 1966, we commemorate Vietnam Veterans' Day. On 18 August 1966, in a rubber plantation near the village of Long Tan, Australian soldiers fought one of the fiercest battles of the war. The men of Delta Company, 6<sup>th</sup> Battalion Royal Australian Regiment, faced a force of some 2 000 North Vietnamese and Vietcong troops. The battle was fought in wet and muddy conditions during a heavy tropical downpour. By the day's end, 17 Australians had been killed in action and 25 were wounded, one of whom died a few days later. This was the largest number of casualties in a single operation since the 1<sup>st</sup> Australian Task Force established its base at nearby Nui Dat the previous April. Today, we commemorate all the battles fought by Australians and the 60 000 who served in Vietnam, during our 10-year involvement between 1962 and 1972. The Vietnam War was Australia's longest military engagement of the twentieth century. By the time the war ended, tragically, 521 Australians had died and 3 000 were wounded.

On the Sunday just past, I had the privilege of attending the Vietnam Veterans' Day commemorative service at Kings Park, organised by the Vietnam Veterans Association of Australia. We remembered those lost and reflected on the bravery, teamwork and endurance that Australians displayed throughout the war. When our Vietnam veterans first returned, many felt isolated and that their service and sacrifice were not appropriately honoured. It took until 1987 for these veterans to receive a welcome home parade, with 22 000 Vietnam veterans marching through Sydney in front of a crowd of some 100 000 Australians.

Today, we also pause to reflect on the impact of service on our veterans' families. All defence families endure the hardship of separation, uncertainty and fear, but the families of our Vietnam veterans also witnessed their loved ones returning home to a nation in turmoil. They watched as the vast majority received no formal recognition for their service and no welcome home ceremonies hosted by their communities. It is my honour to stand before this house to thank our Vietnam veterans and their families for their service and sacrifice. Lest We Forget.

### ABORIGINAL JOURNEY WAYS PROJECT

*Statement by Minister for Transport*

**MS R. SAFFIOTI (West Swan — Minister for Transport)** [9.16 am]: I rise to provide an update on the Aboriginal Journey Ways project. It is a collaborative initiative between Main Roads and Kurongkurl Katitjin, the Centre for Indigenous Australian Education and Research at Edith Cowan University. Led by Dr Francesca Robertson and Dr Noel Nannup, the project has documented how traditional Aboriginal trails, tracks and places align to the Main Roads network. This research has culminated in the publication of a 315-page book, formally launched at Government House in June. Titled *Aboriginal Journey Ways: How Ancient Trails Shaped Our Roads*, the book explores the spiritual significance of ancient Aboriginal trails and how they shaped our modern roadways.

Many of the documented journey ways were a vital part of everyday life, connecting people and communities. One such example is Waarkarl Woonya Bidi. Noongar people travelled along this track for thousands of years to attend meetings at Kaarta Gar-up, otherwise known as Mt Eliza. When the British arrived, they used the same track to create a direct link between the two early settlements of Perth and Albany. Today, it is better known as the Albany Highway. The Aboriginal Journey Ways project, along with many others underway, contributes to an understanding of the intimate connection to country that Aboriginal people have and acknowledges the strength and resilience required to sustain the world's oldest living culture.

The WA transport portfolio is committed to recognising the contributions of Aboriginal people and acknowledging and celebrating local cultures and traditions. The state government has recently adopted the Aboriginal empowerment strategy as a high-level framework for a bright future for all Aboriginal people. This book is the beginning of Main Roads' reconciliation journey, acknowledging the marginalised and invisible histories that have shaped our roadways and recognising the significant contributions of Aboriginal people in the development of the state's road network. A copy of the publication is being donated to the Parliamentary Library, and soon local members will be given copies to distribute throughout their communities. I strongly encourage members to have a read and learn about the journey ways in their electorates. Again, I thank Dr Francesca Robertson and Dr Noel Nannup for all their work in producing this incredible publication.

## PRESERVE, PROMOTE AND PROTECT OUR ABORIGINAL SITES GRANT PROGRAM

*Statement by Minister for Aboriginal Affairs*

**DR A.D. BUTI (Armadale — Minister for Aboriginal Affairs)** [9.18 am]: I am pleased to advise members of the opening of the Preserve, Promote and Protect our Aboriginal Sites grant program for 2022–23. This year, the McGowan government has doubled the funding available, providing funding to a total of \$250 000.

Aboriginal sites connect Aboriginal peoples and the broader Western Australian community to thousands of years of their culture and to stories unique to their communities. This grant program is part of the state government's commitment to supporting Aboriginal people to manage their unique and rich cultural heritage. Aboriginal not-for-profit organisations can apply for grants of up to \$40 000 for projects at registered Aboriginal sites. Funding will allow this year's recipients to complete a variety of works to protect and better manage sites that hold cultural heritage significance and to promote greater cultural understanding and appreciation of Aboriginal heritage to all Western Australians. In the last round of funding, grants were awarded to 10 Aboriginal organisations across the state. In the West Kimberley, the Kimberley Aboriginal Law and Culture Centre constructed plinth memorials to honour the old people who were relocated from Pioneer Cemetery to the newly gazetted cemetery in Fitzroy Crossing.

In the Pilbara, the Ngarluma Yindjibarndi Foundation erected interpretive signage, paved access ways and restored rock hides to recognise the Aboriginal significance of the Cossack town site. This project provided the opportunity for truth-telling, enhanced cultural education and a more holistic visitor experience. In the midwest, Wattandee Littlewell Aboriginal Corporation constructed an all-weather pergola to accommodate cultural gatherings and also improved access for elders. In the wheatbelt, Ngardarrep Kijitj Aboriginal Corporation undertook a site clean-up and fencing of the old Jiriny mission site. This area has traditional, historical and contemporary significance to the local community in Kellerberrin and beyond. In the south west, the Albany Aboriginal Heritage Reference Group Aboriginal Corporation recreated a panoramic painting in the town hall square with contemporary descriptions of the Mineng Noongar people, including well-respected elder and guide Mokare who lived in the 1800s and worked with the early settlers of Albany.

The grant program is administered by the Department of Planning, Lands and Heritage, and applications will close on 21 October 2022. I encourage Aboriginal organisations to apply for funding to undertake projects that preserve, promote and protect Aboriginal heritage sites and celebrate their Aboriginal history and heritage.

## SOUTH WEST NATIVE TITLE SETTLEMENT — ANNUAL UPDATE

*Statement by Minister for Aboriginal Affairs*

**DR A.D. BUTI (Armadale — Minister for Aboriginal Affairs)** [9.21 am]: Today, I rise to present the house with the first annual update for the south west native title settlement. This update sets out the milestones achieved so far and also highlights some of the significant developments to come. This settlement is the most comprehensive of its kind in Australian history and something that our state is rightly very proud of. The settlement formally commenced in February 2021, following years of work by both the Noongar people and the state government. An important milestone was the passage of the Noongar (Koorah, Nitja, Boordahwan (Past, Present, Future) Recognition Act 2016, which formally recognises the Noongar people as the traditional owners of the south west region of WA.

The settlement is made up of six Indigenous land use agreements involving around 30 000 Noongar people and covering approximately 200 000 square kilometres of the south west region of Western Australia. It establishes the Noongar Boodja Trust that holds funds, land and other assets on behalf of the traditional owners and will create sustainable outcomes achieved through genuine partnership with Noongar people. To date, two annual payments have been made with further payments to continue until 2032. The governance structure for the settlement is well advanced, with six Noongar regional corporations being established, which represent the six ILUA groups. The regional corporations are on track to be fully operational by the end of 2022. Once these corporations are all fully established and operational, other commitments under the settlement can continue to be rolled out. This includes land transfers under the Noongar land estate and development of the Noongar housing program.

Further updates of note include a five-year process of transferring up to 320 000 hectares of crown land, which has now begun, allowing it to be held and developed in line with Noongar cultural, social and economic aspirations. The 430 Noongar standard heritage agreements that are now in place with government and industry land users will ensure compliance with the act and regulations when a planned use or activity may adversely impact an Aboriginal site. Further, the Department of Biodiversity, Conservation and Attractions is set to execute six cooperative management agreements to partner with the Noongar community and increase traditional knowledge and expertise in managing the south west conservation estate.

In the winter recess I was extremely fortunate to have trekked the beautiful Noongar boodja in the south west. The Bibbulmun Track is effectively a cross-section of the settlement area and it is abundantly clear when walking this route how special this land is to its traditional owners. I look forward to seeing the settlement mature and further support for self-determination for the traditional owners.

I now table the *South west native title settlement annual update*.

[See paper [1345](#).]

**COMMUNITIES — ANNUAL ACHIEVER AWARDS***Statement by Minister for Child Protection*

**MS S.F. McGURK (Fremantle — Minister for Child Protection)** [9.24 am]: I have the great pleasure of updating the house on the Department of Communities' annual Achiever Awards. Now in its thirty-second year, this unique program celebrates the efforts of young Western Australians with a carer experience, who are pursuing further education and training. As the Minister for Child Protection, I have had the privilege of attending five Achiever Award presentation events. This year I was pleased to be joined by the Premier who had the chance to listen to the incredible stories of resilience and determination of these young people who, despite facing significant personal obstacles, are building a positive future for themselves. Their hard work and perseverance are testament to the incredible spirit they have and will see them well placed to achieve their career goals and life ambitions.

This year, 35 young people were announced as winners in the university achiever award, the registered training achiever award and the apprenticeship or traineeship achiever award, with many of the winners also active volunteers in their communities, acting as role models for other young people. In addition to the education and training awards, a young person was awarded the community spirit award for showing leadership and making a positive impact on their community.

The excellence in education and training award recognises a Department of Communities staff member for their outstanding commitment to furthering education and training outcomes in child protection. This year, Missy Nesbitt, a senior field officer with the Target 120 team based in the Kalgoorlie office, was the recipient of this award for her dedication in making a difference to the lives of children in care. The achievements of this year's young winners highlight the importance of never giving up on what you want and shows the value of further education and training. I am extremely proud to be part of a government that supports and acknowledges young people with a carer experience who strive for their career goals and ambitions; they are an inspiration to us all.

**ABORTION — SAFE ACCESS ZONES***Statement by Minister for Women's Interests*

**MS S.F. McGURK (Fremantle — Minister for Women's Interests)** [9.26 am]: I rise on behalf of the Minister for Health and as the Minister for Women's Interests to acknowledge the first anniversary of the implementation of safe access zones in Western Australia. From 18 August 2021, this government strengthened the protections for those seeking legal abortion procedures by legislating safe access zones around premises that provide abortion services. This has been an enormous success. Before the implementation of safe access zones, women were being confronted by protesters when accessing abortion services. The behaviour of these protesters had a profound impact on both patients and staff working at these clinics.

For the past year, women and their support persons have been accessing abortion services in a safe and private manner without fear of harassment or intimidation. The changes provide for a safe access zone of 150 metres around these services and prohibit harassing, intimidating and threatening a person accessing premises. The new laws also prohibit a person from publishing and distributing recordings of a person accessing premises at which abortions are provided. The right to safety, privacy, dignity and respect when accessing health care should be fiercely protected, and these protections also extend to the dedicated staff who work at these facilities. Just as all workers have a right to a safe workplace, people who work at abortion clinics have a right to attend their workplace free from obstruction and harassment.

This is an achievement that Parliament should be proud of and an achievement that the McGowan government has been pleased to lead. More challenges remain, and our government continues to be committed to protecting the reproductive rights of Western Australian women and equitable access to abortion services.

**AT-RISK CHILDREN — CARNARVON***Grievance*

**DR D.J. HONEY (Cottesloe — Leader of the Liberal Party)** [9.28 am]: My grievance is to the Minister for Child Protection. I wish to raise with the minister the matter of children in Carnarvon being at risk because they do not have a safe house to turn to for help and protection or simply an alternative shelter from being on the streets. I have been to Carnarvon a number of times and a recurring social issue raised with me concerns the children who are seen roaming the streets at all hours of the day and night. During the day, the children who should be at school are seen wandering around town. Even more concerning is that at night children are also seen roaming the streets and not going home. At night there is a heightened risk of the children becoming engaged in criminal activities or themselves becoming victims of criminal behaviour. It is a tragedy that so many children do not feel safe to go home at night. We should not accept that these children can fend for themselves and are left in such a vulnerable situation. The lack of proper accommodation for these children also means that the people of Carnarvon are subject to increased antisocial behaviour that creates distress in the community, including people feeling unsafe in their own homes. I found an enormous amount of sympathy in the community for the plight of these children. People want to see something done to help them. They want to see a safe option for the children to be properly housed at night.

With due respect to the minister, her answer to my question last week did not offer any comfort to the community or for the affected children. I understand that there are night-time patrols for children, but the children will often hide from them. I have been told by people in Carnarvon that significant numbers of children are roaming the streets every night. These children, unfortunately, are less likely to seek assistance directly from the police. It is not hard to understand that a child does not want to report issues about their family situation to police, so they just avoid the problem by roaming the streets until it is deemed safe to go home. Even in cases when child protection staff may be called, they are not available at night. Calling a crisis line will not address the issue because the children are generally not in an obvious immediate crisis situation, even though their whole way of life could be seen as a crisis.

The minister mentioned that she had met with Carnarvon shire president Eddie Smith and others. I, too, have met Mr Smith and others, and I was very impressed with their idea of using a former primary school as a safe house for these children. It could be turned into a safe house; a shelter where the children can hang out, and be provided with entertainment like a TV and sports activities, allowing them to stay there rather than roam the streets where boredom often leads to antisocial behaviour. I think it is an idea of great merit, and one that would not cost a great deal, given the benefit for the children and the community. The minister has mentioned that the Target 120 and Target 120 Plus juvenile justice early intervention programs will resolve this issue. As I have mentioned before, I desperately hope that these programs are a success. However, they do nothing to deal with the immediate problem of children who are on the streets at night.

The minister tells us about extra child protection workers to be employed in the area, but they do not address the problems of children roaming the streets right now. The proof of this problem is before the eyes of anyone who cares to look. In Carnarvon and many centres north of Geraldton, too many children do not feel safe to go home at night and they have no safe alternative accommodation. Existing programs do not fill the gap of trying to get kids off the streets—kids who need immediate protection but who do not want to be at home for various reasons. The consequences of children not having a safe place to sleep at night—an inadequate diet, antisocial behaviour and the inability to attend school—create far greater costs for government than the cost of providing a safe place for when they cannot go home. It is about providing a service to help children who are obviously falling through the gaps of the current system.

I think that there has been a good focus from government on providing shelters for women escaping violence in their homes. I believe that there needs to be a parallel focus on providing safe places for children to sleep at night, somewhere they can have a meal, shower, be provided with clean clothing and be rested so that they can attend school the next day. Thus I implore the minister to seriously consider the suggestion of the shire president to help the Carnarvon community and support the establishment of a safe house for children.

**MS S.F. McGURK (Fremantle — Minister for Child Protection)** [9.33 am]: I thank the member for the grievance. At the outset, I want to acknowledge that I understand and appreciate the frustrations of people—particularly in regional towns, but around the state—when it comes to at-risk youth. However, I cannot help but think that this grievance about antisocial behaviour in Carnarvon that the member has brought has quite coincidental timing with the matter of a by-election in the North West Central electorate. I only hope that the member's interest in these challenging social issues extends past the date of the North West Central by-election. We will see whether that is the case.

There is a misconception that there is no capacity to manage young people who are out very late at night or in the early hours of the morning if there is no responsible adult to care for them. This is actually not the case. If police or other authorities cannot find a responsible adult to take these young people, they are able to, and frequently do, contact the Department of Communities' crisis care line. Although this is a statewide line, it will then access local on-call staff from the Department of Communities whose job it is to manage these young people. This system has been in place over successive governments. It is true that Department of Communities staff are not rostered 24/7, as police and other emergency services are, but they are local and they are available on-call to receive children and young people who may be at risk to themselves or others.

Youth crime and antisocial behaviour in any community is caused by complex, longstanding and often intergenerational issues. The state government is committed to helping at-risk young people get on track. The WA government is taking a multipronged approach to tackling youth crime in Carnarvon and other places. In the case of Carnarvon, the Department of Communities is working closely with the shire, the Western Australia Police Force, the Department of Education and local community organisations, including Aboriginal community-controlled organisations, on youth and social issues.

The member mentioned our successful Target 120 program, which will now roll out in Carnarvon as part of an \$11 million expansion of the program, to manage high-risk young people who have already had contact with police. Target 120 has proved to be extremely successful in supporting our most at-risk young people to turn their lives around, so much so that about half the young people involved in this program have had no further contact with police.

I want to briefly refer to some of the outcomes for those who have been involved in Target 120 in other locations. For instance, in Armadale, the young people involved in the Target 120 program had 84 interactions with police before joining the program. Since being involved in Target 120, those young people have had two interactions with



police. In Geraldton, young people involved in Target 120 cumulatively had had 182 contacts with police, during and after the program that had been reduced to 75 contacts. Kununurra is one of the locations where the program is being run by an Aboriginal community-controlled organisation—that is, the MG Corporation. Before joining the program, those young people in Kununurra had had 201 interactions with police. Since completion of the program, that has been reduced to 55 interactions. This week, I had the pleasure of meeting with some senior BHP representatives on this matter. They were interested to know what their company could do to participate in a positive way to address youth offending. Those BHP senior representatives were really impressed with the Target 120 outcomes. In Rockingham–Peel, young people before they joined the program had had 147 interactions with police. Since being involved in Target 120, that has been reduced to 28 interactions. In Mirrabooka, before Target 120, young people had had 129 interactions with police; that is now 37 interactions after being involved in Target 120. These are really encouraging and heartening outcomes.

What is particularly important, though, is the multiplier effect of Target 120. It is a program that works not only with those young people, but also to address the causes of their behaviour. That means we interact with the whole family. Since being involved in Target 120, 117 clients have exited the program, but, in fact, 496 family members have been impacted across the state by the Target 120 program. This is the sort of evidence-based constructive approach that we as a government want to take to deal with antisocial behaviour.

The member referred to Target 120 Plus. This is a pilot program that will look at those young people who have had time in Banksia Hill Detention Centre to see whether this program will be effective for them. That will be undertaken in Broome.

The Department of Communities has a strong on-the-ground presence in Carnarvon, with the regional executive director for the midwest–Gascoyne based in the town, along with child protection and housing staff. They are the most senior person in the Department of Communities in the region. I acknowledge the shire president, Eddie Smith, who thanked us for placing that staff member in the town of Carnarvon.

I also want to thank the police for their work and for working cooperatively with Department of Communities and Department of Education staff as well as community members to deal with some of this antisocial behaviour so that we have a district leadership group and others working together to deal with this issue.

## AGRICULTURE — WORKER SAFETY

### *Grievance*

**MS C.M. ROWE (Belmont)** [9.40 am]: My grievance today is to the Minister for Industrial Relations and is regarding the safety of workers in the agricultural sector. The agricultural industry is a vital contributor to the WA economy, and the McGowan government is taking active steps to broaden the sector's potential. This includes delivering \$3.3 million through the carbon farming and land restoration program to innovate carbon farming projects that will help boost the sector's potential and productivity, and investing \$25 million to create the Western Australian agricultural collaboration, which will spur research and development capabilities for the sector.

The agricultural industry has always been and will continue to be an important part of WA's future. However, it is also one of the most dangerous industries to work in. Ensuring that our agricultural industry remains strong requires commitment and action to protect the health and safety of our agricultural workers. I am very proud of the McGowan government's achievements in addressing workplace safety, which have always been spearheaded by the terrific work of the Minister for Industrial Relations.

The modernisation of industry laws after 38 years through the Work Health and Safety Act was a significant step towards fostering a greater culture of safety for workers. The new legislation and regulations started on 31 March this year and included industrial manslaughter laws. To ensure a safe working environment, gross negligence resulting in the most tragic circumstances will now carry a maximum penalty of 20 years' imprisonment and a \$5 million fine for individuals, and a maximum penalty of a \$10 million fine for a body corporate. Such laws have already had a positive impact in the workplace, with those further up an organisation's hierarchy being held responsible for failing to safeguard the health and safety of their workers. The responsibility of ensuring that employees make it home safely should be motivation enough, but, of course, if it is not, there are now threats of significant penalties, including jail time. Every Western Australian should go to work knowing that their health and safety is the number one priority. These laws were deliberately designed to achieve just that. I would like to recognise the minister for his extensive involvement in achieving this, along with workplace safety advocates such as Regan Ballantine who unfortunately have endured the loss of a loved one while at work.

Unfortunately, the agricultural sector remains one of the more dangerous industries in the nation, and Western Australia is not immune to this. Tragically, there have been 12 agricultural work-related deaths reported in Western Australia in the last 12 months alone. In June this year, a 24-year-old male died in the great southern region between Lake King and Varley Creek. He was attempting to move a bogged vehicle with a tractor when towing equipment failed, fatally striking him in the head. In December last year, the death of a 72-year-old farmer was reported in Maya, 240 kilometres north-east of Perth in WA's midwest region. The farmer was killed when he was struck by the tractor he was trying to jump-start in order to free a bogged truck. Earlier this year, AgHealth Australia and

AgriFutures Australia released an annual report on non-intentional farm-related incidents in Australia. The statistics were absolutely shocking. The report found that since 2001, 1 632 lives have been lost on Australian farms due to non-intentional injury. Last year alone, there were 46 on-farm deaths throughout the country. I offer my sincerest condolences to the loved ones of those lost in work-related incidents.

Everyone deserves to go to work in the morning knowing that they will return safely home at night. We cannot accept these deaths as the cost of working in dangerous industries. The only number of deaths that we should accept is zero.

I was very pleased to hear that WorkSafe Commissioner Darren Kavanagh is launching an inquiry into the agricultural sector and work-related deaths following the number of lives lost in this industry. It is a tragic catalyst for a critically important piece of work. I understand that as part of the inquiry announced in June, the commissioner will look at work-related deaths spanning the past five years. This opportunity to shine a spotlight on the industry and the improvements that can be made is very much welcomed.

With the inquiry underway, I ask the minister to share with the house the progress of the inquiry and how it will further the McGowan government's approach to enhancing the safety of our agricultural workplaces and help ensure that Western Australians return home from work safely each and every day.

**MR W.J. JOHNSTON (Cannington — Minister for Industrial Relations) [9.45 am]:** I thank the member for Belmont for raising her concerns with me. The work health and safety record of the agricultural industry is a very serious issue, and it is important now more than ever that the government and the sector work together to improve workplace safety. On behalf of the McGowan government, I can tell members that we are very keen and totally committed to seeing better health and safety outcomes in this industry.

The agricultural, forestry and fishing industries have the highest number of work-related fatalities and the highest frequency rate, despite having relatively few hours of work compared with other industries. For the 10-year period 2010–11 to 2019–20, there have been 41 fatalities across those industries. When I discuss these matters with these industries, they make the point that that figure is across the three sectors, and that it is harder to break down the details because of the way that the Australian Bureau of Statistics assembles the statistics; however, one way or another, we know that most of those deaths occurred in the agricultural sector rather than in forestry or fishing. In the same period, those industries made up only three per cent of all hours worked, yet the agricultural sector made up 24 per cent of fatalities. The fatality frequency rate in agricultural, forestry and fishing is over three times as high as the industry with the second highest work-related fatality frequency rate, which is arts and recreation services, and about seven times as high as the overall fatality frequency rate across all industries.

In the first term of the McGowan government, on 27 May 2020, I convened a farm safety summit to discuss with industry leadership how to improve workplace health and safety in the agricultural industry. At that time, I pointed out that the workers' compensation premium in agriculture was three times the rate for the all-industry average, and double the next highest rate, which is for transport. Unfortunately, we have not seen that change yet, although that is a lagging indicator; it will move last. Workers' comp premiums are set by the insurance industry and are based on an analysis of the actual claims experienced for each industry. Therefore, the agricultural industry has a much higher average premium rate—because it has a higher frequency and severity of injuries and claims.

I was advised by the WorkSafe Commissioner, Darren Kavanagh, that he intended to conduct this inquiry under the powers provided to him by the work health and safety legislation that I was very proud to manage through the Parliament in the first term of the McGowan government. I am pleased that Mr Kavanagh is using the powers that he has to review the agricultural industry.

The inquiry examined the deaths of agricultural workers and family members over the last five years, aiming to make changes to safety within the industry. A report will be generated with recommendations on investigations and enforcement for consideration by the government and by industry, as well.

I acknowledge that some changes are already evident. I acknowledge that some industry bodies are now advertising in agricultural journals to remind the industry of its need to improve safety, following on from the engagement that I and Hon Stephen Dawson have had with the sector over the last three years. Commissioner Darren Kavanagh will release the terms of reference shortly. The inquiry arose from the death of the worker in June, which was the twelfth death in the 12-month period. It is expected that the inquiry will report, identify its findings and make recommendations, and we hope that the industry will respond strongly to that.

I am pleased to tell Parliament that Commissioner Kavanagh has advised me that he has appointed Pamela Scott to the position of independent inquirer to assist in conducting the inquiry. Pam Scott is the former Chief Commissioner of the Western Australian Industrial Relations Commission. She served for 25 years until her forced retirement because of our failure to pass the Industrial Relations Legislation Amendment Bill 2020 in the last Parliament, which would have allowed her to stay on in her valuable role. Former Commissioner Scott is a person of great talent and ability and she has a wide level of respect across the industry. I make the point that she is the former head of the Retail Traders Association of WA and she used to be my counterparty in her role representing retail employers, while I represented retail workers at the Shop, Distributive and Allied Employees Association of WA.

I made it clear to the Farm Safety Summit in 2020 that, if the industry does not take steps to improve work health and safety, it is highly likely that the regulator will take steps to address these ongoing failures. That is why I am pleased that the WorkSafe Commissioner, Darren Kavanagh, has appointed a woman of such great ability as Pam Scott to do this inquiry because all industry participants can be assured that she will bring a proper mind to the challenges of the sector.

We have to get the rate of injury and death in this sector down. I applaud Darren Kavanagh's decision to do this inquiry. I urge the industry to engage with the inquiry because there will be some really good outcomes for a plan forward. As I keep saying to the sector, tragically, many of the people who die are those family members in the industry. It is the people sitting around the table on a Sunday night who are most at risk of death on a farm. We want to work with the industry, with farmers and the agricultural sector to save those lives, save these tragedies from occurring, and get better outcomes for everybody in the sector.

## ELECTRICITY SUPPLY — CENTRAL WHEATBELT

### *Grievance*

**MS M.J. DAVIES (Central Wheatbelt — Leader of the Opposition)** [9.52 am]: I rise to grieve on the matter of power reliability in the electorate of Central Wheatbelt and for the opportunity to ask the minister to consider microgrid technology, particularly in those communities on the edge of the grid, and those with regular power failures or interruptions. The minister will be familiar with one case, as we have had previous exchanges and I have requested advice from him on how best to guide the North Eastern Wheatbelt Regional Organisation of Councils—that is, Dowerin, Koorda, Mt Marshall, Mukinbudin, Nungarin, Trayning and Wyalkatchem—to achieve a project that it has been pursuing. The minister may not be familiar with the other case, unless the Parliamentary Secretary to the Minister for Regional Development has reported back on his meeting with the Shire of Quairading last week. Nevertheless, they address the same issue of seeking to improve power supply and reliability. The desire of both NEWROC and the Shire of Quairading is that they would like a disconnected microgrid—a small, isolated self-supporting network that was once connected to the interconnected network but operates independently from the rest of the grid—on a permanent basis.

I know that Western Power understands the problem that these communities face; in fact, it articulated the problem very succinctly in a report on its website and outlined that —

- Western Power's ageing distribution network (415v to 33kV) is approaching end of life in many areas
- Like-for-like replacement cost can present a significant challenge
- Small edge of grid towns can experience poor reliability, with customers experiencing frequent power interruptions due to stretches of bare overhead conductor sometimes hundreds of kilometres long
- Some rural towns have relatively low peak loads in the order of a few hundred kilowatts and daily average kWh usage of in the order of few hundred kilowatt hours for the majority of the year. The demand increases during grain receivals —

The report also notes —

- Preliminary Feasibility (PF) assessments indicated that the rebuilding of the network may be a higher cost than providing a supply to some towns via a Disconnected Microgrid (DMG).
- ...
- Similar to a stand-alone power system (SPS) but services more than 5 customers.
- Envisaged that the first pilot DMG will supply power to less than 50 customers.

At a meeting with the minister in February this year, NEWROC requested information it had been seeking to put together a project to address the issues that Western Power has outlined, and take up the opportunity for its group of councils. In doing so, it has faced some challenges while dealing with Western Power. At the meeting with the minister, NEWROC specifically asked for transparent and open access data for Bencubbin, engagement with the Western Power engineering team when it required it, and access to the physical network for the project. It was disappointed to be told that other project proponents had been able to obtain relevant information, which implied that it had not pursued the correct avenues to obtain the information, but it was not given any guidance on how to do this during the meeting. It was also told that the cost to Western Power of energy transmission to regional areas is 24 times more expensive than providing the same power to metropolitan customers, who subsidise regional supply. NEWROC is very aware of this and it is trying to provide a solution that is affordable and more reliable in its communities. It was also told that if a viable solution to the power reliability problem in the Wheatbelt existed, it would have already been delivered.

I understand that Western Power made a request for information, which closed in January this year. It explicitly stated that it was seeking submissions from vendors that could provide a capex solution that is a Western Power-owned, operated and maintained asset, an opex solution that is a vendor-owned, operated and maintained asset, or

a combination of both capex and opex. It is clear from that ROI that there is an opportunity for project proponents to develop an opex solution but I am getting mixed messages about whether this is in fact a model that the government supports. I seek the minister's advice. Will the government support and approve a project that would be owned, operated and maintained by an organisation other than Western Power? If that is the case, could the minister please advise how NEWROC and Quairading, which I will get to, can proceed to engage with government to advance and achieve this?

I want to close by raising some of the issues I am sure the minister is aware that Quairading have faced on a regular basis but, most recently, over the last weekend. The lights went out for three days over the weekend and they are out again today. I want to make it clear that no criticism is being levelled at the workers on the ground; we are very appreciative that they are doing their very best, but it was disappointing that the shire was without power for three days and it took so long for a generator to arrive. I am aware of a gentleman who is on dialysis; he was very concerned about his health. The Shire of Quairading had to open the Town Hall because people's houses were freezing, quite frankly. They had no access to hot showers. The community has done the right thing but it went three days without a generator. It had to be sourced from some distance away—Perenjori, I understand. It does not really seem appropriate for communities to face this on a regular basis in modern times.

I met with the Shire of Quairading over a month ago, and it expressed its desire to investigate a disconnected microgrid solution for the community but, I am sure the minister understands, its resources are limited. I think NEWROC has been trying to do this as a group of councils. It has been working with the Minister for Local Government on a regional subsidiary model, but there have been discussions with other representatives of government and it has not become clear—or not as clear—whether this model that it is pursuing is ever going to be supported by the government. Some clarity and guidance to both these groups and other parts of the electorate that are seeking to improve their power reliability would be much appreciated. I look forward to continuing to work with the minister to improve the reliability in the electorate of Central Wheatbelt.

**MR W.J. JOHNSTON (Cannington — Minister for Energy)** [9.58 am]: I thank the member for the grievance; it is an important issue. There is no question that these are complicated things. The first thing I want to do is apologise because I made a commitment on 23 March that somebody in my office would talk to the member for Central Wheatbelt and, unfortunately, I only found out today that that never occurred. I apologise unreservedly for that. I will make the member an offer: if she is available on Friday, 16 September, I will clear my diary and accompany her to any part of her electorate that she thinks I should visit to meet with individuals, council and others to hear directly from them. I understand the challenges that the member is raising and I know that people want to know and hear that the minister is listening. It would appear that my office failed in what I wanted it to do, which may give the appearance that I am not interested. I am getting my diary cleared on Friday, 16 September. If that suits the member, I will be in the member's hands to spend the whole day in her electorate and talk to the people who are important to her.

We have changed Western Power's obligations regarding the expression of interest for capital expenditure and operating expenditure solutions. It now must look for alternative solutions for network challenges, because sometimes an operating expenditure solution might be better than a traditional network solution. Of course, it has to be value for money. One of the challenges for everybody bidding for capital-heavy projects is that government can usually do it more cheaply because the government is the only one with the AAA credit rating. I will give an example of when we did that here in the metropolitan area, because I want to make it clear that this is not just a challenge in country areas. None of the solutions provided by the private sector could match the cost structure of a traditional engineering solution. In fact, in one example, to reinforce a feeder line, it was five times more expensive to do an operating expenditure solution than a traditional solution.

The 24-times cost is absolutely correct. That is why we can do innovative solutions in the wheatbelt. It is because the cost structure is so high. If the member wants to look at details of that, a great report that sets out all the challenges was tabled by the member for Swan Hills during the last Parliament, when Hon Terry Redman was the deputy chair.

I met with the North Eastern Wheatbelt Regional Organisation of Councils. The problem with the proposal from NEWROC is it will not solve its problem. Its proposal is based on the idea of using a battery, but the problem with a battery is it is empty after four hours. It has to have a generation solution. In Walpole, we are putting in a pumped hydro solution and, because that is generation, if there is an outage, it will have generation on the other side. The same applies to the microgrid in Kalbarri; a wind farm gives it generation on the other side of an outage. When I go up to that area, I am sure NEWROC will talk to us again. There is a solution, but it is not the one that the people NEWROC is talking to will solve. The data NEWROC is after is not the sort of data that we ordinarily share with anybody because it is not the data that it needs to come up with an engineering solution. Does the member see what I mean? It was after a particular set of data that is not related to the challenge of creating a microgrid.

We are about to announce a disconnected microgrid for one community in the wheatbelt. We have to make sure this technology works. A lot of people come and tell us, "Here's this technology." I will give the example of the Onslow microgrid. The heart of the Onslow microgrid is what is called DERMS—distributed energy resource management system—software. The original DERMS software did not function. Even though the other party sold

it to Horizon Power, it did not work, and Horizon had to find somebody else who had software that worked. Then, the first time it trialled the microgrid just using the rooftop solar in Carnarvon, it had 18 hours of outage because nobody knew about the buried protection software in the two batteries being used to support the microgrid. Even the vendor almost did not know about the buried protection software, and it switched the batteries off when the synchronous generation was disconnected. These things are very complicated, and sometimes people tell us things that they are not able to achieve. We have to test before we implement. Soon, Western Power will announce a trial of a disconnected microgrid in the wheatbelt. If that works, we can roll it out. One of the good things is that Horizon and Western Power share information, and so the learnings that Horizon is now rolling out across all its microgrids are available for Western Power as well. Every time we have a different challenge.

I make this genuine offer. The outage that started on Sunday was two separate outages, which is always difficult when they impact the same community. A flooded creek knocked out the power on Sunday. We do not have generators sitting around everywhere, because outages do not happen all the time and it would just not be possible to do it that way. They did move the generator from Perenjori; of course, that would mean that if Perenjori had an outage, it would not have a generator. The reason we all went from individual generation to the network is that it is actually a cheaper solution. It is not always best to be disconnected; it is sometimes better to be connected. We are going through it in a systematic way and looking at standalone power systems in the wheatbelt; we will roll out 1 000 over the next four years. We will certainly do disconnected microgrids, where they are practical and will work. I would love to come and talk to the member's community about those options.

### AUSTRALIAN DEFENCE FORCE — CAPABILITY

#### *Grievance*

**MR H.T. JONES (Darling Range)** [10.05 am]: My grievance is to the Minister for Defence Industry regarding Australia's Defence Force capability in Western Australia. As a former naval sailor and officer of 30 years, I note the minister's service of 26 years, which was possibly more rigorous than my own. I take great interest in what the federal and state governments are doing to ensure that Australia's and Western Australia's sovereignty and trade interests are protected, and the Australian Defence Force plays an integral role in that defence.

According to the 2021 census, more than 55 000 Western Australians have previously served in the Australian Defence Force. Each year, hundreds leave the Defence Force and join our veteran community. The navy is obviously the largest employer of defence members in Western Australia. Even in my own electorate of Darling Range, some way from Garden Island and the ocean, the 2021 census revealed 80 people who are currently serving and more than 1 000 people who previously served. I daresay the numbers are higher as the census stated that no people living in Jarrahdale are currently serving in the Australian Defence Force, which I know to be incorrect—and I know who you are!

My experience as a navy supervisor and career manager tells me that despite the very good working conditions and remuneration in the Australian Defence Force, which are immune to the ups and downs of the economy, members leave in greater numbers when the economy is booming and jobs are plentiful and often high paying, as is the case now. Former Defence members with trade and operator skills adapt well to mining and construction work, and the fly-in fly-out conditions of extended absence from home and campsite accommodation are not too different from what they are used to. Some members also choose to leave because they have done their time and want a career that is perhaps more family friendly, so they can go home every night.

In the main, former Defence members demonstrate resilience, loyalty and self-discipline, and they are sought out by employers for these attributes. Defence members also invariably have unique military skills, which are costly to acquire and perishable as technology constantly updates. People who have left Defence, especially more recently, represent a great pool of potential contributors to the defence industry; they offer contemporary insights and the latest tactical and operations experience. We have a great opportunity to harness that wonderful resource and take advantage of their skills to further develop our local defence industry.

Like other members in this house, I have heard the media calls, particularly during the previous Turnbull and Morrison governments, to invest in the Australian Defence Force's capability to protect against threats to our sovereignty. There are justifiable concerns that the disposition of our defence forces and industries potentially leaves vulnerable our north west, a region that is responsible for export revenue in excess of \$100 billion per annum, and we have little to no sustained capability to protect this region of national significance.

I am not alone in raising this issue. The shire presidents of several regional local governments also advocate for action to ensure that appropriate Australian Defence Force capability is in place to meet the perceived threats. I would like to ask the Minister for Defence Industry what he has done to raise this issue with the commonwealth, and whether he has any update on the response from the commonwealth government.

#### *Visitors — Kapinara Primary School*

**The ACTING SPEAKER (Ms A.E. Kent):** Minister for Defence Industry, before you start, I would like to pay special welcome to Kapinara Primary School from City Beach on behalf of the member for Churchlands. Hi everyone!

*Grievance Resumed*

**MR P. PAPALIA (Warnbro — Minister for Defence Industry)** [10.09 am]: I thank the member for his grievance and for his service to the nation in the course of a longer career than my own and a very illustrious one. The member raised a couple of issues; first, the observation that many Australian Defence Force personnel are transitioning from service into civilian life here in Western Australia and that they represent a great asset. The member wants to know what we are doing to encourage them to stay in WA and contribute to our state. That is the first thing. The second issue was his concern, which I share, about the allocation of defence assets and capability to our part of the continent.

We can be very proud as a government of what is being done for ex-service personnel. We recognised at the start of the last term of government that many people were potentially considering leaving the Defence Force in Western Australia. I think about 300 people or so annually transition out of their service for whatever reason and look for somewhere to settle, often with families. Potentially they represent a great asset to the state. We were very focused on trying to find skilled labourers and others and encouraged them to come to Western Australia during the last term and we are even more focused at the moment. At the last election, we committed to quadrupling the amount of money contributed to the Anzac Day Trust, which goes towards measures in the field of veteran support in Western Australia.

We actively sought to focus most of our money on transitioning defence personnel, for a couple of reasons. Firstly, it has pretty much been identified widely—we did it and it was identified during the Royal Commission into Defence and Veteran Suicide—that one of the best things we can do to mitigate against the likelihood of people suffering from the trauma that they have encountered and being vulnerable to that later on is to successfully transition them at the end of their service. They can go from one environment in which they have made a valuable contribution, are respected, have a support structure around them and feel a sense of worth to another environment, rather than them becoming isolated and potentially vulnerable to spiralling, with the health implications that are associated with that. We allocate about three-quarters of the money that we contribute—about \$1.3 million a year—to the Anzac Day Trust for the delivery of services to encourage the successful transition of veterans. Patching them after they are damaged is more the job of the Department of Veterans' Affairs. It has a lot more money, resources and capability to achieve that. We do a bit of that, but mostly we focus on transitioning. One of the things that we have done is to allocate \$400 000 to the defence industry veterans employment scheme, which the member may be familiar with, and which is administered by the Minister for Education and Training. It offers 80 scholarships to eligible veterans. Essentially, if they see that there is a job for them in the defence industry—we will assist them to identify potential employers and look for those opportunities—they can get a \$5 000 scholarship to get the skills that they require to transition from defence into that job. It is a brilliant focus and idea, and I think it will be replicated nationally because it is such a good program.

We have also committed \$994 800 to a collaboration between the Returned and Services League of Australia in Western Australia and Working Spirit. Together, they will very much focus on transitioning. They are creating a portal to enable veterans to identify employment opportunities in not only the defence industry, but also other industries right across the state of Western Australia. Working Spirit will be doing a lot of very hard on-the-ground work to connect veterans to potential employers. Working Spirit's Karyn Hinder has a great track record of doing things such as something that is similar to speed dating—picking up veterans and putting them in front of a potential employer, who has already indicated that they want to employ a veteran. That will be a great program. It will be continually assessed, but I think it will make a significant contribution. I think we are leading the nation in transitioning people. It will be very successful and, again, it will help the state. We value veterans; they represent a great asset and are great contributors, but it will also help ameliorate potentially negative consequences for people who have served and are vulnerable to the trauma they have experienced.

With regard to defence in Western Australia, the member would have seen that the federal government—I commend it for doing so—has committed to a force posture review. It is calling it a strategic review that incorporates a force posture review. It is undeniable that Western Australia is under-defended. We have less than five per cent of ADF personnel posted to Western Australia, which is the lowest proportion anywhere in the country other than Tasmania, and I do not think it is under any threat from the penguins in Antarctica! If we look at it on a per capita share, which is a bit parochial, we do not get our share. But we do not look at it in those terms; we look at it in terms that our third of the continent should be defended. The Australian Defence Force should defend Australia. We generate, out of the Pilbara predominantly, some 40 per cent of export revenue for the nation and it is vulnerable. A wonderful reserve regional surveillance unit in the Pilbara regiment operates there, but that is it. The 13<sup>th</sup> Brigade is a fantastic brigade, but it is predominantly a reserve organisation. I commend Brigadier Chaloner, who commands the brigade, for recently deploying the 10<sup>th</sup> Light Horse to the Kimberley for an exercise. We do not really exercise much other than the Pilbara regiment in the Pilbara. It is time that the ADF looked at moving more soldiers, capability and fighting capability of the Army and the Air Force to Western Australia. The Air Force pretty much does not operate in Western Australia, other than to pass through. I raised this with the Minister for Defence a couple of weeks ago, and I will continue to raise it. Fortunately, the federal government has committed to this review. We look forward to the results.

**PUBLIC ACCOUNTS COMMITTEE***Sixth Report — Bus fair: The report of the inquiry into the student transport assistance policy framework —  
Tabling*

**MRS L.M. O'MALLEY (Bicton)** [10.16 am]: I present for tabling the sixth report of the Public Accounts Committee titled *Bus fair: The report of the inquiry into the student transport assistance policy framework*. I also table the public submissions received by the inquiry.

[See papers [1346](#) and [1347](#).]

**Mrs L.M. O'MALLEY**: In tabling the sixth report of the Public Accounts Committee titled *Bus fair: The report of the inquiry into the student transport assistance policy framework*, I begin by commending the efforts and professionalism throughout the inquiry process of my committee colleagues: the deputy chair, the member for Cottesloe; the member for Darling Range; the member for Mirrabooka; the member for Victoria Park; and the member for Roe, who was co-opted to the committee for this inquiry. I express my sincere thanks on behalf of the committee to our principal research officer, Ms Alison Sharpe, and research officer, Ms Michele Chiasson.

The inquiry, which led to the report I now table, began on 18 August 2021 after the Minister for Transport asked the Legislative Assembly to refer the current student transport assistance policy framework to the committee for review. Parliamentary referrals to a standing committee are relatively rare, underlining the importance of this topic to the Parliament and the public interest. This is not the first inquiry or review into student transport assistance, which is more commonly known as school bus services, in Western Australia, but it is arguably the most comprehensive since the state government began providing the service in 1918.

Throughout the course of this inquiry, the committee received more than 200 submissions, undertook regional travel—prior to COVID-19 restrictions—to Darkan, Dumbleyung, Narrogin and Wagin as well as Jarrahdale. I would like to take this opportunity to extend the committee's sincere thanks for the hospitality we experienced from those we met and their wonderful communities. The committee conducted 25 hearings, both virtual and in-person, and although conducted during a time of COVID-imposed interruption, the commitment and diligence applied by the committee, and the willingness, enthusiasm and forthrightness of witnesses and submitters, has led to a report that meets the objectives of the terms of reference laid out in the referral to inquire into the student transport assistance policy framework.

Those objectives are: the eligibility criteria for students to qualify for transport assistance; the types of transport assistance and entitlements to be provided to ensure students can undertake an appropriate education; the relevance of existing policies, practices and rules that are applied in delivering the transport assistance arrangements; the assessment process when evaluating the safety of bus stops and routes; the implication of the National Disability Insurance Scheme on the delivery of transport assistance for students attending education support facilities; the contractual arrangements with service providers, including the appropriateness of current school bus contracts, and payment arrangements, and previous contractual arrangements and the manner in which they were created; the resourcing of the School Bus Services division within the Public Transport Authority; and the appropriateness of the conveyance allowance as an alternative to transport assistance.

The subject matter was very personal and emotive for some of the submitters. On behalf of the committee, I would like to acknowledge and thank the many parents, carers, community members and advocacy groups for their participation. To the contractors and small business owners, government departments and agencies, your evidence was also crucial to the work of the committee. Thank you.

Our investigation of the *Student transport assistance policy and operational guidelines* for School Bus Services found it to be complex and at times contentious, but we also found it to be highly valued by those who access it. The following chapters will expand on STAP and its features. However, I think it is pertinent to look at two of its key features. Of equal importance, and foundational to STAP, is that it delivers a service that is highly valued by those who have access to it and that this service is delivered at a cost to government. Throughout this inquiry, we asked many questions based on the principles of service, access and value for money. These important questions needed asking and the answers evaluated, including: is it fair, is it accessible, is it equitable and is it delivering economic and social value for money? These questions and more were asked in relation to our inquiry terms of reference. There are good examples of where STAP is working well, but on balance, we found that some things need to change.

Before going forward to the findings and recommendations contained in this report, it is appropriate to take a brief look at the history of STAP and some previous inquiries and reviews across the 100 years of School Bus Services in Western Australia. Initially provided by the Department of Education, School Bus Services began in 1918, with 10 services in operation by 1938. The service grew as a result of the 1940s school consolidation policy, which was having fewer, larger schools in rural areas. In 1957, the first inquiry into School Bus Services was undertaken by a select committee of the Legislative Council. It found five key features of school consolidation, which drove the state government's provision of school transport assistance. These features were: school consolidation provides better educational opportunities for students, and the policy should remain for both educational and economic reasons;

both the government and parents have an obligation to get children to school; children should not be travelling undue distances to school; spur running, whereby a portion of the route is off the main route, should be avoided or minimised; and school bus contractors should make a living out of the contract as well as earn enough money to replace the bus when it comes to the end of its life.

By 1957, 17 500 students were being bussed to school on 468 contract routes and 92 subsidised services. Since then, the service has grown and evolved but the five key features of school consolidation, foundational to the School Bus Services policy in the 1950s, continue to influence the policy and how it is administered to this day.

In the mid-1990s, an internal review by the Department of Education determined School Bus Services was not a core function for the department and responsibility was shifted to the Department of Transport. Today, School Bus Services is delivered by the Public Transport Authority, with the School Bus Services team of 32 FTEs responsible for managing and administering the student transport assistance program, while the service is delivered by school bus contractors.

During the 2020–21 financial year, SBS provided transport assistance to 25 878 students, managed 869 school bus contracts delivering 967 separate services—807 to mainstream schools and 160 to education support facilities—and administered conveyance allowance payments for 2 010 students. During that period, 10.2 million student trips were made, covering 32.8 million kilometres. The total cost of delivering the service for one year was \$127 million, comprising \$120.8 million in school bus contractor payments, \$1.7 million in conveyance payments, and \$4.1 million in staff and administration costs. This equates to a subsidy of \$4 216 per rural student attending a mainstream school and \$9 429 per education support student. It is essential that the committee has knowledge and understanding of this information in relation to both our primary function as the Public Accounts Committee as well as in relation to the terms of reference of this inquiry.

Attempts to balance the fiscal constraints of providing an efficient bus service over a significant geographical area, with the importance of getting children to school safely, along with the expectations of families, communities and contractors, have inevitably ended up with some stakeholders being dissatisfied with the school bus service. Although some parents believe the government is responsible for transporting their children to school, the government's intention is "to provide a reasonable level of transport assistance", equitably and efficiently. It could be that these competing priorities have contributed towards the number of reviews and inquiries into student bus services over the years. It is noteworthy that many of the issues brought to our attention during this inquiry have been raised time and again, without finding a resolution that totally satisfies everyone. This is looked at in more detail within this report.

However, I will make specific comment on the issue of contracting arrangements, which was found to be a particularly contentious issue. This became a dominant feature of this inquiry, with a significant focus of the committee's time and energy spent on this area. Such was the commitment of committee members to ensure that we had taken into account all possible aspects, views and evidence of this critical element in our deliberations that additional scrutiny was prioritised throughout. The substantive view of the committee is that a single form of tendered contract that is competitive, open, transparent and accessible and prioritises local regional content can provide better economic and social value for money for the state government and regional communities.

Finally, much has changed in the 100 years since the commencement of School Bus Services in Western Australia. Technology, community expectations, cultural and environmental factors and many other things have altered the way in which we farm and the towns and communities that rely on agriculture as a way of life. They have had to adapt to survive and in many cases are thriving despite the challenges. This inquiry has allowed me, as it has for other members of the committee, to reflect fondly on our experiences of catching the bus from farms and small towns during our school years. I also reflect that when I return to my small home town, I see that the numerous surrounding small dairy farms, which were home to an average of five kids apiece, have been replaced by big broadacre crop mega farms or dairy businesses, with smaller and fewer families. We heard similar stories during this inquiry. What has not changed though is the importance and value placed on School Bus Services by those who access or seek to access it. The committee believes that the report we have tabled in this place today and the recommendations within it can provide a pathway to improving this vital service for all stakeholders.

**DR D.J. HONEY (Cottesloe — Leader of the Liberal Party)** [10.29 am]: When the Public Accounts Committee first looked at this topic, I had some idea about it, being a child who grew up in the bush, but the complexity of the issues that communities face and the enormous not just passion but emotion around this subject was all too apparent when we spoke with the various people who came before the committee.

At the outset, I commend the chair, the member for Bicton, for the outstanding job that she has done in this whole exercise. I also want to take a moment to reflect on the value of this committee process. In this committee, we had the member for Darling Range, who lives in the peri-urban area and has experience of not only the bus service provided to school students, but also the traditional public bus service available to the general community and the interaction between those. The member for Mirrabooka's forensic skills of analysis, clearly coming from her past, were an invaluable addition to our committee. The member for Victoria Park's knowledge of children with special



needs and her passion for that subject was a great contribution to the committee. I particularly want to acknowledge the member for Roe, who brought a considerable breadth of knowledge. It was apparent when we visited areas of his community, how well regarded he is and quite clearly how he represents the people in the area.

Committees provide an opportunity for us to come together and share our experiences, and we do it in a collegiate way. As the chair indicated, there might have been some minor discussion about one area around contracting, but in the end, I think this an excellent report. It is a credit to the chair and the committee, and I think it offers some valuable solutions. Education is key for children. I might say that when I was a child growing up in the bush, there was a general view that children in the bush would go back onto farms anyway, so it did not really matter about education. Of course, now we do not have the same number of careers for children going back onto farms, but families have an expectation—I think it is a fair expectation—that their children will receive the best-quality education. The bus service, or the travel allowance that is offered when a bus service is not available, is part of that.

One of the issues that was considered by the committee was the issue of district versus senior high schools because a child has a right to have a guaranteed bus seat, if a bus service is available, to the nearest appropriate school, but that means that children may end up going to their local primary school, typically from year 1 to 6, then going to a district high school from year 7 to 10 and then having to relocate to a senior high school for year 11 and 12. We received a lot of evidence from parents that that is extremely disruptive. The issue of smaller schools was also raised. In smaller schools there may be only one or two children in a year. For some children, that may not be an issue, but it was put to us by a number of parents that their child being only one of a couple of kids in a class was a critical issue in terms of their social development. The committee has sensibly, I think, recommended that children should have the right to continue in a school for their high school education. That means that they should have the right to travel to a senior high school from years 7 to 12. That is a contentious issue.

As many members would appreciate, in small communities the district high school can be an important part of that community; it is part of the lifeblood of that community. Students bypassing the district high school and going to the senior high school could have an impact on that community, but I think on balance we have to look at the outcome for children. I reflect on my own childhood. My parents were faced with the choice of whether I would go to what was then a senior high school at Mt Barker. In those times it did not offer the course choices that it does now; today, Mt Barker has an outstanding high school. My parents were forced to send me to Perth so that I could board here. That was a considerable stress on them because they were not wealthy at all. As I said, the report has come to a sensible conclusion on that matter.

In relation to the contracting issue, ultimately we must have a mind to what is the best value for government. In doing that, we need to take account of other factors. I think one of the factors that came out in the evidence that was given to the committee was how much a school bus driver can be an integral part of the community and how important a school bus driver's knowledge of the students and their family situations can be in the way that they go about their job. They are not just carrying out some mechanistic activity; they interact with the families and have to deal with the issues in different families. I think whatever contracting situation we have, we must have that local content. Of course, in small communities, one wage can have an enormous impact on the financial viability of that community. I think it is imperative that whilst we have a mind to what is best for the government purse—we all have to have a mind to that—we also need to make sure that we are maintaining that link to the local communities and that local knowledge, because, at the end of the day, this is an intimate service. Children as young as five or six years old through to obviously the high school ages travel on the bus.

As I already said, I have great respect for the ability and experience of my committee members. I found that very valuable and that educated me in this process. As always, I think we all know that the parliamentary staff are the ones who help make us all look a bit better than perhaps we would. That is no more the case than with the staff who assisted us with this committee; the principal research officer, Alison Sharpe, and research officer, Michele Chiasson, provided excellent service to our committee.

**MR P.J. RUNDLE (Roe)** [10.36 am]: Firstly, I would like to take the opportunity to thank the Minister for Transport for giving me the opportunity to be part of this inquiry by seconding me onto the Public Accounts Committee for its inquiry into the student transport assistance policy framework. Similar to me, I think the minister recognised that it was time for a more comprehensive review of the *Student transport assistance policy and operational guidelines* and when I asked the minister a question on this over 12 months ago, I was pleased that the minister said the review would be a possibility.

I would like to say thanks to all the committee members who took the issue to heart, put in a lot of effort and got an understanding of the issues from all sides of the spectrum. The member for Bicton did an excellent job as chair and was always fair and consistent. I acknowledge the member for Cottesloe, the member for Darling Range, the member for Mirrabooka and the member for Victoria Park. I echo the comments of the member for Cottesloe that everyone had a certain knowledge and everyone put in effort. That was much appreciated. My thanks especially go to our principal research officer, Alison Sharpe, and research officer, Michele Chiasson. They did a great job of understanding all the elements of the framework, which has taken me five and a half years. They certainly came to grips with it in a very short time. It was a fantastic effort from them.

Over the past five and a half years, in my role as member for Roe, I have certainly had many parents, contractors, schools and communities contact me about school buses and the seemingly unfair processes that they have come across in relation to access to the nearest appropriate school, school bus routes, complimentary status and contracts, and the list goes on. Without doubt, school bus issues are consistently the biggest ones brought into my electorate office. I have seen the grief that decisions, lack of decisions and unexpected changes can cause. My electorate team of Sally, Nat, Jill and Dorothy regularly deal with issues from Narrogin in the north to Salmon Gums in the south east. No doubt the orange school bus network is vital to our regions and our regional families, and I am sure that some of the changes that we have recommended will help families in their quest for fair and equitable transport to their school of choice. I have always said schooling should be a family decision, not a decision of the Public Transport Authority.

I would like to thank the many families, parents, contractors, community members and school staff, as well as School Bus Services, for their willingness to share their stories. This gave all committee members a good chance to realise how important the orange school bus service is to our regions. As our chair pointed out, we received more than 200 submissions and spoke to many people and communities. I particularly recall the communities and families of Darkan and Dumbleyung, who demonstrated not only their passion about several issues, but also their ability to work together to articulate the issues for their communities. It also led to one of our recommendations relating to the suggestion that local advisory groups can be a valuable source of information on proposed bus routes and future student numbers.

In the time I have, I would like to focus on some elements of the report that I think will be of interest to my constituents and regional families in general, and where the committee has made some progress. Chapter 2 deals with eligibility criteria for rural students, which needed to be updated. The committee recommended that nearest appropriate school criteria take into account social, economic, community and financial factors when a family resides a similar distance from two or more schools, as this would enable families to at least put forward a case. The committee also recommended a potential appeals process that would be independent of the original decision-maker in SBS. Even though the committee has not recommended changes to the complimentary passenger arrangements, the nearest appropriate school recommendations would allow for some flexibility and the ability to state the case for complimentary passengers and their families. Another recommendation in chapter 2 is that students be given the opportunity to have more continuity of education when they leave year 6 by having the potential to attend either their local district high school or their nearest senior high school for years 7 to 12, and that the Public Transport Authority investigate this recommendation for commencement in the 2024 school year.

An important element of the review is that the committee discussed communication channels with School Bus Services and the importance of open and transparent communications with parents, families and communities. I am pleased the committee emphasised the need for those involved in working through the issues to work constructively for the best outcome. In recommendation 15, the committee has recommended that a formal appeals process be established to enable parents and carers to appeal a decision made by School Bus Services in administering the guidelines, that the PTA should ensure that the appeals process is transparent and independent of the original decision-maker and that, when appropriate, representatives of the Department of Education should be consulted.

Although the final report covered many issues well, I felt the need to issue a minority report to express my concerns about the contract system for bus owners and operators. The overwhelming majority of contracts in WA come under the evergreen contract model, of which there are currently 673 contracts. The McGowan government's favoured model is the tendered contract model, which was introduced following the 2017 election. The difference between the two models is that the TCM version is a tender process, meaning that value for money is a key feature, while the ECM version is one that encourages perpetuity, security of tenure and, therefore, investment in the operation of the service. I felt the need to write the minority report because although the committee was largely aware of the nuances of running a bus service in regional areas and recommended that the PTA have better regard to social, economic and environmental factors when awarding school bus contracts, the committee preferred the TCM model. I have made some observations in my minority report, which is at the back of the committee's report. As I said, I think security of tenure is really important for these small business owners in regional centres and towns. I am concerned that the tendered contract model does not give as much business security to our local regional contractors. I have listed some of the issues. An ECM contract can be given just three months' notice to have the contract removed. I have concerns about the Procurement Act 2020, and I noted in the minority report —

... there is a requirement to reduce barriers to small and medium business participation. The Buy Local Policy 2022 should guide the recommendation in this inquiry relating to any tender process.

I worry about whether those policies are taken into account as much as they should be under the tendered contract model.

The committee reached the conclusion that a bus contractor who knows the region in which they are working, knows the roads, knows the drivers and knows the schools, parents and, most importantly, the children, will always provide a better and safer service to our families. That, to me, was a real issue. Country roads are unpredictable. Local knowledge of road conditions cannot be dismissed. We need to ensure that our bus contractors are local, well

remunerated and able to apply this local knowledge to the contract. From my perspective, the features of the evergreen contract model include security of tenure, local drivers and owners, locally manufactured vehicles, wage clarity and equity, and relocation options. I note that the committee agreed about relocation. I support the local building of rolling stock for our rail system that this government is undertaking, and I support our local bus businesses. I think the evergreen contract model lends itself to local businesses and local bus manufacturing. I have appreciated being part of this inquiry and I think the committee has done an excellent job, but I would certainly like the minister to look at my minority report. I thank members for the opportunity.

**MS M.J. HAMMAT (Mirrabooka)** [10.46 am]: I also wish to make a few comments about the report the Public Accounts Committee has tabled today, *Bus fair: The report of the inquiry into the student transport assistance policy framework*. Firstly, I feel I should put on the record that as a girl who grew up on a farm, the orange school bus service was a regular feature of my schooling, from my earliest years at Broomehill Primary School until I finished year 10 at Kojonup District High School. As others have said before me, many of us reflected on our many fond memories of catching school buses during our school days. I also reflected many times during the inquiry that like many families who made submissions, my family also had a story about some of its frustration in trying to get the bus to stop at a convenient location close to my parents' farm. Over the years, the bus stop moved closer and closer, but it was not until I had finished school and university that, because of changes in who caught that bus, the bus started going immediately straight past my parents' front door—something it had never done when I was catching it to get to school! Like many people who made submissions to us, I often reflected on the close relationship that my family and I had with my very first bus driver, John Fenwick, who not only took me to school on my very first day, but also remained a close family friend. He came to my wedding and met my children. In fact, when he passed away not long ago, my dad delivered the eulogy at his funeral. The concept of having bus drivers who are integrated in the community resounded very strongly with me.

What I also learnt during this inquiry was that many families in Western Australia have stories that were perhaps similar to mine—stories about how they wanted the school bus to take a different, more convenient route and how they very much valued their school bus services and school bus drivers as part of the community at large. I also learnt a lot about the enormous task undertaken by School Bus Services within the Public Transport Authority in providing this essential transport service to students in regional Western Australia. As the member for Bicton outlined—I think it is important to repeat—during 2021–22, the PTA provided transport assistance to 25 878 students around Western Australia and managed 869 school bus contracts, delivering 967 separate services. It is an enormous and very complex task. Although the committee overwhelmingly heard submissions from people who wanted to discuss changes to their school bus service, I think it is important to acknowledge that the vast majority of the more than 25 000 students who catch a school bus every day are very happy with the service that is provided to them, as it efficiently and effectively takes them from home to school and then back again. In my comments today I also want to acknowledge the staff at School Bus Services for their work in enabling the majority of students who rely on the orange school bus service to get to school every day.

The report refers to how we can improve the collection of students and their access to services. I do not want in my comments today to spend time talking about that. I want to make a few comments about the contracting arrangements that are dealt with in chapter 7 of the report. As other members who have spoken before me have said, that was a significant part of our considerations. It was also a contentious and difficult issue. The report outlines the considerable history of the contracting arrangements and the different iterations of school bus service contracts over many years. There have been many inquiries and opportunities to make recommendations about what form those contracts should take. We heard often in our inquiry about the benefit of school bus contracts being held by local small business operators who are embedded in and connected to their local community. It was generally put to us that these operators could provide a superior service because they know the local road conditions and the local families and are able to exercise their judgement about what to do in unusual or unpredictable circumstances.

We also had many submissions that went to the relative merits of the evergreen contract model versus the tendered contract model. The member for Roe in his comments this morning outlined some of the issues that lie at the heart of the consideration of these two different contracting forms. In our report we also considered closely the government's current approach to procurement and its decision to transition from the evergreen contract model to a tendered contract model. I also want to talk a bit about procurement and the levers that are available to the government. The procurement rules provide that value for money must be at the heart of procurement policies and decisions. It is very important to reiterate that value for money should not include just the lowest price. It should also include consideration of the government's social, economic and environmental priorities, alongside cost factors and non-cost factors. The McGowan Labor government is already undertaking considerable work to ensure that government procurement provides genuine value for money, and that social, economic and environmental factors, alongside cost, are at the heart of decisions about contracting and purchasing more broadly. To that end, this government has introduced not only the Procurement Act 2020, but also the Buy Local policy, which is designed to ensure that local small businesses are given opportunities to win government contracts.

More broadly, since the introduction of the McGowan government's Aboriginal procurement policy in July 2018, the proportion of state government contracts awarded to Aboriginal businesses has grown for the third year in

a row. In the 2020–21 financial year, the McGowan government awarded 6.5 per cent of its contracts to Aboriginal businesses. That was more than double the three per cent target for the year. Under that policy, 697 contracts have been awarded to 209 Aboriginal businesses, with a combined value of \$476 million.

In June, the McGowan government announced that it would use its purchasing power to promote gender equality through a groundbreaking procurement program called Gender Equality in Procurement—WA Public Sector Pilot. This pilot will introduce a gender equality clause into public sector procurement processes to support suppliers of goods and services to implement gender equality policies and practices.

This government is committed to ensuring that we use our purchasing power to not just drive economic outcomes, but also invest in our regions in Western Australia to create strong local businesses. This is part of a suite of initiatives taken by the McGowan Labor government. That includes the recent decision to bring Main Roads maintenance contracts back in-house, which again will support employment in our regional areas.

This policy framework can, and should, also be used to ensure that we achieve beneficial outcomes for regional communities in school bus contracting, supporting local communities and small businesses, and also, when possible, the local manufacture of school buses. One of the other key features of the WA procurement rules is that procurement should be competitive, open and transparent. For these reasons, the majority of the committee supports the transition from the evergreen contract model to a tendered contract model.

In the time left to me, I would like to thank the chair of the committee, the member for Bicton, and the other committee members for their hard work. I particularly thank our principal research officer, Alison Sharpe, and our research officer, Michele Chiasson, for their work. The large number of submissions, the complexity of the issues and the uncertainty of COVID-19 made it a challenging endeavour at times. I would also like to thank the many, many people who made submissions and took the time to explain their circumstances to us. Some of those circumstances are very personal and some of the submissions from both families and bus contractors were very heartfelt.

As outlined in the report, many of the issues that were the basis of our inquiry and discussions were also raised in 1957 when a select committee of the Legislative Council conducted the first inquiry into school bus services. I hope we have done our duty to make some recommendations and findings that will assist in mapping a route to a service that will efficiently and effectively meet the needs of the many, many Western Australian students who rely on school buses to get to and from school each day.

**MR H.T. JONES (Darling Range)** [10.55 am]: I rise to make a contribution to the tabling of the sixth report of the Public Accounts Committee, *Bus fair: The report of the inquiry into the student transport assistance policy framework*, or STAP. This is the first report of the first parliamentary committee of which I have been a member, and I thoroughly enjoyed the process and have learnt a great deal.

I first want to acknowledge the professional and tireless efforts of the committee staff, the principal research officer, Alison Sharpe, and the research officer, Michele Chiasson. They both performed their duties with good humour, and I dare say they had to bite their tongues on more than one occasion. I also want to acknowledge the staff in the background who were involved in setting up and recording the hearings and performing other functions that were invisible to me and that resulted in this comprehensive report. I also want to thank the chair of the committee, the member for Bicton, Lisa O'Malley, MLA, for leading the committee and sharing her experience to ensure that we used our time wisely and avoided going down any rabbit holes. I also acknowledge the other members of the committee for their collegial approach to the inquiry, especially the member for Roe, Mr Peter Rundle, MLA, for recommending the location of the hearings, which illustrated some of the complexities of accessing and administering student transport assistance in rural areas. I also want to thank the other members of the committee, the member for Cottesloe and the member for Mirrabooka.

The member for Mirrabooka related a story about her childhood. On Monday morning, I was walking the dog on Briggs Road in Byford and a lady came out of her property and yelled at me, and I thought: who is this? She said, "Do you remember me?", and I said I think so, and she said, "I used to drive your son to school." That must have been 15 years ago. She remembered doing drawings with him and all the other peculiar things she had to do to prevent my son from having a bit of a meltdown on the bus. It was a good experience. The member for Victoria Park also has a son with a disability, so she can relate to some of the issues involved in the school bus service in the urban area.

In early to mid-June 2021, three months after I was elected as the member for Darling Range, I began to be contacted by members of the Jarrahdale community who had been advised by letter that due to the expansion of the public transport area to incorporate Jarrahdale, their school bus service would be cancelled on 19 July at the start of term 3, which was less than two months away. As the new member for Darling Range, I was unaware of the background of this decision, because I had not had a handover from the previous member for Darling Range. When I leave as the member for Darling Range, I will brief the next member on significant issues. I acknowledge that she may not have known about the issue. The decision seemed to me to be out of the blue and unreasonable. The groundswell of opposition to the decision to remove the school bus service meant that any of the benefits of the planned expansion of the public transport area to Jarrahdale were lost. That points to some of the communication issues that we uncovered during our inquiry. As a consequence, I engaged with the Minister for Transport and she agreed that

the notice period was too short and immediately delayed the implementation of that decision until term 1 of 2022 to at least avoid the disruption of students having to change services during the school year. Any parent, especially those who are working or who have other commitments, knows that any change to the care arrangements for their children are extremely disruptive.

I made further approaches to the Minister for Transport about the Jarrahdale school bus service. Along with the issues raised by the member for Roe, the committee was asked to inquire into the student transport assistance policy. For the families of Jarrahdale, this had the further consequence of another delay to the implementation of the change, awaiting the completion of the inquiry.

The committee's terms of reference did not directly relate to public transport areas being expanded, most commonly in peri-urban environments; however, I was able to have the committee consider the impact these decisions have on families, and we agreed that any transition should be communicated well in advance to ensure that the replacement public transport bus service solution was appropriate.

Finding 17 of the report states —

The Public Transport Authority could improve its consultation and communication with affected families and other stakeholders in areas which may become part of a Public Transport Area.

Our recommendation—recommendation 8—in relation to that finding was —

The Minister for Transport should ensure the Public Transport Authority provide families and bus contractors who may be affected by the termination of a school bus service due to the expansion of a Public Transport Area with at least one year's notice of the proposed expansion of the Public Transport Area, and at least six months' notice of a decision to expand a Public Transport Area that will result in the termination of bus services. Changes should only take effect at the start of a school year.

Therefore, if the minister decides to accept and implement the recommendation, any expansion to a public transport area being considered by the PTA—which is a good thing, I must add—will come with no less than 12 months' notice and will not occur during the school year, impacting children and families.

The report notes —

The PTA understands that families that use the school bus service may see the expansion of the Public Transport Area, and subsequent cancellation of school bus services, as a backwards step. However, it argued that, overall, a community gets a better outcome with the provision of public transport services available to the whole community, rather than just the school bus services which is only available for Eligible Students.

I agree with that statement. There are many people in Jarrahdale who would benefit from more regular public transport services, and I spoke to a few of those people when doorknocking before the election and subsequently. Such improvements would be beneficial, especially if they were to marry up with the Byford rail extension. I expect that any future plans for the expansion of public transport areas in Jarrahdale, or any other area of WA that finds itself on the edge of the urban sprawl, will be well communicated to the community, with plenty of notice, and will result in a great benefit to the wider community.

I want to thank the contributors to the inquiry, especially those of Jarrahdale, for their time and effort in contacting me and attending the hearings in Jarrahdale and for their written contributions. Finally, I want to thank the Minister for Transport for hearing the concerns of the people of Jarrahdale and taking action to delay any changes, and for the significant investment the McGowan government has made in transport infrastructure in Darling Range.

## **BAIL AMENDMENT BILL 2022**

### *Third Reading*

**MR J.R. QUIGLEY (Butler — Attorney General)** [11.03 am]: I move —

That the bill be now read a third time.

I wish to thank the members in the chamber for their support for the Bail Amendment Bill 2022 during both the second reading debate and consideration in detail.

During consideration in detail, the member for Moore queried whether the Director of Public Prosecutions had requested any changes to the definition of “sexual offence” at clause 4 of the bill and section 3 of the Bail Act. The member for Moore indicated that he had been advised that this was the case. I am able to confirm that although no changes were requested to the definition of “sexual offence” at clause 4, the then DPP recommended the inclusion of an additional offence in schedule 2 of the Bail Act, clause 10 of the bill, which of course deals with serious offences, as we discussed yesterday. So, there was no amendment to the definition as such, but there was an additional offence to be included in schedule 2. The DPP's recommendation for the additional offence in schedule 2 was taken up, and section 101 of the Children and Community Services Act 2004 was added to schedule 2 as a serious offence. The DPP's advice was that her office had charged parents and guardians with it in the past and thus it was

recommended for inclusion in the schedule of serious offences. This information was provided to the shadow Attorney General, Hon Nick Goiran, in his briefing. I trust that that answers the question raised by the member for Moore, and I thank him for his contribution to consideration in detail in examining this bill.

I thank the opposition and all members of the chamber for their support of this bill. I note that the bill will give extra protections for the victims of child sexual abuse, in early court proceedings in which the accused is applying for bail, by specifically mandating that the court must take into account any concerns the child has for their safety et cetera, as discussed yesterday. I thank the members and the chamber.

**MR R.S. LOVE (Moore — Deputy Leader of the Opposition)** [11.06 am]: I rise to make a brief contribution to the third reading of the Bail Amendment Bill 2022. I thank the Attorney General for the time he took to explain the aspects of the bill that I asked about. I would also like to put on the record my thanks to his advisers for their patience in going through some of those matters. We were interrupted by question time and other things, so it was quite a lengthy period for those people. Of course, the Attorney General moved an amendment with a couple of insertions yesterday, hence we could not complete the third reading and pass the bill yesterday.

I have not had a chance to comment generally on the bill since the second reading debate. Throughout the second reading debate, I found it interesting to listen to the comments made by members of the legal fraternity about the history surrounding the bill. In particular, the member for Mount Lawley gave a very detailed outline of the background of the bill, which makes for some interesting reading for anyone who wants to get an understanding of where some of these matters have been drawn from.

I was a little disappointed by the commentary about the shadow Attorney General and the questioning of his motives. He is undoubtedly someone who would be very keen to see children protected as much as possible under the law, and I put that on the record as well. No doubt he will be able to further explain his views and concerns when the bill gets to the other place, which I understand will probably be in the next session of Parliament, in September. There will be an opportunity for that discussion to go forward from there.

I will conclude by once again thanking the Attorney General and his advisers for their patience and their explanations throughout consideration in detail. The opposition will not be opposing the legislation, and I sincerely hope that the legislation does do what the Attorney General has suggested it will in leading to further protections for children throughout Western Australia, from this point going forward, when bail applications are being considered.

Question put and passed.

Bill read a third time and transmitted to the Council.

### **OWNER-DRIVERS (CONTRACTS AND DISPUTES) AMENDMENT BILL 2022**

#### *Second Reading*

Resumed from 22 June.

**MR R.S. LOVE (Moore — Deputy Leader of the Opposition)** [11.09 am]: There has been a bit of a change to the order of business of the house. I was expecting to be speaking on railways at the moment, but here I am talking about owner–drivers. I have done some preparation, but it has been a bit hectic this morning, so some matters might have to be teased out as we go through the consideration in detail stage.

As we know, this legislation seeks to amend an existing act of Parliament. The Owner-Drivers (Contracts and Disputes) Amendment Bill 2022 seeks to amend the Owner-Drivers (Contracts and Disputes) Act 2007. It comes about as a result of a review that was done in 2018, I understand, and that review made some recommendations. Here we are now discussing some of those matters. As an opposition, we will be supporting the legislation, but I do want to tease out some of the points, especially some issues around defining who is going to be captured by this legislation in terms of hirers and owner–drivers, and some issues around the right of entry.

As we know, sections 35 and 36 of the existing legislation would have allowed for authorised persons to enter premises and gain information about the nature and circumstances of a contract between a hirer and an owner–driver, but those powers never came into operation. They sat dormant all that time, because the provisions were considered to be quite draconian and allowed for various matters such as allowing entry into people’s homes and a whole range of things that were felt not to be correct; so although they were enacted, they were not enabled. This legislation contains provisions that allow for those persons to have right of entry, but they must have written consent for that to happen.

I raised some issues on some of the provisions at the briefing that the minister’s office recently provided the opposition. We had a discussion about this. One matter that was of interest was the “relevant person” at section 34 of the current act as an authorised representative under section 34(1)(b), and what was required for written consent. That has been clarified. Some of the matters around confidentiality have also been clarified with me, and I think we will probably delve into that in consideration in detail rather than talk about it in detail here. At the moment, this is more of a general discussion on the bill itself.

I have done some consultation with a couple of the key groups of hirers and operators of road transport, one being Western Roads Federation, which is strongly in support of the legislation and feels that there is a need to ensure

that owner–drivers are fairly treated. I think that everybody would agree with that. At least as far as it goes, everybody has an interest in this, because road safety is very important. We do not want to see owner–drivers being put in a situation in which they cannot service their vehicles properly or take care of their vehicles and themselves; that would lead to very poor safety outcomes if that were to eventuate. I think there are really good reasons for owner–operators to be treated fairly.

Another group I spoke to was the Livestock and Rural Transport Association of Western Australia, which felt that it had not been consulted as this legislation was being drawn up. Of course, that organisation represents a great percentage of the transport effort in rural areas, especially in—obviously, by its name—getting commodities to and from market, and I would very much like to see that organisation involved in future deliberations of the Road Freight Transport Industry Council, for instance, so that it can have an influence in the future direction of the industry. We know that the Road Freight Transport Industry Council membership will formally represent the Western Roads Federation, but perhaps other important groups like the Livestock and Rural Transport Association of Western Australia can also be represented going forward, because, as I say, it is an important group.

I have a few statistics here. Of the estimated 7 000 registered transport companies in Western Australia, 70 per cent are owner–drivers, which means that this legislation will affect literally thousands of small businesses in Western Australia, sometimes as the hirer and sometimes as the owner–driver. They are considered to be vulnerable and they are not well protected by any formal arrangement. It is not the same thing as, for instance, a person being paid a wage that must be at a minimum level, which is probably easier to examine than whether an owner–driver is being treated fairly in their hiring arrangements. We know that owner–drivers are quite vulnerable and sometimes there is a big difference between the bargaining power of an owner–driver and the organisation hiring that owner–driver.

It begs the question: who is the owner–driver’s hirer? There may be a cascading situation. There might be a large contract to undertake a task, a company may be contracted to provide the transport effort within that task, and that company may then have a number of contractors. Perhaps some of those may even have owner–drivers operating under them. To work our way up that line to understand where the contract may or may not be failing to provide for a reasonable outcome would be interesting to discuss at the consideration in detail stage. We could look at how that could be achieved, because what has been envisaged and explained to me in the briefings is a pretty simple situation whereby an owner–driver has a head contractor and there is that single relationship, but I think, in reality, many other interplays go on.

Of course, we know that some of these arrangements can be quite loose. They can sometimes be on a handshake. For instance, a contractor who has a livestock transport industry role may have a big contract to shift a lot of stock, and they may get a mate to come along, bring his truck, get involved and help. It goes from that up to formal arrangements with larger organisations that perhaps have lawyers and strong negotiators, whereas the owner–driver probably does not have that level of expertise or the ability to bargain well. We know that that can lead to situations in which people get treated quite poorly.

One of the things that came out of the consultation that I did with some of these groups is that there is a need to ensure that the contractors have some level of business expertise. I think that not only road operators, but also tradesmen and other subcontractors generally often suffer from this situation, whereby they do not have the expertise that might be available to the head contractor and they obviously do not have the same bargaining power. I am sure that people in this room understand just what that will mean in the end.

We see the need for change in the industry to ensure that the findings that came out of the 2018 review are acted on. I think there have been two reviews of the Owner-Drivers (Contracts and Disputes) Act 2007, with one in 2014—I could be wrong—and one in 2018. The 2014 review found no need for further consideration, but that was found to be the case in the later review. We know that additional protections for owner–drivers will flow from that, such as the 90-day minimum termination notice period or a payment in lieu, or a percentage thereof, of a contract if it is greater than three months, or seven days if it is less. Those provisions are in the Owner-Drivers (Contracts and Disputes) Amendment Bill 2022. As I say, there are fairly wideranging levels of formality in hiring. I imagine that there is wideranging scope in the length of time of a contract. If a contract undertakes a particular task, it might be limited to a finite length of time, but the termination something that carries on for more or less years will be captured and treated differently.

As I mentioned, the right-of-entry provisions remained dormant in the Owner-Drivers (Contracts and Disputes) Act 2007. We know that right-of-entry provisions will be triggered by a specific complaint and that only authorised representatives will have the right of entry. They have to enter a workplace during work hours and enter in the way that they are directed. This goes back to the idea that some hirers are smaller operators who have a home office and they do not want people invading their homes, coming in unwanted and unbidden into their living space. Those provisions will be put in place. We will talk about those in detail later on. That will be a very important discussion because it was a matter of some sensitivity that led to those provisions being set aside for all that time. We have had the legislation for 15 years and there has been no power of entry up until now. I know that some smaller operators are concerned about that, so we will go into that in some detail to ensure that a good explanation flows from our discussion of the detailed provisions of the Owner-Drivers (Contracts and Disputes) Amendment Bill 2022, which may take place today.

Generally, we all need to recognise the importance of all our road transport operators, whether they are owner–operators, contractors or workers in the industry. Having seen a breakdown in the supply chain because of flooding across the rail line on the Nullarbor, that is pretty evident to us all. There is a shortage of goods coming through the supply chain at the moment. We know how vital that industry is. We do not have to think very far back to when there was not a lot of produce on our supermarket shelves. All those pressures are still in the industry. The industry has an ageing workforce and finds it difficult to attract new entrants. Anything that can be done to ensure that people are better treated when they are in the industry is a good thing, especially if we want to attract people to driving trucks. I am told by industry figures that young people are not entering the industry because it is not a sunrise industry and it is not something that they want to be involved in, which is interesting. When I was a child, I wanted to be a truckie—that is what I wanted to do! I thought the big rigs were a very romantic way of life. I remember having Leyland Hippo pictures on my wall and all those types of things. Other kids might have dreamt of being a doctor or a rocket scientist, but I thought driving a truck would be a great job!

**Mr W.J. Johnston:** Did you have the John Laws album with him sitting on the rig?

**Mr R.S. LOVE:** No; I was not a John Laws fan as a small child. My family was involved in the transport industry. I certainly looked forward to the monthly arrival of *Truck and Bus Australia*. The highlight was looking at the centrefold of the new rig, and I mean that in a very mechanical sense!

I understand just how challenging it is for people who enter the industry as owner–drivers. Too many times I have seen people come in and charge too little to make a living. They slowly go broke and they draw everybody else into it because they have been undercutting people who have been charging properly. They eventually leave because, unfortunately, not all of them survive in that business. In the meantime, their business is cut to the bone and the tyres that need to be replaced are perhaps run a bit harder than need be. I know that we have diligent regulation, national fatigue laws et cetera, but I think there is a disconnect in a sense because fatigue management is one part of the regulatory task and ensuring that the vehicles are properly loaded is a different task. Merging the two would result in a smoother and more seamless operation of regulation and ensure that everything in the industry is going well.

Going forward from here, the legislation is limited to heavy transport—vehicles that are four and a half tonnes and greater—involved in freight and does not apply to passenger transport. But with the so-called gig economy, smaller operations are coming in. It is almost the uberisation, if you like, of some of the freight task at the smaller level. There has been expressed concern—I think it was discussed in the briefing—about the need to look at those smaller units under four and a half tonnes to ensure that people in that sector are well accommodated. I do not know how far down the scale we will go. Will we get to the point of talking about people who deliver pizzas on their moped or mail on their electric scooter? There has to be a boundary somewhere. Even though that is not directly a part of this, perhaps the minister can outline some plans going forward in either her second reading reply or a brief ministerial statement, because it would be interesting to know whether there are any plans to look at that part of the industry to understand what might be in play going forward for that side of road freight.

As I said, the opposition will be supporting the bill. I do not think there is any need to hold up the house any further, because most of what I want to delve into is best dealt with in consideration in detail. With that, I conclude my contribution. No doubt, there will be discussion from other members and, hopefully, we can move into consideration in detail at some point today.

**MR S.A. MILLMAN (Mount Lawley — Parliamentary Secretary)** [11.29 am]: I rise to make a contribution on this excellent legislation, the Owner-Drivers (Contracts and Disputes) Amendment Bill 2022. I thank the member for Moore for indicating that the opposition will support the legislation. I am grateful to him for articulating that road safety is very important and that owner–drivers are in a unique negotiating position; both are sentiments that I agree with. I will open the batting for the government speakers in support of the legislation. I suspect it will be more Geoffrey Boycott than Richie Richardson when it comes to flamboyance!

**Ms R. Saffioti:** You didn't choose Viv Richards?

**Mr S.A. MILLMAN:** No, Viv Richards always batted at first drop, whereas Richie Richardson sometimes would —

**Mr D.A. Templeman:** You are more Chris Tavaré.

**Mr S.A. MILLMAN:** The Owner-Drivers (Contracts and Disputes) Amendment Bill 2022 will amend the primary act, which established a framework for the regulation of contractual dealings between independent contract owner–drivers and their hirers. It promotes a safe and sustainable road freight transport industry in Western Australia. The bill provides additional protections for those small businesses, and will resolve some of the questions that have arisen concerning aspects of the act's operation.

Members, as we have come to appreciate in recent times, and as the member for Moore said, in light of COVID we have had a lot of pressure on our freight supply chains and transport industries. We know that these supply chains and industries are key to our economic success and are critical to meeting our growing and varied freight task. Owner–drivers play a vital role in our road freight transport supply chain, but there is successive contracting out of work on every step along that chain. As each contracting-out process takes place, there is a commensurate reduction



in the negotiating power of the participants. Commercial power decreases at every successive step, and at the end of the chain are the most vulnerable and least protected. They bear the brunt of structural factors in the road transport sector. They are isolated, and turnover is high. This lessens their bargaining power in a competitive market, and the result is often that equitable contractual arrangements are difficult to achieve. The relative unequal bargaining power between owner–drivers and hirers combined with fierce competition in the industry, means they may be forced to accept work at below market rate. The amendments proposed in this bill seeks to greater protect the position of owner–drivers and enhance the legislation’s operational efficiency.

One of the problems that we have as a result of the reduction in the bargaining power of owner–drivers is that transport is already a very unsafe industry. I listened with great attention to the member for Belmont’s grievance to the Minister for Industrial Relations this morning, in which the member for Belmont articulated quite clearly just how dangerous the agricultural industry is for workers. Members here are aware—or will be as a result of the member for Belmont’s grievance—that there is a significant number of fatalities in the agriculture, forestry and fishing industry, with the highest fatality rate per 100 000 workers in the country. The latest figures I have from Safe Work Australia are that in 2020 agriculture, forestry and fishing had 46 fatalities at a rate of 13.1 fatalities per 100 000 workers. The second highest rate of fatalities per 100 000 workers was in the transport industry, which had 7.8 fatalities per 100 000 workers—although the overall number of fatalities in the industry was actually higher than the agriculture industry, with 49 people killed in the course of their employment in the transport industry in 2020.

I am indebted to the Transport Workers’ Union of Australia for a survey that it conducted that highlighted some of the reasons that the road transport industry is very dangerous. The article states —

**Trucking is the most deadly job in Australia. This survey shows just how much reform the industry needs.**

If an industry-wide push towards insecure work succeeds, we are only going to see more deaths. We surveyed over 1 100 truck drivers around Australia, and the shocking results showed desperately we need better standards in road transport—for workers, for families, and for the greater public on our roads.

According to the results of the survey, 41 per cent of truck drivers know a truck driver killed on the job and 55 per cent of owner–drivers delay maintenance they cannot afford. The member for Moore mentioned not replacing tyres in a timely fashion, and the evidence of the survey conducted by the Transport Workers’ Union bears that out. One logistics truck driver said —

“The whole industry needs to be overhauled. I work anywhere from 12–17 hours a day, up to 6 days a week... To put that into perspective, I’m fatigued every day I go to work, but I’m still expected to turn up and do the job.”

Meanwhile, one in four of the truck drivers surveyed have been involved in a crash while working.

I congratulate the minister for bringing this legislation before Parliament. By virtue of empowering the position of owner–drivers when they come to negotiate their contracts, this legislation strengthens their arm for that negotiation. It will provide them with a solid foundation to enter into contractual arrangements that will not push them to undermine safe work practices and a safe workplace. The TWU has identified some of the concerns that are driving unsafe work practices. I just wanted to spell out some of these because these will be the sorts of things that a strengthened negotiating position will hopefully ameliorate. According to the TWU, truck drivers deal with —

... Economic and contracting pressures. A survey revealed shocking pressures drivers face which force them to cut corners on safety and drive to exhaustion.

**Race to the bottom**—Wealthy clients at the top of the supply chain squeeze transport contracts to make more profit. Operators including owner–drivers are then forced to undercut each other to win work

**Low maintenance**—For operators to survive, maintenance is delayed and workers are pressured to work longer and drive faster to make ends meet.

One of the changes that we have seen in the industrial landscape over the last 30 to 40 years is the move away from the traditional employer–employee relationship. Initially, we saw a move towards subcontracting arrangements. We saw the rise of subcontractors after the Hawke–Keating federal government. This rise of subcontractors exists now in not only the transport industry but also the communications, building and construction and electrical trades industries. We are now seeing a further change in the nature and landscape of employment and work relations in Australia. Although we were able to respond to the rise of the subcontracting arrangement in 2007 with the original iteration of this legislation, to give additional bargaining power to truck drivers, we are now seeing a further change as we move towards what has been referred to as the gig economy. One of the reasons that I am so impressed with this legislation is that it does exactly what a good government should do. It takes the circumstances that we are presented with at the moment and will update good existing legislation for the twenty-first century conditions that we are confronting.

The reason that this industrial landscape needs a legislated response, is that under the traditional employment relationship of employer and employee, trade unions had an automatic right to represent workers. Reforms in work

health and safety and reforms in industrial relations have highlighted that. But in the subcontractor arrangement, the rules of most trade unions will not provide for subcontractors to be members of the union or be entitled to industrial representation. This point is accentuated and exacerbated when it comes to the gig economy. That is why I was very, very disappointed to see the decision of the Full Bench of the Fair Work Commission from yesterday, 17 August 2022, in the case of Deliveroo Australia Pty Ltd v Diego Franco [2022] FWCFB 156. I will provide a copy of the reasons for the decision to Hansard, but I do not propose to quote from the decision. Rather, there is an excellent summary of the decision in *The Sydney Morning Herald* from Nick Bonyhady. I will quote from the article. It states —

Gig economy companies have been cleared to keep classifying their riders as independent contractors rather than full employees entitled to minimum wages and protections after a ruling by the nation’s industrial tribunal.

The ruling turns the focus to the federal government’s promise to legislate new rights for gig economy workers, a move that the powerful Labor-aligned Transport Workers Union declared was now “urgent”.

The Fair Work Commission on Wednesday overturned a previous ruling that a Deliveroo rider, Diego Franco, was an employee ...

At first instance, the Fair Work Commission held that, because of the nature and extent of the control exercised over Mr Franco by Deliveroo as the employing authority, he was an employee and therefore he was protected from unfair dismissal. Had the ruling been upheld, it would have forced Deliveroo to make back payments to its drivers and recognise their industrial rights and interests, including basic things that those of us who have been employed take for granted, such as sick leave, annual leave, access to workers’ compensation, payment of superannuation and those sorts of things, which, it turns out, the union movement has campaigned for on our behalf. Unfortunately, at first instance, the decision was appealed by Deliveroo and the full bench of the Fair Work Commission overturned that decision. What is now required is the sort of action by the federal government in response to the rise of gig economy workers that we see the state government taking in order to protect owner–drivers in the transport industry when their negotiating position is undermined. In exactly the same way that unions are prevented from representing owner–drivers in a manner equivalent to how they represent employees, unions are also prevented from representing gig economy workers at a federal level. What we hope to do with this legislation as a state Parliament is put in place those necessary protections that would otherwise be part of the industrial landscape. If the decision of the full bench of the Fair Work Commission is allowed to stand, the federal Parliament will have to do the same thing in order to protect gig workers.

Although Deliveroo did the wrong thing in appealing the decision at first instance, another gig economy employer, Menulog, did the right thing. A media release issued by the Transport Workers’ Union of Australia issued on 28 January 2022, headed “Menulog riders win minimum rights and protections for the first time” states —

The TWU says the extension of minimum rights and protections to riders employed by Menulog is a monumental leap forward in the industry, after the Fair Work Commission held food delivery riders were covered by the *Road Transport and Distribution Award*.

TWU National Assistant Secretary Nick McIntosh welcomed the win as a testament to the bravery of food delivery riders who fought for years to lift industry standards.

“Today’s decision —

I am quoting Mr McIntosh —

is a momentous win in the fight to end insidious exploitation in the gig economy. This decision is confirmation of what we have always known: that food delivery workers are entitled to the same minimum rights and protections as other workers in the road transport industry”.

The press release continues. When I saw that press release from the Transport Workers Union, I went to the Fair Work Commission website to look at the application that had been made by the employer, Menulog—a form F1 application to register an award. I thought that even though this application had been provided by an employer, the thoughtful and articulate way in which it was framed was worth commendation. Paragraph 8 of Menulog’s application states —

8. The On Demand Industry is part of the gig economy, an economy which, at the time of the award modernisation undertaken by the Australian Industrial Relations Commission in 2009 either did not exist or was in its infancy in Australia and globally.

...

10. Menulog is proud to be the first On Demand Business in Australia to take steps towards employing couriers to perform on demand delivery.

11. Menulog is committed to engaging with interested stakeholders with a view to achieving a fair set of minimum employment standards that are sustainable and fit for purpose in the On Demand Industry. With this in mind —

This is the bit that I wanted to emphasise —

Menulog has been engaging in ... discussions with the Transport Workers Union, which it recognises as the employee organisation representing the interests of couriers working in the On Demand Industry.

I wanted to note that and congratulate Menulog for the different way it has approached this predicament, which is cast in stark relief to the attitude adopted by Deliveroo. There are some cowboys in the industry and there are some people who recognise the rights of workers to organise on behalf of their members.

With that mind, I wanted to commend Western Australian Senator Glenn Sterle. In the time that he has been a representative, he has been a tireless advocate for the road freight industry in federal Parliament. He knows firsthand the risks that drivers confront. When I was working as an industrial lawyer at Slater and Gordon, I had the great privilege of acting on behalf of the TWU on a number of occasions. Its advocates and officials have always been front and centre of campaigning to get their workers and members a better deal. I wanted to place on record my appreciation for the efforts of Paul Aslan, Mick Connolly, John Cutrali, Josh Dalliston, Mick Knowles, Ray MacMillan and secretary Tim “Smoky” Dawson, all of whom have taken up the issue on behalf of workers assiduously and diligently. It is a testament to them that, even though owner–drivers are not specifically covered in the rules of the union, the TWU has the interests of these truckies front and centre. They have participated in this tribunal since its inception in 2007 and they continue to advocate on behalf of employee truck drivers and owner–driver truck drivers.

I have taken less time than I thought I would.

**Mr P. Papalia:** Oh!

**Mr S.A. MILLMAN:** This is an important reform.

**Mr P. Papalia:** Geoffrey wouldn’t have done that!

**Mr S.A. MILLMAN:** I know; he would have kept going. Perhaps David Boon, minister.

This is an important reform; it speaks to important structural reforms and to the importance of having a diligent cabinet that identifies where legislative reforms are needed. Sometimes we can assert our rights through the judicial process in courts. Sometimes we need to assert our rights industrially by talking to our union and taking industrial action. Sometimes we need to lobby the government of the day to ensure that those we represent and even those close to those we represent have a framework in place in order to protect their rights and interests for the benefit of the whole community.

I want to finish by saying that the Labor Party will always stand with those who understand that trade unions are best placed to advance and protect the interests of working people. I want to congratulate the minister for bringing this legislation forward and the TWU for its tireless advocacy for gig economy workers and the road freight transport industry, not just in Western Australia but nationally. I commend the bill to the house.

**MS M.J. HAMMAT (Mirrabooka)** [11.46 am]: I also rise to make a contribution in support of the Owner-Drivers (Contracts and Disputes) Amendment Bill 2022. I am very sorry that I cannot continue the cricket analogy, not having sufficient knowledge of the game or opening batsmen to be able to make any comments. You can pass judgement on my contribution in cricket terms, and I will have no idea what you are saying!

I am very pleased to have the opportunity to make a contribution to the Owner-Drivers (Contracts and Disputes) Amendment Bill 2022, which will amend the Owner-Drivers (Contracts and Disputes) Act 2007. I also want to congratulate the Minister for Transport for bringing this very important piece of legislation to the house. It is very timely and very important. I will outline the reasons I think it is important, overlapping some of the ground that has already been covered so capably by the member for Mount Lawley.

*Visitors — Kapinara Primary School*

**The ACTING SPEAKER (Ms C.M. Collins):** On behalf of the member for Churchlands, I welcome the students from Kapinara Primary School.

*Debate Resumed*

**Ms M.J. HAMMAT:** One of the things we have all learnt in the last few years is the fragility of supply chains and the importance of making sure they are robust and adaptable to the circumstances. I think the members for Moore and Mount Lawley commented on how we have experienced breakdowns in those supply chains in recent times and how quickly we have seen the results of that on the shelves in our supermarkets. We were unable to deliver essential goods that are important to keeping our economy functioning. It is important to ensure that families and individuals can continue to buy essential supplies. We saw that during various stages of the pandemic, and we clearly saw it in Western Australia earlier this year when we had a break in the main rail line. We quickly saw disruption to the supply of goods. Making sure we have strong, robust and adaptable supply chains is critical to our everyday interests, and this bill is about making sure that our road transport industry remains strong, able and robust.

The bill establishes a framework for regulating the contractual dealings between independent contractor owner–drivers and their hirers. It is an important way to promote a safe and sustainable road freight transport industry in Western Australia by providing additional protection for small businesses. I believe this bill will also resolve some questions that have arisen concerning aspects of the act’s operation.

At its heart, this bill provides greater protection for the position of owner–drivers. We have had a couple of contributions on this point, but it is important to reiterate that owner–drivers are an important part of the road freight transport supply chain; however, because of their position in the supply chain and the successive contracting out of work, they often have weaker bargaining power and are the most vulnerable and least protected in the sector. They are often very isolated, and turnover can be high. That lessens their bargaining power in what is a very highly competitive market for transport services and one that is becoming increasingly competitive over time. The unequal bargaining power between owner–drivers and hirers, combined with the fragmented and competitive nature of the industry, means that owner–drivers may be forced to accept work that is unsafe, accept it at unsafe levels or choose to have no work at all.

If transport drivers are employees, they are protected by a network of legislative safety nets, like awards, occupational health and safety legislation, workers’ compensation legislation and superannuation legislation. All these things provide a safety net for people who are considered to be employees. They are a part of an employment relationship and will have some assurance that their work conditions are safe and, at the end of the day, they can take home at least a minimum wage, which is annually adjusted by an independent tribunal.

No such safety net exists for independent contractors, which are particularly owner–drivers in the context of the transport industry. Their safety net is essentially only what exists in the content of the contract they negotiate. When contracts are entered into between parties of roughly equal bargaining power, parties have the ability to negotiate an outcome that protects their interests for fair remuneration, safety or any other aspect of the arrangement. When contracts are entered into by parties with unequal bargaining power, the least powerful party in the negotiation can face adverse outcomes. Adverse consequences can also flow on to the general community.

If pay rates are inadequate for a living wage or the terms of the contract are so difficult as to make them unsafe, independent contractors do not have a minimum set of standards that employees would. Concerns about how contracts entered into with unequal bargaining power lead to adverse outcomes for not only owner–drivers but also the general community are particularly true in the transport industry, given that cars and individual drivers share our roads with heavy transport vehicles. We are very mindful of the effect of the road toll and steps that can be taken to reduce it.

I want to acknowledge the work of the Transport Workers’ Union, particularly their WA secretary, Tim Dawson, and his team. I also want to acknowledge that the Transport Workers’ Union has for some time been campaigning nationally, via what it calls its Safe Rates campaign, to highlight the consequences of unequal bargaining power on the safety and sustainability of the transport industry in WA and Australia. I want to commend the union for its work on this campaign. My first appreciation of the challenges faced by the road transport industry came from hearing a story about a truck driver who was a Transport Workers’ Union member in New South Wales. He lost his life in an accident as a result of working long hours that had been forced on him by the demands of his contract. It was a very personal story; it was very emotional and it stayed with me because it profoundly illustrates the difficult choices that owner–drivers are often forced to make to keep their contracts when they face significant pressure from the big corporations and supply chains. I want to commend the work of the Transport Workers’ Union for taking this issue and explaining the consequences in a way that can and should be easily understood by the everyday person. People can understand that the consequences accrue to not only the people who drive the trucks but also anyone who is on the road.

Many big corporations are putting downward pressure on their supply chains, and they are doing it in an effort to reduce their costs to consumers. It is true that we all love a bargain, but perhaps we do not always stop to think about the consequences of the cheaper prices down the supply chain. We do not think about how it might affect people in the supply chain. When big corporations put their contracts out and seek to cut costs, those cuts in costs are passed down the supply chain. In the logistics industry, in particular, owner–drivers are often at the end of the supply chain and are forced to accept lower costs for the contracts. They are often trying to deliver their contracts with either reduced time for maintenance, reduced time for deliveries—often working very extensive hours to meet the delivery schedules that they have been forced to agree to—or reduced pay. Indeed, it is often a combination of trying to manage all those things and still run a profitable and sustainable business. It all contributes to the fact that drivers are often tired, overworked and in vehicles that have not been adequately maintained. All of this combines to increase the likelihood of road accidents.

We heard a very good contribution from the member for Mount Lawley, who talked about how the road transport industry is one of Australia’s most dangerous industries. The Transport Workers’ Union estimates that transport workers in Australia are 15 times more likely to die in their industry. It is really important to recognise that when those accidents occur on our roads, there is a real prospect that other road users will also be involved as everyday people go about their business on our roads. Of course, we know that road deaths and injuries have significant

personal costs, and people often bear the scars of road deaths and injuries for a lifetime. Significant economic costs also arise. It is for this reason that I think this is an excellent bill and a really sensible reform measure that will protect our owner–drivers and will also ensure that our road transport industry is safe for all road users.

It is worth acknowledging that another consequence of the unequal bargaining power and the potential for unreasonable contracts is that owner–drivers might elect to exit the industry because it is simply not worth their while to perform that work anymore. They will seek work in different industries altogether. That, then, has the consequence of leaving us with significant gaps in our supply chains, which become increasingly difficult to fill. It would make even more common the kinds of disruptions and scarcity that we experienced during COVID and earlier this year when we had the break in the railway line. It is in our collective interest—for the safety of road users and for the safety and security of our supply chains—to ensure that we have sensible reform measures such as the ones contained in this bill, which not only protect owner–drivers but also protect the safety of road users, protect the security of supply chains and protect our economy.

In my comments today, I also wanted to look a little bit more broadly. The issue of decent work and road safety is not one that has been pursued only in Australia. It is something that has been discussed around the world. Today, I wanted to particularly refer to a September 2019 report by the International Labour Organization, which convened a meeting of experts to adopt some guidelines on the promotion of decent work and road safety in the transport sector. The terms of reference for that meeting were to —

... “convene ... a tripartite meeting of experts to elaborate and adopt a code of practice or guidelines on best practices in road transport safety with the objective of protecting the community and road transport workers from all health and safety hazards, preventing accidents and promoting safe and fair remuneration”.

The work undertaken by the International Labour Organization and its panel of experts led to the production of a very interesting report that had at the centre of its consideration of road transport safety the question of safe and fair remuneration, or, to use the language of the report, the question of decent work. The report begins by identifying that many people around the world are killed or injured on roads. It estimates that commercial vehicles are involved in approximately 10 to 22 per cent of crashes around the world. The report identifies traffic injuries as being the eighth-leading cause of death globally. This tripartite panel of experts made it clear that what it called decent work deficits present such sufficient risks to road users that they have become a public policy concern. “Decent work deficits” is the language the panel used to describe employment standards below what we would consider to be an acceptable standard. The panel made a number of important observations about the nature of the transport industry and particularly how it has changed over the last 20 years. I will quote from the document and again use its language. It states —

Developments in the last 20 years have had a strong impact on the composition of the industry.

That is, the road transport industry. It continues —

Fragmentation presents a particular set of challenges. Segmentation and fragmentation levels, for instance, including the increasing use of subcontracting, have intensified competition. Non-wage earning CMV drivers —

That is, commercial motor vehicle drivers —

and small and medium-sized enterprises make up the majority of the freight transport industry.

That finding absolutely reflects the basis of this bill—that the fragmentation of the industry has driven competition, and that competition has put downward pressure on prices, particularly for independent contractors. The report is not all negative. It goes on to say —

Workers in the sector, including dependent self-employed workers, are vulnerable, as they often must absorb the costs of ownership, maintenance and other vehicle operating costs while they may not be able to participate in social dialogue and may not benefit from the protection, including social protection, provided to other workers. Nonetheless, the presence of well-designed and regulated non-standard forms of employment in the road transport sector does not necessarily translate into poor working conditions or entail illegal operations, provided that the employers do not misuse them to circumvent their legal and contractual obligations and other employment-related responsibilities. Operating a small road transport business, including as a self-employed worker or owner–operator, can be the road to opportunity, financial independence and flexibility. A strong framework of business and safety regulations can encourage these ... businesses and ensure they comply with national laws and regulations.

The report points to the fact that it can be a very successful way for a business to operate, provided there is adequate regulation. It reports very much on the role of government and what it calls social partners and transport chain partners in ensuring that there is a framework that supports decent work, and thereby road safety.

This bill will make an important contribution by ensuring that we have fair contracting arrangements for owner–drivers that will allow them to flourish as successful small businesses, rather than being subject to exploitation and downward pressure due to the unequal bargaining power between parties. The bill will ensure that we take reasonable steps to make sure that our roads are safer for all road users and that our supply chains are more stable for all consumers.

The bill will introduce a number of important provisions that will grant greater protection to owner–drivers. As others have said before me, many years of work have gone into the development of this bill, including extensive consultation with the industry.

I want to highlight a few of the provisions that are designed to address the unequal bargaining power. The first is minimum notice periods for termination. For contracts of greater than three months, there will be a 90-day minimum termination period or payment in lieu of that notice. If a contract is for less than three months, the termination notice period will be seven days. This is important, given that owner–drivers have so much of their capital tied up in their vehicle, and that even if it is not being used, they are still required to make significant repayments for that vehicle. A minimum period of notice will provide some certainty to those owner–drivers and give them an opportunity to source other work because of the need to continue to meet those capital repayments.

[Member’s time extended.]

**Ms M.J. HAMMAT:** The amendments in the bill will also deal with unfair or unjust contract provisions. Clarifying the relationship between provisions by using the terms “unjust” and “unfair” will ensure that such conduct can be a matter that the Road Freight Transport Industry Tribunal considers when making determinations, particularly about unconscionable conduct. The bill also introduces the notion of misleading and deceptive conduct, which is now well established in a number of other areas of life and law. The legislation will adopt that concept and ensure that contracts are negotiated without deceptive or misleading conduct. Importantly, the bill will ensure a workplace right of entry to investigate payment circumstances. Workplace right of entry is well established in the Industrial Relations Act and has been fundamental in ensuring fairness for working people for many years. This right ensures that there is an opportunity for independent inspection and oversight of records relating to pay and conditions. Having a workplace right of entry will draw upon a well-recognised right for workers in Western Australia and, indeed, around Australia, regardless of where someone undertakes their work. This is a really important extension of an employment right to owner–drivers. The bill will also introduce provisions relating to discrimination, which is of course outlawed. Those provisions will be included in the act.

This is an important piece of legislation. It seeks to bring to the owner–driver industry an opportunity to balance the very unequal bargaining power that exists between owner–drivers and others in the road transport industry. It has come about following extensive advocacy by the Transport Workers’ Union of Australia over many years, which highlighted the challenges of supply chains and downward pressure from often large corporations that particularly impact owner–drivers, who are often at the bottom of those chains. It is an important piece of legislation. It will protect not only owner–drivers, but also our community, our economic interests and anyone who seeks to use roads in Western Australia. It strikes an appropriate balance. It will provide a strong framework for negotiations to be conducted. I think it is a particularly important piece of work in that it recognises that safety is critical in workplaces, regardless of where they are conducted. With that, I will bring my comments to a conclusion, other than to reiterate once again my congratulations to the Minister for Transport for bringing such an important bill to the house. I thank her for her extensive consultation and the work that has gone on behind the scenes in bringing this bill to this place. It will be important legislation that will provide a safety net by setting a floor for the safety and security of owner–drivers in Western Australia.

**MS K.E. GIDDENS (Bateman)** [12.08 pm]: I am extremely pleased to rise today to contribute to the debate on the Owner-Divers (Contracts and Disputes) Amendment Bill 2022. I think it is fair to say that during the COVID-19 pandemic, we learnt a lot about ourselves and each other. We learnt, for example, that the average Western Australian household requires about 200 rolls of toilet paper in reserve. I learnt that the two-packet-a-day pasta limit in supermarkets was not enough to feed my three hungry children. We were also reminded, if we needed it, of the amazing work that our health professionals do to support our community and keep us safe. The efforts that they went to, particularly in the early days of the pandemic when a lot was unknown, and people across the country were dying, to continue to turn up to work and serve our community were exceptional.

Other people also stepped in during that period. We had the frontline retail staff, who did not have the option of working from home and had to deal with angry and panicked shoppers. We had the teachers in our schools, who had to not only deal with the anxiety of families and students, but also transition quickly to online learning, and achieved an incredible amount of work. We also had the efforts of the WA Police Force in managing the emergency controls that were put in place to keep Western Australia safe.

However, there is another group of workers whose contribution often goes unacknowledged. That is our transport workers. The COVID pandemic was possibly the first time that many Western Australians have considered the security and reliability of our supply chains. That is now probably front and centre of much of our awareness when we go into shops, want to purchase a new car or are waiting on parts for our computer. That is certainly something that we are now very aware of. Nothing in our economy can move without transport workers. Without transport workers, our economy would stop. We would be unable to export goods from Western Australia for our iron ore and agricultural industries. We would be unable to get the things that households rely upon for their quality of life, such as goods from the supermarket; our televisions, our couches and our cars; and construction materials to build a new home or do renovations.

During the recent winter recess, I did a road trip. I wandered out yonder. Our state has vast distances. Those distances are covered by our transport workers, who have to travel for hours to get goods across our state. For a long time, our transport workers have done their work perhaps unrecognised and under-recognised. Their conditions are tough, as has been noted by the members who made contributions before me. A landmark 12-year study into the health and wellbeing of Australia's truck drivers revealed that they have a 13-fold higher risk of dying at work than any other Australian workers, making it the most dangerous occupation in the country. Truck drivers have long working hours, have to spend a lot of time sitting, have potentially poor nutrition, have social isolation, have shift work and time pressures, have low levels of job control, and also, of course, have the risk of being in a road traffic crash.

Since coming to government in 2017, the McGowan government has sought to improve some of these conditions. For example, it invested over \$30 million in 2018 on 15 road projects, rest stops and road assembly areas; it invested \$50 million towards the Pinjarra heavy haulage deviation to deliver a safer alternative route for heavy vehicles; and it engaged with industry and other stakeholders, particularly during the early days of COVID, to identify and supply freight movement challenges. As a result of that, in 2020 the Minister for Transport approved a planning change under the state of emergency to provide exemptions to vehicle operating hours to allow the supply of essential goods and services to supermarkets 24/7.

Just like any other business or any other worker, owner–drivers rely on a decent rate of return in order to be viable. Currently, as has been noted, owner–drivers have uneven bargaining power, often sitting at the bottom of a lengthy chain of contractors and subcontractors, which leaves many of them in a take-it-or-leave-it position, often pitted against large multinationals whose bargaining and contractual power is so much greater. The proposed amendments in this bill will strengthen the ability of owner–drivers to negotiate on a more even playing field. In particular, the amendments will clarify the jurisdiction and powers of the Road Freight Transport Industry Tribunal, introduce a right-of-entry provision, set minimum notice periods for termination, and address procedural deficiencies and operational inefficiencies.

The notice period for termination is an important consideration. Sometimes, owner–drivers have a contract to transport quite specific goods that require amendments or changes to their trucks. We can imagine that if they have invested significantly in their capital and infrastructure and lose a contract at short notice, that does not necessarily give them the opportunity to transition to providing a service to deliver other types of goods and services, and certainly not without considerable cost.

The amendments in this bill will expand the scope of the tribunal to determine unconscionable conduct by hirers. That is also a very important provision. An owner–operator might enter into a contract with a hirer, and the costs of providing that service might increase significantly beyond that owner–driver's control. An obvious example is the fuel price increases that we have seen. That may have run-on effects on the viability of that contract. The expanded scope for the tribunal to determine this matter is an important provision to ensure that owner–drivers are in the best position to secure a fair return for their work.

Not only is it a basic principle that people should receive a fair return for their work and services, but also in the transport industry it is an essential safety element. This was noted by the member for Mirrabooka in her contribution and also by the member for Mount Lawley. If a person is operating a truck and their contract does not enable them to meet the requirement to maintain their vehicle, they will potentially push that maintenance schedule. Another impact is that they may work longer hours on top of what we know in the industry are already extremely long working hours. I know that I would not want to be on the roads with a truck operator who is extremely stressed, tired and wondering how they are going to make ends meet. A consequence is that an increasing number of truck drivers are leaving the industry. As has already been noted, given the critical role that transport operators provide in our economy, this shortage of workers will have dire consequences across the economy. When transport operators have safe and fair conditions, it will improve safety for all road users.

Currently, the proposed amendments in this bill do not extend to vehicles below the 4.5-tonne gross vehicle mass limit. I note the commitment by the McGowan government and the Minister for Transport to introduce further amendments to expand the current owner–driver laws to broaden the scope of the act beyond the current limit. I look forward to seeing what the Minister for Transport brings to this house, and I know she will consult widely, as is her strong record.

It would be remiss of me to talk about improving conditions and safety in the transport industry without mentioning my good friend Senator Glenn Sterle. Senator Sterle is an intergenerational truckie and has also been, and remains, a staunch advocate for the rights and conditions of drivers and the industry. He has been campaigning tirelessly on many issues of importance to the industry. That includes his very successful campaign to improve the sometimes atrocious conditions truck drivers face at rest stops across Western Australia and the country.

Senator Sterle puts his money where his mouth is, and between sitting weeks in Canberra is still an active truckie. As we speak, he is driving a road train to Fitzroy Crossing in the Kimberley to deliver over 250 new and unused mattresses and bed bases which his office collected and loaded and which will be distributed to families across the

Fitzroy Valley. On this particular trip, Senator Sterle has been supported by Bed Shed, KEYS The Moving Solution, and Centurion Transport. I rang Senator Sterle at about 7.00 pm last night to say hello and check in, and he was still on the road at the end of a long day on his way into Mt Magnet.

This trip is just one of the regular runs that Senator Sterle makes into the regions of Western Australia. I recently put out a call to my constituents in Bateman for donations of used furniture to support Senator Sterle's next trip, which is for the Waste to Wages program. That is operated in connection and in partnership with East Kimberley Job Pathways, an organisation in Kununurra that provides training and employment throughout the East Kimberley. Waste to Wages trains and employs Aboriginal youth to collect and repair recyclable items for its store, Revive. I would like to thank my very many generous Bateman constituents who have committed used furniture for this program, and of course I send my sincere thanks to Senator Sterle and his partners for this and the other fantastic programs that he supports.

I would also like to acknowledge the Transport Workers' Union of Australia and its WA state secretary, Tim Dawson, for its continued fight to improve the conditions of Transport Workers' Union members, and also for the broader industry. As I have said, a safe and fair transport industry benefits everyone, and it is essential to not only the sustainable future of the industry, but also our economy and the safety of all road users.

On that note, I would like to congratulate the Minister for Transport for bringing this very important bill to the house, and I certainly commend the bill to the house.

**DR J. KRISHNAN (Riverton)** [12.19 pm]: I rise today in support of the Owner-Divers (Contracts and Disputes) Amendment Bill 2022. This bill will establish a framework for regulating the contractual dealings between owner-drivers and their hirers, making for a safe and sustainable road freight industry in Western Australia. The bill will also provide additional protections.

We often ignore or do not understand the complexity of this industry. There is a producer and there is a consumer, and the complete gap between the producer and the consumer is bridged by this industry. I thank the owner-drivers and the drivers of the transport industry, who have done a magnificent job, particularly during COVID, in making sure our supply chain was maintained and all of us got what we needed without disruptions.

I have been fortunate to closely interact with some former patients of mine who work in this industry. I can remember one couple in particular. Their routine job was to drive from Perth to Melbourne, rest for a couple of days and then drive back from Melbourne to Perth. It was not an easy job to do continuously. Being a health practitioner, I could understand the difficulties they were going through in managing their health. The member for Bateman mentioned in her contribution the fact that the risk of dying increases 13 times for truck drivers. There are various reasons for that. They cannot stick to a regular diet. They cannot stick to a regular exercise regime. They cannot stick to a regular routine of sleep. All these things have an impact on their health, and a tremendous effort goes into working in the industry. I have heard stories about how much they work in the background and the process they go through to save the money to be able to own a truck or vehicle. It is important that the government recognises such efforts and provides the necessary legislation for protecting their rights and protecting the industry.

At this juncture, I would like to share a very sad story. A friend of mine, who was only 42 years of age, worked in a different industry, as a railway engineer. His name was Saravanan Paramasivam. Both he and his wife drove a taxi to make ends meet. They worked very hard, sometimes starting at four in the morning. They shared the workload and worked late, up to 10 o'clock at night. He wanted to expand into the courier industry, and in that desire he bought a car in Adelaide. When he brought it to Western Australia, he realised he could not register it, because the car had a report on it. After a stressful week of arguing with the car yard salesperson, he decided to drive the car back to Adelaide to return it. He only reached there at 5.30 pm; the car yard had closed at five o'clock. He had something to eat. He called his wife, Valli, and spoke to her. He decided to sleep in his car and meet the person the next day. My friend Saravanan Paramasivam did not wake up. His body has just arrived in Perth, and the viewing is happening this evening. The funeral is on Saturday.

The point I am trying to make is that people make extraordinary efforts to be able to own a small business, particularly a transport business. If people had the money to invest big lump sums, they might enter a different business. Someone who is investing in this particular industry has gone through a lot before making that decision. As a government, it is our responsibility to protect them. When the Deputy Leader of the Opposition made his contribution, he said there are about 7 000 people who have invested as owner-drivers in Western Australia, of which 70 per cent are owners. That further indicates that there is not a lot of capital coming from the multinational companies. It is the mums and dads. It is the small business owners. It is the people who have saved to create a business for themselves. Only 30 per cent of capital in this industry is contributed by multinational companies or bigger corporates.

Logistics is very critical. An owner-driver may not understand the logistics of working out a schedule to transport consumables or whatever it is from the producer to the consumer. Logistics companies are the ones that work out those processes. There are different layers of contracting in this industry, and the deeper the layer the lower the bargaining power for the owner-operator to get what he or she fairly deserves. This bill is about regulating that to



protect them and allow them to get their fair share, which they thoroughly deserve after putting in not only the capital investment, but also the manual effort. It is about giving owner–drivers bargaining power and empowering them to understand what the layers are. That is what this bill will do.

This bill has come to the Parliament after extensive consultation, commencing sometime in 2018. The government not only intends to support the changes to the Owner-Drivers (Contracts and Disputes) Act 2007 in the bill before us, but it also intends to make further amendments to increase the scope of the act beyond the current 4.5-tonne gross vehicle mass limitation. The state government supports the measures that will facilitate the Road Freight Transport Industry Tribunal performing its functions by mediating and taking the appropriate actions to support owner–drivers getting their fair share.

I take this opportunity to thank the Transport Workers' Union of Australia, the Western Roads Federation and industry representatives who have contributed to the consultation process and bringing about this bill.

Before I conclude, it is a big step for anybody to move from being an employee to being a self-employed person. There is a risk involved and a responsibility that needs to be taken. Capital needs to be invested. That responsibility has a flow-on effect to the worker's family. These owner–drivers take all these steps to make a better life for themselves. It is our responsibility to give them their fair share by putting the right systems and processes in place, and that is what this bill will do.

I thank the Minister for Transport for bringing such an important bill to this house and I thank you for the opportunity, Madam Speaker. I commend this bill to the house.

**MR D.R. MICHAEL (Balcatta — Parliamentary Secretary)** [12.30 pm]: It is an honour to be able to speak on the Owner-Drivers (Contracts and Disputes) Amendment Bill 2022 today. I had to think what I might talk about. I thought about the recess we have just had. Google tracks my movements on my phone, so every month I get an email with a heat map of where I have been on Google Maps. When I check, being very much a city slicker, my heat map is very much in my electorate where I live—all the local clubs and schools, my house, where I eat and where I have the odd beer in my electorate—and, obviously, West Perth, when we come to this place, but not much anywhere else. I do not get out a great deal, especially not into the regions. Over the winter break, all members would know that Lenda and I took a road trip to Broome and back. I see the member for Moore in the chamber. We drove up along the North West Coastal Highway and came back through Karijini and Newman on the Great Northern Highway. I do not think in my life I have ever driven a car above Geraldton. I have been to places, I have flown into Broome and other places, but I have never driven a car, I do not think, that I can remember. I am telling this story because when we think about transport workers, I have very much a new appreciation—I had an appreciation already—for those long drives we took, which I think for a transport worker would not be that long, with four or five-hour jumps as we drove from Geraldton to Monkey Mia. Geraldton was good fun. I found the member for Moore marauding the streets of Geraldton one night. It was good to catch up in Geraldton and solve the problems of the world.

**Mr R.S. Love:** It was a very tasty pizza.

**Mr D.R. MICHAEL:** It was a nice pizza at that little venue after the Dockers draw. Driving as we did, and inflicting Lenda to my 1990s ska music that I had the foresight to download before we lost mobile access, the long stretches of road, the hours and hours that I know transport workers spend behind a wheel in normal times—I will get on to the pandemic in a second—is something that I can see on a map. I can see how many kilometres there are between towns. We planned our trip to have four or five-hour jumps, but I know that transport workers work a hell of a lot more than that and endure harsher conditions. Especially up north, I think there were 60-metre road trains, and the skill required to drive those even in good conditions is unbelievable. We have heard today about some of the safety issues that transport workers face in our state and our country, and the terribly high death rate in that industry. As a member of the Labor Party, something that I firmly believe in, and that this bill will hopefully go some way to addressing, is that a worker should get a fair day's pay for a fair day's work, and that they should have the right to come home at night or after their shift or swing to their family safe and without injury.

In the transport industry, I think the member for Riverton mentioned a few of the health issues that transport workers already face. I know that the isolation contributes to mental health issues. I saw a statistic—I think it might have been from the Transport Workers' Union of Australia—that one in four transport workers has been involved in a crash. I presume that in a lot of those instances, it would not be their own fault, as it is probably the fault of drivers who do not know how to overtake correctly or some other kind of incident, and those incidents cause trauma. Transport workers already go through a lot. Then we come to owner–drivers. As we have already heard, owner–drivers have an enormous investment in their rig, in continuous replacement of parts, repairs and maintenance, and in fuel, which has not been cheap for a long time, let alone what has happened over the last six months. We know that there have been problems with fuel additives and the shortage of AdBlue in Australia last year. As we have heard, if an owner–driver is unable to get their truck onto the road, they lose income. These people have a small business, they have invested in their small business, and, like any small business, they have to work. But the more they work in this industry, the less safe it becomes. They have to drive longer hours. It is unsafe for them and obviously for all road users. That is why it is very important that we pass this bill for all road users, but particularly for those owner–drivers.

Obviously, during the COVID pandemic, as we have heard, truck drivers were a vital part of WA's response. When I think about the heroes of the pandemic, which we are still going through, I think of cleaners, teachers, police officers, nurses, retail workers and transport workers. We have heard about shortages. When I was going to Woolies in Dog Swamp trying to buy loo paper, nothing was on the shelf. Then there was a shortage of pasta, and for me, given what I eat—or what I do not eat—cans of beans. There was a shortage of those kind of things. We would go into the shops and think, "Oh my goodness!" We have never experienced this before. I think that the last time any Australian experienced anything like it would have been the rationing in World War II, which most people nowadays obviously would not remember. We know that transport workers kept driving, especially in those early days of the pandemic. Like a few members here, a lot of my recollection of the early days of the pandemic is of actually being in this chamber. I was the government Whip at the time. I think that all of us were a little bit scared; we did not know what this thing was. We had half the members in here. Vulnerable members and regional members were not coming to Parliament. We were sitting hours just to pass COVID legislation and nothing else, and not socialising as we usually would. During that period, truck drivers and transport workers were at the forefront getting supplies to our supermarkets and shops so that people could eat. People could order their groceries online and pick them up, and I think that shops had seniors' mornings so that seniors could come in safely to get their shopping. The transport workers were doing their job when a lot of the rest of us had the luxury of being able to watch the pandemic while locked down at home. We were concerned at home, but at least we knew we were safe. Transport workers were out there doing a hard job, driving, getting produce and products to stores and supplies to other industries, including health supplies. All of that entailed risk. Again, when none of us were vaccinated and we were dealing with the earlier strains of the virus that were more deadly, they were out there having to talk to other people and go about their business. Transport workers do an amazing job in our community, and they continued to do an amazing job during the pandemic, while still dealing with all those issues that they already had.

I will go through some of the provisions in this bill very quickly, because they have already been covered by a couple of members. The legislation includes a minimum notice period for termination, which is something that a lot of other industries would take for granted, but, given that these are small businesses, that currently does not exist for them. There will be a 90-day minimum termination notice period or payment in lieu of such notice. The legislation also includes unfair or unjust contract provisions, and a clarification so that the Road Freight Transport Industry Tribunal can take dodgy contracts into consideration when it makes determinations. Misleading and deceptive conduct is again something that is well established in other law and in parts of our lives, but the act will now align with those other laws and make sure that that behaviour is specifically prohibited in this industry.

I think the member for Mirrabooka talked about the workplace right of entry, which, again, a lot of industries and workers take for granted. It was hard-won over the years by the labour movement. If there is a need to investigate the pay and conditions and contracts of an owner–driver, there must be a right of entry for an authorised representative so that they can find out whether any dodgy practices are going on, which, hopefully, will reduce the incidence of such practices. The Owner-Drivers (Contracts and Disputes) Amendment Bill 2022 will also outlaw discrimination, a provision that is in many other acts.

Obviously, the discovery of noncompliance with guideline rates is important when bargaining for rates of pay to ensure that the minimum rates for owner–drivers are adhered to. I think the member for Moore talked about the uberisation of the freight industry. Our Parliament—indeed, all Parliaments—will have to deal with the gig economy for many years to come, no matter what sector the gig economy is in. We will probably have to deal with it in sectors that we do not know about right now. With new technology in apps and the rest of it, whether it be Uber, Menulog or in the transport sector, the people doing the work should have proper pay and conditions. Often legislation lags terribly behind new technology in the real world, and that is something we have to deal with. It is great that the Owner-Drivers (Contracts and Disputes) Amendment Bill will deal with it for the owner–driver and the transport industry. The bill also provides changes to the tribunal's powers and jurisdiction so that it is better equipped to deliver just and efficient outcomes in dispute resolutions.

There has been some comment about the government's commitment to introduce further amendments to beyond the scope of 4.5-tonne gross vehicle mass limitation. I welcome the minister's comment in her second reading speech. The Transport Workers' Union of Australia has been pushing for that for a long time. More and more we are seeing the uberisation of the freight industry, especially for smaller trucks that deliver stuff around the metropolitan area. I suspect that a lot of those drivers are not getting the right pay and fair conditions. It is the Amazon effect; we all use these products. I use Uber and Amazon from time to time. We want to make sure that when we order from those platforms, the employees or contractors of those companies are being treated fairly. I welcome the minister's comments. I know there needs to be more consultation with the industry about vehicles under 4.5 tonnes and the owner–drivers who use those vehicles. I also note the federal inquiry into the trucking industry under the former Morrison government, which ignored most of the recommendations of that inquiry of a year or two ago. I know that the Transport Workers' Union will work hard with the new federal government to deal with some of these issues at the federal level. I wish it all the best and I hope that the federal government is able to look at those matters.

A good friend, Senator Glenn Sterle—he has been mentioned before—is a former transport worker. As the member for Bateman said, I think he is in a truck up north at the moment doing good work as a senator. When I did the

road trip to Broome a few weeks ago, I stopped at some roadhouses along the way. There have been issues with roadhouse trucking facilities and driver amenities—showers, toilets and the like. Senator Glenn Sterle has been an incredible advocate for those issues all around Australia. He frequently names and shames truck stops on his Facebook page. He is getting results because things are being cleaned up. He is doing a great job for transport workers. I wish him the best as he continues to do that in federal Parliament.

I had a think about some of the other things that the government has been doing, particularly the road safety initiatives that the Minister for Transport, who is in the chamber, has been championing in my electorate such as bettering intersections, expanding Stephenson Road and finally building Stephenson Avenue. It has been a ghost road in the UBD and on the Stephenson plan for 50 years.

The state government is doing more for transport workers. I recently had the pleasure of representing the Minister for Transport at the Transport Workers' Union WA conference at Lathlain Park. I thought I would go through a couple of other things that the state government is doing for transport workers to get them on the record, because it is important that they know that we have their back. There are skill shortages everywhere. Following approaches from the Transport Workers' Union and the Western Roads Federation, our government established a heavy vehicle driving operation skill set program in June 2020. The \$6.1 million program will train up to 1 000 workers so that they can help to fill skill shortages in the heavy transport industry. Participants gain real hands-on experience with practical hours in heavy vehicle operations. It is especially designed to help young people get their foot in the door of the transport industry, which is so important. I am sure that once they have a foot in and they go out on the road, a lot of them will eventually become an owner–driver, which is another reason why this legislation is so important.

A few members mentioned some of the health issues that are faced by transport workers. Mental health is one of them. Truck driving is an isolated job, with truck drivers spending long hours away from their family and social networks, often driving all hours of the night and travelling incredible distances. I know that through the Minister for Mines and Petroleum, WorkSafe and the TWU, this government is supporting the Steering Healthy Minds initiative to educate and help, and provide support for, transport workers to make sure that they look after their mental health and to remove some of the stigma that exists around those things. Again, that is a very important thing that the government is doing.

[Member's time extended.]

**Mr D.R. MICHAEL:** I mentioned safe roads. I know that through the minister, the government is delivering a tonne of new infrastructure and upgrades across the state to improve road safety. I read out some of these projects at the TWU conference a month or so ago. I have now been to some of these roadhouses. I watched trucks going in and out as I ate my corn jack and drank a Powerade. It was great to see some of the improved roads and facilities around the state, especially those made to trucking routes. I will go through some of the most important ones, including the \$352 million rollout of the regional road safety program in 2022–23 and 2023–24. By mid-2024, more than \$827 million will have been spent on upgrades to some 9 000 kilometres of regional roads, including sealed road shoulders and the recently put in audible edge lines, which I saw everywhere, minister. That will help to reduce the risk of run-off and head-on road crashes.

The government is also investing heavily in major critical freight routes, including upgrades to Great Eastern Highway, with bridge replacements and widening. There will be road reconstruction on that highway as well. Upgrades to the 30-kilometre section of the Coolgardie–Esperance Highway at Emu Rocks have probably been done, with a reconstruction realignment of the road and passing lanes installed. I drove on Great Northern Highway from Newman to Perth on Friday a week and a bit ago, which was a long drive. The next stage of upgrades between Muchea and Wubin in the wheatbelt is currently in project development, with works underway around New Norcia to prepare for the construction of the Bindoon bypass. In the Pilbara, the federal and WA governments have joined forces with BHP to deliver safety improvements at three key rail crossings and for the realignment of Great Northern Highway and construction of two bridges over the railway line, which is set for completion late next year.

In the Kimberley, stage 3 of the planning and development for the section of the Great Northern Highway that will cross the Ord River is underway. It will include widening, construction of north-bound passing lanes and bridge upgrades. The list goes on and on. The minister has a list of roads that she has championed and is upgrading as long as several people's arms.

**Mr D.J. Kelly:** The Romans would be very proud.

**Mr D.R. MICHAEL:** The Romans would be very proud, minister!

I mentioned Senator Sterle earlier. The McGowan government is investing \$50 million to construct and upgrade several truck rest areas across the state, including improvements to 10 key heavy vehicle sites in the Pilbara, the midwest, the Gascoyne, the goldfields, Esperance and the south west.

Debate interrupted, pursuant to standing orders.

[Continued on page 3834.]

**INDIAN SOCIETY OF WESTERN AUSTRALIA — SANGAM FESTIVAL***Statement by Member for Cottesloe*

**DR D.J. HONEY (Cottesloe — Leader of the Liberal Party)** [12.50 pm]: On 6 August, I had the great pleasure of attending the Indian Society of Western Australia's annual Sangam festival. This year's event was extra special as it was held in celebration of the anniversary of India's 75 years of independence. In honour of this occasion, the event was themed as a special tribute to the Indian motherland.

Alongside distinguished guests, including the Consul General of India, Mr Amarjeet Singh Takhi, and Hon Linda Reynolds, Hon Tony Buti, Mr Basil Zempilas and other distinguished guests, we joined over 2 000 members and supporters of the Western Australian Indian community in a celebration of this special day. The cultural significance of occasions like this cannot be overstated. At this event alone, over 300 local artists showcased their traditional art and culture. It was an honour to be invited to speak at the event about the contribution that the Indian community has made to Western Australia, our shared democratic values and our proud shared history.

I thank the Indian Society of WA for all its hard work in putting this year's event together. A particular thanks to the president of the Indian Society, Mr Satish Nair, for such an impressive and inspiring evening. I am sure that all members of this house will join me in the celebration of this very important anniversary and all that it represents, being the friends, family and community that have supported us up to this point and the new beginnings that lie before each and every one of us.

**STIRLING AMATEUR FOOTBALL CLUB — CENTENARY***Statement by Member for Balcatta*

**MR D.R. MICHAEL (Balcatta — Parliamentary Secretary)** [12.52 pm]: I am proud to inform the house of the centenary celebrations of the Stirling Amateur Football Club. This is a tale of two clubs. In 1922, the Osborne Park Football Club was formed. Its home ground was the Osborne Park showground, now known as Robinson Reserve, in Tuart Hill, until 1983, before moving to Richard Guelfi Reserve in Balcatta, where a fantastic club room, complete with fireplace, stands today.

The club first competed in the Perth Suburban Football Association, then the WA Amateur League and finally the Sunday Football League. It was here that the sporting vision to be part of the football culture of Western Australia fuelled the ambitions of this great club. As the decades passed, the club became a powerhouse in local football, with many achievements and flags making up its history. In 1998, the Osborne Park Football Club and the Balcatta Amateur Football Club merged and the Stirling Amateur Football Club was established. The club now competes in the Perth Football League, and in 2021 won the Ron Webster memorial trophy as the champion senior club. Today the club works closely with its cotenants, the Stirling Junior Football Club, which has many boy and girl footballers from in and around Balcatta and Stirling and passionate parents and friends helping out on the sidelines.

I acknowledge the 100 years of commitment and contribution of passionate volunteers, coaches and players, past and present. I congratulate club president, David Downing; secretary, Paul Giamov; the committee; and members and supporters of the Stirling Amateur Football Club and thank them for giving our community a century of sporting achievements. Go the Saints!

**ONGERUP FOOTBALL ASSOCIATION***Statement by Member for Roe*

**MR P.J. RUNDLE (Roe)** [12.53 pm]: The Ongerup Football Association is the 2022 winner of the West Australian Country Football League championships after completing an undefeated campaign and beating Central Midlands Coastal by 16 points in the division 2 final at the WACA. Made up of five clubs in my electorate—Boxwood Hill, Newdegate, Lake Grace–Pingrup, Jerramungup and Gnowangerup—the Ongerup Football Association put up a mighty fight at these championships against teams from across WA.

I would like to acknowledge the following association members and players who contributed to this win and pass on my congratulations to all involved: Ongerup Football Association president, Royce Taylor; senior vice-president, John O'Neill; junior vice-president, Nathan Brown; general manager and commentator, Gary Bartholomeusz; commentator Jack Batchelor; team manager, Jack Scanlan; coach, Christian Walker; trainers Sharon Pither, Rebeka Dunkeld and John Pither; on-field support, Brenden Desmond and Dillon Brooks; and Kim Parsons, OFA life member and OFA president from 2000 to 2018.

Key carnival players include Luke Bairstow of Lake Grace–Pingrup, a three-time Bud Byfield medallist, six-time country all-star, 13-time OFA captain and OFA carnival 2022 fairest and best; Ian Lloyd of Newdegate, an OFA life member; Fraser House of Gnowangerup, a two-time country all-star; Lewis Davis of Gnowangerup, 2022 country all-star; Dean Rintoul of Newdegate, OFA fairest and best in the 2022 grand final; and the many other players who did well.

**INDIAN INDEPENDENCE — SEVENTY-FIFTH ANNIVERSARY***Statement by Member for Jandakot*

**MR Y. MUBARAKAI (Jandakot — Parliamentary Secretary)** [12.55 pm]: I rise today to mark a very special occasion in the life of the Indian diaspora in Western Australia, celebrating the seventy-fifth anniversary of India's independence. The independence of India from the United Kingdom on 15 August saw power transferred to the Indian parliamentary system before the eventual creation of the Indian republic on 26 January 1950, a date that Australian and Indian people share. My WA Labor colleagues and I took part in several events, starting with "Maa Tujhe Salaam" Sangam 2022, followed by a lively Independence Day parade in the heart of Perth city over the weekend. On Monday, there was a flag hoisting ceremony at the Indian consulate office, with a massive reception at the Indian Community Centre held by the Indian Society of WA. On Tuesday night, we attended an event onboard the Indian naval ship *Sumedha* visiting Western Australia as part of naval exercises in the Indian Ocean, an international recognition of India's seventy-fifth year of independence. I would like to thank His Excellency, Mr Manpreet Vohra, High Commissioner of India to Australia, and Mr Amarjeet Singh Takhi, Consul General of India for Perth for their warm hospitality when hosting these events. The Western Australian relationship with India continues to go from strength to strength. Congratulations to my constituents and the more than 150 000 Western Australians of Indian origin. I hope they all thoroughly enjoyed the events.

**HOMELESSNESS — SHELTERBAGS***Statement by Member for Vasse*

**MS L. METTAM (Vasse — Deputy Leader of the Liberal Party)** [12.56 pm]: The generosity and willingness of community groups and locals within my electorate who reach out and help those in need has again been demonstrated by a project launched to help the homeless and vulnerable under the auspices of the Rotary Club of Busselton Geographe Bay. When the club began an investigation into local homelessness statistics, Ross Johnston and Shelley O'Brien were the main drivers within the club who saw there was an urgent need to help provide some protection from the elements. They formed the steering committee that included the City of Busselton, the Combined Churches of Busselton welfare committee and Rotary. Many hours were spent researching to find a source and then to raise sufficient funds for a lightweight, portable, windproof and rainproof shelter that could be made readily available to those without a roof over their head, sleeping on the streets, couch surfing or sleeping in their cars. The club identified Shelterbags, similar to a swag, with a waterproof bag, and a mattress and pillow inside. In order to import a container of 750 Shelterbags, it required funds of \$56 000, which it dutifully raised. These bags have recently been delivered and distribution has been instigated through the Combined Churches of Busselton welfare committee and other recognised and approved emergency relief organisations within the community. My heartfelt thanks to all involved.

**CAROL MANSFIELD — TRIBUTE***Statement by Member for Kalamunda*

**MR M. HUGHES (Kalamunda)** [12.58 pm]: Carol Mansfield, a constituent of mine, was a respected Western Australian plants woman who was always willing to share her extensive knowledge by opening her garden; sharing cuttings, seeds and bulbs; giving talks to local Perth groups; and writing for garden magazines. In the process, she developed a wide range of garden friends and colleagues over five decades. Carol was a valued historian with the Kalamunda and Districts Historical Society for 30 years. Carol and her husband, Dr Frank Mansfield, arrived in Bunbury from the United Kingdom in 1965 to start a country medical practice as a trained nurse and doctor. It was in the bush where Carol discovered her fascination for wildflowers and love of bushwalking. The couple moved to the Shire of Kalamunda where Carol worked tirelessly on her garden surrounding their heritage-listed homes, Fawkes House and Carmel, and then their native garden in Gooseberry Hill. Carol fundraised, organised workshops and was a guest speaker on many topics. From 2003, the Kalamunda Community Learning Centre included her courses on garden history of the world and Australian and hills gardens since European settlement. Carol was a founding and committee member of the WA Garden Society, the Cottage Garden Circle, Heritage Roses in Australia WA, the original Australian Open Garden Scheme WA branch, the Hills Garden Group and the Falls Farm heritage rose garden. Carol did not seek acclaim but went about her work in a low-key and purposeful way. Carol died on 17 May, surrounded by her family.

Vale, Carol Mansfield.

*Sitting suspended from 1.00 to 2.00 pm***QUESTIONS WITHOUT NOTICE****ELECTRICITY SUPPLY — REGIONS****525. Dr D.J. HONEY to the Minister for Energy:**

Before I ask the first question, I would first like to acknowledge the passing of Peter Dooley, a longstanding friend to all in this place. He will be greatly missed.

I note the recent change in the Western Power technical requirements from February 2022 that may impact 90 000 rural connections outside Albany, Geraldton, Kalgoorlie and Bunbury, which only have 32-amp allocations, which will impact rural families and regional businesses.

- (1) Why is the supply allocation 63 amps in Perth when rural properties are left with a significantly lower supply allocation?
- (2) Noting the concern of solar installers who have seen a rapid drop in business as a result of this change, is there a review underway by Western Power?
- (3) When will the results of any review be made public?

**Mr W.J. JOHNSTON replied:**

- (1)–(3) I am pleased with the question. As I am not an engineer, the technical requirements that Western Power apply to the need for safely installing electrical equipment is not something I personally supervise. I have been advised of the change, which is in respect of the safe operation of the electrical system. The 32-amp allowance has not changed. That is not anything new. That is the existing supply capacity on each of the circuits in regional Western Australia. I know there has been some commentary about that having changed. That is, in fact, not a change. I understand there is some impact from the safety management of the network, but the decision to operate the system in a safe manner is reflective of Horizon and Western Power's safety management of the network. Again, there is an implication that there has been a change to supply capacity, but I make it clear that is not the case. The supply capacity remains exactly the same at 32 amps.

#### ELECTRICITY SUPPLY — REGIONS

**526. Dr D.J. HONEY to the Minister for Energy:**

I have a supplementary question. Minister, do you believe that a 32-amp supply allocation is sufficient to run a 100 per cent electricity household and meet the energy needs of a modern family?

**Mr W.J. JOHNSTON replied:**

As I explained a moment ago, although there have been some changes, my advice is that there have been changes to the safety arrangements that Western Power and Horizon apply to aspects of the network management, and that the 32-amp capacity has not changed. The 32-amp capacity is not related to the issue the member is raising. What has occurred is that the people have been drawing more than 32 amps across their connection. My advice is that is because they were not compliant, and not because there has been a change. My advice is that what is occurring is that when people are getting a new installation, the installer is being told that is limited to 32 amps. It has always been limited to 32 amps. There may have been occasions that people have been drawing more than 32 amps, but that was exceeding their supply. Only a 32-amp supply is guaranteed. The fact that people were drawing more than that is because they were drawing above the guaranteed connection. This is a safety question. It is not a change to the performance of equipment. That is the point I am making. There is no change to performance of the Western Power connection points. They were exactly the same prior to this rule change.

*Visitors — Carine Senior High School*

**The SPEAKER:** Before I give the member for Riverton the call, I acknowledge and welcome to the public gallery today the year 12 prefects of Carine Senior High School on behalf of the member for Carine, and their principal, Mr Damian Shuttleworth, formerly principal of Swan View Senior High School, and the other students here. You are very welcome to question time today.

#### McGOWAN GOVERNMENT — FINANCIAL MANAGEMENT

**527. Dr J. KRISHNAN to the Premier:**

Before I ask my question, I acknowledge Mrs Elsbury, who is the deputy principal, and the student leadership of the Ashburton Drive Primary School on behalf of the member for Southern River.

I refer to the McGowan Labor's commitment to delivering a strong economy for Western Australia. Can the Premier outline to the house the latest Australian Bureau of Statistics data regarding jobs and wages show about this government's efforts in driving the WA economy and delivering more job opportunities for workers?

**Mr M. McGOWAN replied:**

I thank the member for Riverton for the question.

The Western Australian economy continues to lead Australia. We recorded the strongest jobs growth in the month of July across all the states. The number of people employed grew by 6 400, and more than half of those jobs were full-time jobs. Our unemployment rate fell to 3.2 per cent—lower than nearly every other state and territory and less than half the rate we inherited from the Liberal and National Parties. There are more than 166 000 additional Western Australians in work now than when we came to office. Pleasingly, more than 120 000 of those 166 000 jobs

are full-time jobs. So, 72.5 per cent of the jobs we created during our time in office are full-time positions of employment. We have the highest participation rate of all the states at 69.4 per cent. We have the strongest wage growth in the country. What I would say to people in other states of Australia is that they can come to Western Australia, they can get a good job with a good wage and a far more affordable lifestyle than any other state in Australia.

At the same time, we have managed the finances in a way that is the strongest in Australia. This means we have the fiscal capacity to respond to challenges, like the cost-of-living pressures facing families. We have a wages policy that delivers significant pay increases and a cost-of-living payment to all public sector employees. We have a decrease in this year's budget in household fees and charges of 3.8 per cent across the board because of our \$400 electricity credit. We are able to provide everyone across Western Australia with free rapid antigen tests. We have capped public transport fares at two zones, and we have capped regional air fares for people from the country flying to the city and return. We continue to manage the finances responsibly and sensibly. We do not want to make the mistakes of the last government, which was blowing debts and deficits, and which lost the AAA credit rating; that is when the Liberals and Nationals were in office. Obviously, we have restored the AAA credit rating during our term in office, and we have the strongest economy in Australia. We intend to keep leading the state in the responsible, sensible and economically prosperous way that we have to at this time.

#### PUBLIC SECTOR — WAGES

##### 528. Ms M.J. DAVIES to the Treasurer:

I refer to the rally of government frontline workers yesterday on the steps of Parliament House protesting the government's pay offer.

- (1) Will the government reconsider its pay offer, given the almost universal rejection of this offer?
- (2) Why did the Premier; Treasurer, who is responsible for setting the government's wages policy, not front the rally?

Several members interjected.

**The SPEAKER:** Order, please!

**Mr M. McGOWAN replied:**

- (1)–(2) I have a very capable Minister for Industrial Relations, who I thought did an outstanding job out there yesterday speaking to the assembled members of the public sector workforce. I saw him on the television. I probably would not wear the sunglasses next time!

Several members interjected.

**The SPEAKER:** Order, please, members! The joke is over, thank you.

**Mr M. McGOWAN:** Sorry, Madam Speaker. I thought he did an outstanding job in addressing the workforce and explaining the situation that we face.

The pay policy is a \$2 500 up-front payment for every public sector worker across the board, 150 000 or thereabouts. On top of that, there will be a three per cent per annum pay increase, and also on top of that the already legislated half a per cent superannuation guarantee for each of the two years. Also on top of that, we are not requiring any productivity offsets. For many members of the workforce, particularly the lower paid, it is a pay increase in the first year of around eight per cent. When we do a single payment that is the same for everyone, whether they are a specialist doctor or a school cleaner, for lower-paid workers it is a much higher percentage increase.

That is what we have offered. That is actually more generous than in New South Wales and Victoria. On top of that, as we saw recently in the Deloitte report, the cost of living in Western Australia compared with the other states is significantly lower, particularly for housing. This is a strong offer, and we would urge the workforce to take up the opportunity of this arrangement. Just so members know, when the Leader of the Opposition says it has met universal rejection, teachers have accepted it, as have doctors and elements of the transport workforce. Those three groups have already accepted it, which is many thousands of employees across the private sector workforce.

**Dr A.D. Buti:** You misled Parliament!

**Mr M. McGOWAN:** Yes, got it wrong!

#### PUBLIC SECTOR — WAGES

##### 529. Ms M.J. DAVIES to the Treasurer:

I have a supplementary question. As the Treasurer, the minister who sets wages policy, is the Premier comfortable with the fact that he is too busy to front up and explain to these workers, who are opposed, why they must take a pay cut in real terms but shamelessly available to quaff expensive wine at dinners with a select few businessmen?

Several members interjected.

**Mr M. McGOWAN replied:**

The Leader of the Opposition took off recently and flew to Sydney to attend some conference with some of her conservative friends rather than come to Parliament. That is what happened recently. I was attacked by the opposition for going to Collie and addressing the assembled workforces about the ongoing arrangements for the coal industry, which I just say to you all is not a pleasant experience to do. But I went down there and I did it, whereas the Leader of the Opposition took off from Parliament to fly to Sydney to catch up with some friends. So do not come in here running those arguments.

**Ms M.J. Davies:** Don't mislead the Parliament.

**Ms R. Saffioti** interjected.

**Mr M. McGOWAN:** Yes, that is what happened.

**Ms R. Saffioti** interjected.

**The SPEAKER:** Order, please, Minister for Transport!

**Mr M. McGOWAN:** I attend a great many events and functions. The other week I did a roundtable dinner with the pharmacy industry. There was a range of businesspeople there. They served food and wine. Next week or the week after, I will be attending the Business Council of Australia dinner in Sydney as part of the national cabinet meetings. I assume that at that dinner, food and wine will be served.

**Dr D.J. Honey:** Yes, it'll be a \$20 bottle of wine.

**Mr M. McGOWAN:** I do not know what wine will be served.

**The SPEAKER:** Leader of the Liberal Party, this is not your question.

**Mr M. McGOWAN:** It is beyond pathetic that you do that, Leader of the Liberal Party, considering you want to use your taxpayer-funded office for fundraisers for the Liberal Party. That is what you do.

I will be attending the Business Council of Australia dinner, I assume with other Premiers and the Prime Minister and the like, in Sydney shortly as part of the national cabinet meetings, followed by the skills summit. I do not know what food or wine will be served. I do not control that. I think any reasonable person would understand that. But I will be attending, and I assume there will be property developers there. I assume there will be very high net worth individuals there. I do not know. Maybe I will meet them. Maybe I will talk to them. That is what you do in these roles. It is very naive not to understand that.

In terms of the workforce, as I said, our offer is three per cent plus three per cent, plus 0.5 per cent superannuation each year, plus a \$2 500 up-front payment, which is more generous than New South Wales and Victoria, and that is whilst the cost of living here is significantly less.

On top of that, we have brought many of our employees in health, in prisons, in transport and in Main Roads back in house, with more secure employment. We have converted around 15 000 to 20 000 employees, who for many years had very insecure work, to permanent positions, particularly in education and health. We have provided domestic violence leave. We have put in place workers' compensation reforms to assist the workforce, and cost-of-living improvements. One of the things we are most proud of is that when we came to office, we reinstated the cuts to the agriculture portfolio and provided additional staff. That was cut by the National Party. We also ensured that education assistants were re-employed and given greater permanency. They are the sorts of things that we have done in office. Not many of them get attention, but I can tell you that for the people involved —

**Ms M.J. Davies** interjected.

**Mr M. McGOWAN:** Are you going to take off to Sydney again for a conference with your friends and miss Parliament?

**Ms M.J. Davies** interjected.

**Mr M. McGOWAN:** Are you going to take off and catch up with your friends over in Sydney and miss Parliament? That is what you do. You missed Parliament on Tuesday, I note.

These are the sorts of initiatives that we have put in place as a government to support the workforce across Western Australia, because that is what good governments do.

#### ABORIGINAL CULTURAL CENTRE

#### 530. Ms S.E. WINTON to the Minister for Aboriginal Affairs:

I refer to the McGowan Labor government's commitment to delivering a world-class Aboriginal cultural centre for Western Australia.

- (1) Can the minister outline to the house the role of the Whadjuk Aboriginal Cultural Centre project authority in choosing the site of the new Aboriginal cultural centre?
- (2) Can the minister advise the house whether he is aware of anyone who does not support the involvement of Aboriginal people in choosing the site for this significant cultural facility?



**Dr A.D. BUTI replied:**

(1)–(2) I thank the member for Wanneroo for the question. She has been instrumental in the whole process and I would like to thank her for her role in this.

Just before I get onto the question, the Leader of the Opposition criticised the Premier for not being at a union rally, when last week the member for Roe said that anyone who was a union representative and ended up being a High Court judge would be barred from being an independent monitor. So do not go on about the Premier not being at a union rally when you do not believe in unions. I will get onto the question.

*Point of Order*

Several members interjected.

**The SPEAKER:** Sorry, do not say anything just yet. Points of order are heard in silence.

**Mr R.S. LOVE:** I do not understand the relevance of the answer that has been given by the minister, and I ask that he be drawn back to the question he was asked.

Several members interjected.

**The SPEAKER:** It seems that about 20 people want to give me their opinion on the point of order, or maybe they just want to give it to the opposition. I do not see that as a point of order to be upheld; and, minister, I do ask you to address your comments to the question that was asked.

*Questions without Notice Resumed*

**Dr A.D. BUTI:** Thank you, Madam Speaker. The member for Wanneroo, along with the Minister for Culture and the Arts, myself, and the federal member for Perth, joined the Premier earlier in the week when we announced the site of the Aboriginal cultural centre. It was an absolutely fantastic occasion, as the member will remember. The member asked about how the site was selected. For the first time for a major state government project, we actually engaged six cultural representatives who were appointed as members of the steering committee to oversee the project that the member has had great involvement with. They are known as the Whadjuk ACC project cultural authority. They are representatives of their community. They had a gathering of over 80 Whadjuk elders last December, and they were elected to be the authority. As the cultural representatives on the committee, they were asked to consider six sites or different locations near the Swan River, or Derbarl Yerrigan. The selection of sites went through a very extensive cultural investigation and consultation process and was endorsed by the wider Whadjuk reference group for the project.

As members know, Barry Winmar is part of that cultural authority. I want to quote from his speech at the announcement of the site. Barry Winmar thanked the Western Australian and Australian governments for ensuring Aboriginal people had a strong voice and were represented in the selection process. I want to quote some of the things that he said —

the site ... is very significant to Whadjuk people. And the site selection has been a complex process. And I would like to ... congratulate my fellow members —

Of the cultural advice committee.

As members of this cultural advice committee, we went through an election process and we were selected and endorsed by the broader Whadjuk community ... It's the first time in a long time that Aboriginal people have got a voice at high level of government ... in a way that really exemplifies what ... Aboriginal culture is about in Western Australia ... my ancestors walked these trails in years gone by and it's a tribute to them to showcase the location and being a host for all those Aboriginal cultures across ... Australia.

That was from Barry Winmar, which I think is a testament to the process that was followed by this government.

Anyone would think this would be a day of celebration, given the location and the process that we went through, but in the Legislative Council, the chief bloviator, the pompous empty vessel that is known as Hon Neil Thomson —

Several members interjected.

**The SPEAKER:** Order, members, particularly the member for Fremantle! Points of order are heard in silence.

*Point of Order*

**Dr D.J. HONEY:** Madam Speaker, members in this place are not to make personal references of that nature about members in the other place. I would ask for your ruling on the matter.

**The SPEAKER:** I did not hear anything that I thought was out of order. If you want to draw my attention to what you particularly found offensive, you are welcome to. Otherwise, I will ask the minister to continue.

**Dr D.J. HONEY:** Calling him pompous and other insults.

**The SPEAKER:** I think there are a lot of people who have called other members pompous over the years. I am not aware of any of those points of order being upheld.

*Questions without Notice Resumed*

**Dr A.D. BUTI:** Thank you, Madam Speaker.

The pompous Hon Neil Thomson launched into a strikingly unsophisticated attack on the consultative process. He labelled the decision “cavalier adhocery” and claimed the centre would become “a white elephant” that would struggle to “attract visitation and activation due to its unplanned location”. Does the member know where it is? It is behind the Perth Concert Hall, near the Swan River, the Supreme Court Gardens and the Supreme Court.

**Mr W.J. Johnston:** And Government House.

**Dr A.D. BUTI:** It is near Government House. I am not sure how that will be out of the way for people to go and visit. More importantly, it has cultural significance to the Whadjuk people; it was chosen by them.

But we know the Liberal Party has form. We can go back to Richard Court’s decision to instigate the Land (Titles and Traditional Usage) Act 1993, which was challenged in the High Court of Australia. The High Court justices decided it was racially discriminatory, 7–0. But we do not have to go that far back, because we have Hon Tjorn Sibma. I think the Minister for Planning talked about his auditioning for “The Clan”. He is always auditioning for something, trying to get a new headline every day. He actually criticised the Dreamtime game. Member for Roe, you would not do that, would you? You would not criticise the Dreamtime game.

**Mr P.J. Rundle:** No, I wouldn’t.

**Dr A.D. BUTI:** No. The member for Roe was there last year with me, when we saw the great spectacle at the Optus Stadium. It is an absolutely fantastic game that is held every year. I have never heard anyone criticise it—except Hon Tjorn Sibma. It is disgraceful behaviour by the Liberal Party. I am sure its alliance partners would not agree with the comment by Hon Neil Thomson. Would you agree with that? Silence. I will take silence as —

**The SPEAKER:** Minister, I counsel you to put your argument rather than ask questions of those opposite.

**Dr A.D. BUTI:** Okay, I will.

Usually in politics when someone does not agree with something that is quite disgraceful, they call it out. There is silence from the Leader of the Opposition on Hon Neil Thomson’s disgraceful statement about the process that led to the location of the Aboriginal cultural centre. She has an obligation. She has a challenge to come out and criticise it or be taken to be agreeing with that disgraceful comment by Hon Neil Thomson.

Several members interjected.

**The SPEAKER:** Order, please!

## METRONET PROJECTS — TIME FRAME

**531. Mr R.S. LOVE to the Minister for Transport:**

I refer to the Minister for Transport’s latest Metronet project timetable.

- (1) Can the minister confirm that the opening of the Thornlie–Cockburn Link will be delayed until mid-2025 due to this week’s announced delay to the shutdown of the Armadale line?
- (2) Given the minister’s three-year delay in delivering the Forrestfield–Airport Link, will the minister be able to tell residents on the Armadale line that her revised timetable can be delivered?

**Ms R. SAFFIOTI replied:**

- (1)–(2) I love getting questions on Metronet from the opposition. I love it because, yet again, it is a chance to outline the history of those opposite on public transport in Western Australia.

**Ms M.J. Davies:** The question is about your record.

**Ms R. SAFFIOTI:** Have you finished?

Let us go through their record. Does everyone remember MAX light rail? Can everyone remember that? Members opposite went out in 2013 and said, “We’re going to build a light rail line called MAX.” They gave it a name. They built merchandise.

**Ms L. Mettam:** You said 2020.

**Ms R. SAFFIOTI:** Dial-a-quote—the member for Vasse! Any matter—she will make a comment on it. Particularly when the media give her the lines, the member for Vasse is ready to go and run them.

So, members opposite named it and made merchandise. They told people to buy property along the rail line, and then they came in and said, “It’s too hard. This public transport is a bit harder than we thought.”

Let us go to the Ellenbrook rail line. It is one of my favourites. In 2008, members opposite committed to building a rail line to Ellenbrook, and what did they do? Nothing. They recommitted to it in 2013, and what do they do? Nothing.

Let us go to the Forrestfield–Airport Link, as many may not know the history. Do members know when members opposite committed to it? It was in January 2013. The then Treasurer—the member for Vasse’s idol—Mr Buswell

went out carrying a suitcase and said, “Labor’s plan for a rail line is not great. Look at our plan for a rail line.” Does anyone remember it? Then they did another media stunt and said they would deliver it by 2018. In four years, the former government did nothing. When we arrived in office, the tunnel-boring machine was not even here. We have put together the tunnel-boring machine and we have built the rail line.

With respect to the member’s question, yes, we announced it in a media statement. Again, I know members of the opposition do not like reading. They do not like reading our media statements and they do not like reading budget papers either. I thought the member was going to ask a question about the budget, and I was going to say, “There’s this thing you can read called the budget papers. It has a lot of good information in it.” Every week, they say we are being secret about our costs. The members will find the costs are in the budget papers.

**Mr R.S. Love:** They don’t actually bear much resemblance to your current reality.

**Ms R. SAFFIOTI:** What?

**Mr R.S. Love:** Your budgets are blowing out daily.

**Ms R. SAFFIOTI:** What?

The FAL was delivered on budget for \$1.86 billion. Yes, we are working with industry because we have the biggest transformation of the public transport system ever seen. As I said, whether it is nurses in the hospital saying, “I can’t believe what you’re doing with public transport in WA”, or whether it is at a cafe or the butchers, people are constantly saying, “Wherever we go, there is infrastructure.” I think everyone knows. Just to put some more facts to it, last year our budget expenditure in the transport portfolio was \$3.2 billion. We spent 98 per cent of that figure. In these times and with these issues, we are spending basically 100 per cent of our transport investment. We are seeing a complete modernisation of the system.

Members may not know that I love star signs. A couple of weeks ago, I walked into the cafe and someone was reading some star signs. I said, “Let’s look at mine for today.” It was an interesting one. It said —

Be extra careful when emailing, texting or tweeting today.

That was my star sign. I thought it was probably better for the Leader of the Liberal Party that day, but anyway. I just thought I would check what the member for Moore’s star sign would have said that day, and I think it is relevant today, too —

If you meddle in other people’s affairs or engage in garrulous gossip, then you could end up with egg on your face. Check the facts before you open your mouth.

That was the star sign of the member for Moore.

Several members interjected.

**The SPEAKER:** Order, please! Member for Southern River!

#### METRONET PROJECTS — TIME FRAME

#### **532. Mr R.S. LOVE to the Minister for Transport:**

I have a supplementary question. I do not think the minister answered the question, so I will restate it. How can Western Australians believe the minister’s timetable will be delivered, given her repeated failures to date?

**Ms R. SAFFIOTI replied:**

Let us think about those people in the Armadale corridor and the Denny Avenue level crossing removal, a project that the late Don Randall wanted to get up. He took numerous transport ministers to site again and again. What did they get? Zero. The Denny Avenue level crossing removal is completed. The people of the Armadale corridor know only Labor invests in those areas. From Byford through to Thornlie through to Canning Vale and Cannington—I am so proud of the infrastructure spend already in that corridor. We have the Kwinana Freeway works, the Armadale Road works and now the complete transformation of the Armadale rail line—a rail line that the former government did not touch in eight and a half years and roads that the former government never improved in eight and a half years. It wilfully turned its back on the suburbs of our state, and it would again, given half the chance. Only Labor delivers for that corridor. I tell opposition members what: there is a level of excitement about our infrastructure spending that they could only dream of!

#### ROAD INFRASTRUCTURE — PERTH

#### **533. Mr Y. MUBARAKAI to the Minister for Transport:**

I have the pleasure of asking my question to the Minister for Transport. Minister, I refer to the McGowan Labor government’s record investment in road infrastructure across Western Australia.

- (1) Can the minister update the house on how projects, such as the new Mandurah Estuary Bridge, the new Leach Highway–Welshpool Road interchange and the widening of Ranford Road, are supporting jobs; and outline how they will help ease congestion across WA?

- (2) Furthermore, can the minister update the house on how this massive infrastructure program compares with the record of the previous failed government?

**The SPEAKER:** I will note that that question was a little long. Minister for Transport to respond, please.

**Ms R. SAFFIOTI replied:**

- (1)–(2) I thank the member for Jandakot for that question. He is talking about projects in the community. Funnily enough, my star sign for today is quite interesting. It says that today's stars favour local community projects, group activities, such as this, and cosmopolitan international connections. I do not have the last one!

**The SPEAKER:** You have just been asked a question by the member for Jandakot. I think you have the connection!

**Ms R. SAFFIOTI:** Oh, yes!

Several members interjected.

**Ms R. SAFFIOTI:** Three out of three—community projects, group activities, which we are engaging in at the moment, and cosmopolitan international connections. There we go, member for Jandakot!

Turning to the question, today we again saw incredible employment rate results in Western Australia. Of course, throughout the state we are seeing massive spending on infrastructure, as I outlined. Last year, \$3.2 billion was spent. Whether it is regional roads, whether it is public transport, whether it is maritime expenditure, whether it is supporting people travelling throughout regional Western Australia through airfare caps or whether it is roads, we are doing all we can across the state to ensure that we create jobs, reduce congestion and improve the connectivity of towns and suburbs across WA.

We are seeing a couple of really exciting projects at different stages in their life, such as Ranford Road. One of the best benefits of our rail projects also benefits our road projects. I have never been in the camp that says you should neglect road spending just to focus on public transport. You can do both and we are doing both. That includes, for example, Ranford Road. We are expanding Ranford Road's capacity. The first of 18 beams were installed in May last year, as we know, member, and the final three will complete the process. At 15 metres long and weighing 200 tonnes, the beams are some of the largest of their type built in Australia, manufactured here by the Georgiou Group at Hazelmere. The final section of the bridge build is expected to be complete and fully operational next year. Again, this will reduce congestion, improve public transport capacity in relation to the bus lanes and, of course, will help facilitate the Thornlie–Cockburn Link.

The Mandurah Estuary Bridge, member for Dawesville and member for Mandurah, is again a project that the previous government, despite being in government for eight and a half years, failed to deliver, absolutely neglecting the people of that area. We are in the planning stage to build on and expand the bridge, again to reduce the bottlenecks and reduce congestion.

The project for the interchange ranked as the most congested across the entire network is the Leach Highway–Welshpool Road interchange. The train has been diverted on to the Leach Highway overpass. We will be completing the roundabout underneath it over coming months. Of course, it will reduce congestion there. When we remove that terrible level crossing at Welshpool Road—which, of course, will happen as an early part of the project because we will tear up those train tracks—and have the new bridge operating, it will completely change it and reduce the congestion and stoppages in that area.

As the member outlined, this is about communities. This is about making sure people can get home safely and with less congestion. Again, it builds on the record infrastructure spend in the state and makes sure that people have jobs and we build infrastructure for not only today, but also generations to come.

#### McGOWAN GOVERNMENT — HEALTH PERFORMANCE

##### 534. Ms L. METTAM to the Minister for Health:

I refer to the McGowan Labor government's election commitment that WA Labor will make patients the priority, give patients the attention they deserve and properly manage our hospitals and health services and that its policies are smart, innovative and affordable, and include the fresh ideas our state needs to make our hospitals smarter and more responsive.

- (1) Given former shadow Minister for Health Roger Cook's comments that having patients in ward corridors was unacceptable, how can the government now endorse this practice?
- (2) With people waiting more than 24 hours to be seen in an emergency department, does the minister accept that the government's policies are more of a dismal failure than smart and innovative?

**Ms A. SANDERSON replied:**

- (1)–(2) I enjoy how the member for Vasse structures her questions to be so broad that I can answer them in any way that I choose. Learning to ask insightful questions is the job of the opposition, and she has been in it for a while, so it always astounds me.

Our record on hospital and capital investment stands for itself. There has been no greater capital investment in our hospital system than by the McGowan government. There has been no greater capital investment. I recall a former government that could not even open the Perth Children's Hospital. It could build the hospital but it could not open the hospital. The former Minister for Health and the former Treasurer and Minister for Finance opened that hospital. In less than 12 months, this government has put 420 beds into our system. That is more than twice Perth Children's Hospital's bed capacity. That is the scale of the beds that we have put on in less than 12 months. We have lifted our FTE by 13 per cent in the last two years. It went backwards under the former government. It went backwards by nearly 1 000 staff—let alone the attrition, it went backwards under the former government. The Health budget now makes up 31 per cent of the state budget. It has increased exponentially under this government and year on year on year. That is our investment in hospitals, beds and, importantly, people.

McGOWAN GOVERNMENT — HEALTH PERFORMANCE

**535. Ms L. METTAM to the Minister for Health:**

I have a supplementary question. Given that “red squaring” is now the new normal, how can the minister at all suggest that the health system is not in crisis?

**Ms A. SANDERSON replied:**

I remind the opposition of a couple of quotes that have come from members on its side. It is true that our hospitals are busy at the moment and —

**Ms L. Mettam** interjected.

**The SPEAKER:** Order, member for Vasse! You have already asked your supplementary question and the minister is responding.

**Ms A. SANDERSON:** There are occasions when there are pressure points that arrangements need to be made for patients to be seen safely. I remind the member of a direct quote from former Premier Colin Barnett in 2013. He said —

... while patients have been in corridors and the like ... I think we need to keep that in perspective.

He said that a close family friend had been in Fremantle Hospital —

... but the level of care was superb.

That was the member's own Premier who said that when she was in government. Helpfully, the former Liberal health minister called into 6PR a couple of weeks ago and said —

It is really easy to talk about ambulance ramping.

...

It needs to change the way patients come through emergency departments and it's easy to sit outside and say how it should be done. It's a lot harder from the inside and I know they are trying to do some of those things.

That is from the former Liberal health minister, and that is exactly what we are doing. We are investing in our long-stay patients and moving them out into aged-care facilities and transition care. We are investing in virtual emergency medicine, which is already in existence at south metro and is being rolled out at east metro and north metro as well. We are investing in real-time imaging and in waiting room nurses. There is significant investment happening across the system and we are in a global pandemic. Every single system is experiencing the same issues. I want to pay credit to the hardworking staff of our system, who are doing a fantastic job caring for people. Most importantly, they are caring for people who are coming in triaged at 1, 2 and 3. They are seen as appropriately clinically safe. They are seen as an emergency care patient. I urge those patients who are triaged at 4 and 5 and who could go to a GP or an urgent care clinic to do that.

NET ZERO EMISSIONS — 2050 TARGET

**536. Mr C.J. TALLENTIRE to the Minister for Energy:**

I refer to the McGowan Labor government's commitment to net zero carbon emissions by 2050. Can the minister update the house on the work underway to transition WA's energy system to higher levels of renewables, and can the minister advise the house whether he is aware of anyone who opposes a sensibly managed transition to a lower carbon future?

**Mr W.J. JOHNSTON replied:**

I am very pleased to take the question from the member for Thornlie. I remind the chamber that his job prior to coming to Parliament was as leader of the Conservation Council of Western Australia, and he did a great job in that role before joining us here. He demonstrates his continued commitment to the environment. The Labor government in Western Australia has a deep commitment to achieve net zero emissions by 2050. As a government, we are playing our role. We are investing \$3.8 billion to get Synergy to reduce its carbon emissions by 80 per cent by 2030 based

on the 2020 levels. That is an extraordinary achievement. It is much more ambitious than what is being done in other energy systems. I was pleased to be with the Premier the other day in the Deputy Premier's electorate to watch the first of our big batteries being craned in. That is an example of what we need to do as we transition to a lower carbon future. Synergy already has a team of people working on wind and battery projects and on pumped hydro right across the state because we are committed to seeing lower carbon emissions. Of course, we welcome the federal government's decision to set a target of reducing emissions by 43 per cent. We are not alone in doing that. I draw attention to the Business Council of Australia chief executive, Jennifer Westacott, who said —

“It's time to move beyond the debate about targets and get on with the ‘how’ ...

I cannot believe that I am actually quoting from the Chamber of Commerce and Industry Western Australia, which said —

CCIWA has today released a comprehensive position statement on climate change, which supports the Federal Government's 43 per cent reduction target by 2030 ...

I can also draw the chamber's attention to comments from Rio Tinto in an article in *The Sydney Morning Herald*, which states —

The backing of Rio Tinto, the nation's largest producer of iron ore, marks a significant endorsement of Labor's climate agenda ...

That just shows members the extent and breadth of support, which is why I am surprised that the shadow Minister for Energy opposes the Labor Party's ambitions. What did he say? Quoting from *The West Australian*, he said —

My concern is this target is so aggressive that it will only be achieved with enormous harm.

That is his position. Is he talking about harm to the environment? Is he talking about the harm to the members represented by the National Party who are being impacted by climate change more than anyone in this chamber? They are now having big swings in their climate, with long periods of dry seasons impacting the performance of their farms, followed, like this weekend, by flooding that knocked out the electricity system. Does the member for Cottesloe sympathise with the victims of cyclone Seroja that crossed the coast that far down? That shows what happens due to global warming. Or is he going to support us to fight to reduce the impact of human-induced climate change? It is ridiculous that this is the only person in Australia, apparently, who is opposed to action on climate change. What a dinosaur! We all thought that when Tony Abbott was defeated in Parliament, that was the end of the climate wars with the Liberal Party. I went to the national Energy Ministers' Meeting last week at which Liberal, Labor and Greens ministers were all together supporting action on climate change. There is only one Luddite left, and that is the member for Cottesloe.

#### CRIME AND ANTISOCIAL BEHAVIOUR — CARNARVON

##### 537. Ms M.J. DAVIES to the Premier:

I draw the Premier's attention to the question I asked last week in Parliament regarding the letter he received from Councillor Eddie Smith and the Shire of Carnarvon that outlines the challenges facing his community. I remind the Premier that it includes the comment —

It breaks my heart when I am told of an 86 year-old woman who is woken at night by a group of children standing over her bed, who then go on to steal items and trash her property. The elderly ... are living in fear!

As it has now been over a week since I asked the Premier whether the government has considered the proposal for the intensive family and community intervention support program, which was developed by the Shire of Carnarvon in consultation with key community stakeholders, including the Yinggarda Aboriginal Corporation, and is designed to tackle these issues, has the Premier considered this plan; and, if not, why not?

##### Mr M. McGOWAN replied:

The Leader of the Opposition did not listen to the answer I provided last week, which was that the government is extending what we term the Target 120 program to various regional communities, including Carnarvon. The Target 120 program is peer reviewed and well accepted as making a significant difference. It has resulted in families, particularly those with children who are involved in the justice system, having much lower levels of recidivism. That is the reality. That is a proven program that we are rolling out in Carnarvon. It is working in various parts of the city and we are rolling it out to various communities in the Kimberley and the Pilbara and also to Carnarvon. The funding behind that is very significant. Target 120 works with families to ensure that kids go to school. It includes programs about parenting. We work on an individual case-by-case basis with those families who have difficulty managing their children, particularly when the children have been involved in the justice system. I advised the Leader of the Opposition last week that that program is going to Carnarvon.

On top of that, we are employing more police officers, or we have posted more police officers, in Carnarvon. Those police officers work in enforcement, obviously, but they also work with families. That is the nature of policing in regional Western Australia. They work with families, particularly those who have children involved in the justice system.

On top of that, I think one police community officer has been posted there in addition to a significant number—we do not reveal individual numbers—of additional police in Carnarvon. As I told the member, I went there I think last year, or perhaps earlier this year, to open the new police and community youth centre in the heart of town. What do PCYCs do? We also put funding into the PCYCs because they were going to collapse under the last government and we had to backfill the funding to ensure that they continued to operate. What does a PCYC do in a town like Carnarvon? It runs sporting, cultural and social programs with children and families, and engages them in productive and exciting activities. That is now in the heart of town. It is a wonderful facility right in the middle of the town in Carnarvon. People can go there and access those services.

All those things are happening, but the Leader of the Opposition does not listen to the answers.

#### CRIME AND ANTISOCIAL BEHAVIOUR — CARNARVON

##### **538. Ms M.J. DAVIES to the Premier:**

I have a supplementary question. Does the government support the Shire of Carnarvon's proposal, which is called the intensive family and community intervention program—yes or no?

##### **Mr M. McGOWAN replied:**

As I said, we support the programs that are proven to work, which is what the Target 120 program is.

**Ms M.J. Davies:** Your answer is no. You are not answering the question.

**The SPEAKER:** Order, please!

**Mr M. McGOWAN:** I think the Leader of the Opposition's issue here is her dispute with the Liberal Party. I think that is the issue here. She is in dispute with the Liberal Party, with two candidates jousting it out up there. That seems to be her issue. That is why the Leader of the Opposition has raised these issues.

**Ms M.J. Davies:** Do you think that you're letting that get in the way of what the people of Carnarvon have written to you about?

**Mr M. McGOWAN:** The Leader of the Opposition has never raised an issue about Carnarvon in here before now. She has never raised it in here before.

Several members interjected.

**Mr M. McGOWAN:** I do not even know whether she has been to Carnarvon before.

Several members interjected.

**Mr M. McGOWAN:** The Leader of the Opposition is now in a life-and-death battle with the Leader of the Liberal Party, and what an opponent he is! She is in this battle with the Leader of the Liberal Party for the heart and soul up there and, therefore, for the first time ever she is raising issues about Carnarvon.

Several members interjected.

**The SPEAKER:** Order! It is a little of a shame that so many government members interjected while the Premier was speaking.

#### POLICE — COMPENSATION SCHEME

##### **539. Mr T.J. HEALY to the Minister for Police:**

Thank you, Speaker, I concur. It is interesting to see all the Liberal and National rats eating each other at the moment.

**The SPEAKER:** That is not the best way to start your question, so start again, thanks.

**Mr T.J. HEALY:** I refer to the McGowan Labor government's unprecedented support for police officers. Can the minister update the house on the implementation of this government's police compensation scheme and outline any additional benefits that will provide further assistance to those officers who need to access the scheme?

##### **Mr P. PAPALIA replied:**

I thank the member for his question and his fulsome support of, particularly, his local police.

The government introduced the Police Amendment (Compensation Scheme) Bill to Parliament last year and the act came into effect on 1 January. That legislation was a commitment at the last state election. It is like train building—something that the opposition said could not be done, something it was unable to deliver but also something that it said could not be done. We did it.

Since we took office in 2017, we have also grown the number of police officers who will benefit from that scheme. Hopefully, they will not have to access it, but they will know that it is there as a safeguard in the event that they are medically retired. We have grown the number of officers in the police force from the number that was in place when we took office by over 550. That is huge growth. We are growing that number all the time and, as members know, we are committed to growing it further.

For the awareness of members, I want to reiterate the benefits of the scheme that the Liberals and Nationals said could not be delivered to our police officers. It enhances the level of care and support to officers who are no longer able to serve as a result of being medically retired and injured in the line of duty. They will be eligible for a compensation payment of up to \$243 991, with a lump sum payment of \$17 079 for vocational support and retraining. An officer may access an additional amount of up to 75 per cent of the prescribed amount, making a total combined sum of \$418 563, when an officer suffers permanent and total incapacity and their social and financial circumstances justify it. That is a huge benefit that was not there before, not even before this year.

However, there is better news for those officers who, sadly, may have to access this scheme. I can confirm that the McGowan government has worked with the Australian Taxation Office and has been successful in having the ATO amend its initial decision to tax those payouts. That means that the payments made under the scheme to medically retired members of the WA Police Force will not be taxable. It is a terrible thing for an officer who is injured, either physically or through having suffered some trauma and is psychologically incapacitated, to the extent that they are no longer able to work. But now, all of us should be very proud of the fact that this year this government delivered support for those officers that was never there before; and, in addition, it will be tax free.

**The SPEAKER:** Order! The member for Roe with the last question.

#### ESPERANCE SENIOR HIGH SCHOOL AND EDUCATION SUPPORT CENTRE

**540. Mr P.J. RUNDLE to the Premier:**

I refer to the Premier's recent visit to the Esperance Senior High School and the Esperance Education Support Centre, where he saw the deplorable state of the 1966 buildings and the impact of this environment on the learning potential of students, not to mention the work health and safety issues for the entire population of both schools. Since his visit, what has he and the Minister for Education and Training done to remedy this dire situation at Esperance Senior High School and the education support centre?

**Mr M. McGOWAN replied:**

I would like to thank the school community. I did visit the school when I visited Esperance some months ago and I would like to thank the school community for the excellent education it provides to the students of Esperance. Obviously, I visit many schools and we constantly review our capital program to upgrade schools around Western Australia. I recall that when I was education minister back in the late 2000s, the Labor government invested a significant amount at Esperance Senior High School. It was probably the last time that a government invested a significant amount in Esperance. As I recall, we undertook some major improvements to the value, again from memory, of \$10 million. I note that when the Liberals and Nationals were in office for eight and a half years, I do not think anything was spent on the school. Perhaps they will need to look in the mirror.

#### ESPERANCE SENIOR HIGH SCHOOL AND EDUCATION SUPPORT CENTRE

**541. Mr P.J. RUNDLE to the Premier:**

I have a supplementary question. Given the urgency for remediation required at the Esperance Senior High School and the Esperance Education Support Centre, can the Esperance community look forward to a commitment from the government for the situation to be addressed within the next 12 months?

**Mr M. McGOWAN replied:**

I thank the member for the question. We invest an enormous amount into Esperance and the great southern. I recall, I think, \$30 million was spent on the road between Albany and Esperance, which was designed to save many lives; from memory, there was the upgrade to the Jerramungup Health Centre; and there was investment into the Esperance TAFE and the new basketball courts at the new recreation centre, which again, from memory, was \$16 million or so. It is interesting that the only government that seems to invest anything in Esperance is a Labor government and that when the Nationals and Liberals are in office, nothing happens there. Obviously, we will continue to examine our capital works budget, because we are rebuilding schools all over Western Australia due to the neglect of the last Liberal–National government.

**The SPEAKER:** Members, that concludes question time.

### OWNER-DRIVERS (CONTRACTS AND DISPUTES) AMENDMENT BILL 2022

#### *Second Reading*

Resumed from an earlier stage of the sitting.

**MR D.R. MICHAEL (Balcatta — Parliamentary Secretary)** [2.56 pm]: Just before 90-second statements and the lunchbreak, I was wrapping up my speech and going through some of the ways in which the government supports transport workers around the state. I was talking about the improvements to truck rest stop areas and I want to go through a few more. There will be improvements to 10 key heavy vehicle sites in the Pilbara, midwest, Gascoyne, goldfields–Esperance and south west. At the moment, upgrades are being rolled out at Newman, Auski, Karijini and



Leonora. The state rest area strategy is under review and includes an audit of current facilities and the development of a database of all roadhouses, towns and petrol stations to better identify gaps in the freight network. I say that because that is part of the \$50 million that our Minister for Transport was able to secure, as well as federal government funding, with the support of the Western Roads Federation and the Transport Workers' Union, to get these truck stops up to scratch. I thank the minister for that.

I went through some key things that the government is doing for transport workers, including this legislation. I think I mentioned the Minister for Industrial Relations and the Steering Healthy Minds program that helps with mental health issues in the transport industry. I read out myriad road projects that are being championed by our Minister for Transport. That is where I got up to.

Again, I think that Parliaments around Australia will have to continue to look at future work in the gig economy because there will be apps and services that we have not contemplated yet that our legislation will lag behind, a little like this, and that we will have to deal with because that is the nature of modern society. Again, I commend the minister for the commitment to looking at further owner–driver legislation for coverage for operators who drive vehicles under 4.5 tonnes. This is a significant issue for owner–drivers around our state and the country and I know that the Transport Workers' Union federally will take this up with the federal government given the lack of action by the former federal government and all its ministers.

In conclusion, Western Australian owner–drivers and hirers deserve the benefits of rights that many others now take for granted, and I support the state government's measures, which will assist the Road Freight Transport Industry Tribunal in the performance of its functions and support its role in giving owner–operators and workers safety and dignity in the job that they do every single day. These amendments are the result of several years' work; I think the member for Moore mentioned that a review commenced in 2018, and there may have been a review before that as well, to look at the operational effectiveness of the legislation. Throughout the review process, consultation was undertaken with all industry associations and unions. I recognise this achievement on behalf of all transport workers and owner–operators in WA.

This has come about through significant consultation with industry through the Road Freight Transport Industry Council, and I thank members of the council, including the Western Roads Federation; the Transport Workers' Union of Australia especially, and its secretary, Tim Dawson, and all the hardworking people in that union; and other industry representatives, for their work on these amendments. I commend the bill to the house.

**MR C.J. TALLENTIRE (Thornlie)** [3.00 pm]: I am very pleased to make a contribution to the second reading debate on the Owner-Drivers (Contracts and Disputes) Amendment Bill 2022. I have never worked as an owner–driver, but I am very pleased to say that I have a truck licence and have had occasion to use it and to enjoy the various opportunities that it has given me. It has also made me aware of the challenges that people face when they are driving a heavy vehicle on the road. It requires a skill set and involves a set of responsibilities when people are in charge of such vehicles. I was involved in driving livestock, which really does involve driving in a quite different fashion from simply driving a car. I have also driven loads of hay and other agricultural produce.

Driving a heavy vehicle with a heavy vehicle licence enabled me to see at close quarters the sorts of situations a truck driver faces. However, an owner–driver has an entirely different set of challenges to face, especially in respect of their complex relationship with the people who hire them as owner–drivers. I am thinking particularly of the shift work that is involved. One of my neighbours does the very valuable work of subcontracting to the various supermarket chains, delivering goods from the warehouses to the shopping centres. I noticed during the lockdown that their truck pulled out of my street around 11.00 pm, so it was clearly nightshift work and involved very long hours. It is valuable work and, as is the case with so many other jobs that we take for granted, we were able during the COVID lockdown period to gain a real sense of appreciation of essential work—the work that enables us to keep functioning as a society. We have gained a new appreciation for people whose occupations were not always as visible in the past. Owner–drivers who are involved in that distribution network are very important to us, as are a whole host of other jobs such as the people who work in checkouts and stack shelves in supermarkets. That is very important and extremely valuable work for all of us.

There are a lot of other challenges for owner–drivers, and other members have touched on these. There are the health impacts of this occupation. It is a fairly sedentary activity, sitting in a truck, although it requires degrees of exercise at different times. However, when drivers are doing long hauls, they can be sitting for an extended time. There is also concern about the quality of food that is available to owner–drivers or, indeed, anyone who travels long distances in Western Australia. I really think the issue of often unhealthy roadhouse food is something that we need to examine further, because it is the staple diet of many people who drive long distances across the state and the nation. We have to make sure that there is better food available. We should also not discount the fact that if we want to promote ourselves as a driving holiday state, we have to be able to entice people not only with the wonderful experience of travelling in a big, open state, but also by being able to assure them that they will be able to get good food along the way. That is another important aspect. There are many other challenges that owner–drivers face, including the power imbalance that can exist between the hiring firm and the owner–driver, and that is where this legislation is so valuable.

I turn now to another particularly important issue with regard to sharing the road. Much of this legislation is centred on the importance of good road safety and of sharing the road space. I note some of the progressive and really positive things that are going on when we could have faced—indeed, sometimes still do face—challenges in sharing the road space. I am thinking in this case about the road space being shared between truck drivers and cyclists and the cycling community. I want to highlight a particular example that I have spoken to the member for Geraldton about, but it also occurs in the electorate of the member for Moore. In the Chapman Valley area, around the time of grain carting, there are mostly farmer-owned trucks carting grain to the various wheat bins, and therefore a lot of trucking activity on roads such as Chapman Valley Road, Rudds Gully Road and Morel Road. The local cycling community recognises that these are all beautiful roads to ride on, but at times they are dominated by grain trucks. It has made the very sensible decision, working with the local trucking community, to say, “This is a time of year when we are better off not riding on those roads, and we need to find alternatives.” That good sense and communication between professional truck drivers and the cycling community is a real indication of the way things have to go—good use of the road space, recognising that there are significant engineering constraints on some of those roads, where it is just not feasible for a truck to pass another truck and come around a blind corner to encounter a peloton of road cyclists.

**Mr R.S. Love:** Would you support widening Chapman Valley Road?

**Mr C.J. TALLENTIRE:** I do not know Chapman Valley Road —

**Mr R.S. Love** interjected.

**Mr C.J. TALLENTIRE:** I thank the member for his interjection. I do not know Chapman Valley Road, so I cannot speak to its engineering constraints. I am simply going on what I have heard about this very good Geraldton-based cycling advocacy group that includes members of the local cycling clubs, including Spokes Cycle Club and the Geraldton Mountain Bike Club, and I acknowledge the relationship that they have built up with their local truck driving professionals.

I am glad the member for Moore raised this matter. The Backroads Fields of Gold gravel bike race is on this Saturday. That is in the member for Moore’s electorate; I notice that he is not sponsoring the event, but the member for Geraldton is. This is a very positive development. People are getting more and more into riding on these gravel back roads. People just need a bike that is slightly adapted to have wider tyres than the typical road bike and a high degree of fitness, because the blue-ribbon event is 160 kilometres. They are very proud of the Fields of Gold race. I think it will be the first such race, and it is a good one for the member for Moore to be aware of. I think this event will be very successful. It is a further indication of the passion that many people in the community are developing for road cycling. This new form, gravel racing, is an option people might like to look at.

While I am on this topic, I acknowledge that the Minister for Transport has created and given me the honour of chairing the bike riding reference group, which has a diversity of interests represented around the table. Indeed, we often find ourselves discussing things like the interaction between the cycling community and professional truck drivers, as well as new emerging issues such as how to cope with e-rideables. I note the excellent contributions from the Road Safety Commissioner, and representatives from WA police, WestCycle, Tourism Western Australia, the Australian Institute of Traffic Planning and Management, the Department of Health, the Road Safety Commission and the Western Australian Local Government Association. It is really an excellent forum, and I commend the minister for her support of the group. A very valuable and high-level discussion goes on. I do not think I mentioned that the Department of Education and the Department of Biodiversity, Conservation and Attractions are also at the table. We have a meeting tomorrow morning with a full agenda already. This relationship with all road users is absolutely germane to every aspect of our meetings.

I note in the technical detail of the bill that it has the primary objective of clarifying the tribunal’s jurisdiction over expired contracts, and I can see how important that will be. It also aims to enhance the tribunal’s powers by expanding the scope for determining unconscionable conduct by hirers of owner–drivers. This is a really key issue because it would be easy for unconscionable conduct to involve hirers imposing exhausting shifts and hours on owner–drivers. If a hirer wants to get rid of owner–drivers or pay them less, and the owner–drivers are not willing to agree to a lower paid contract, a tactic could be employed—unconscionable conduct as it would be—to simply exhaust the poor owner–drivers. They would be then left with no other option but to resign and look for other work, but that is not good for the industry. That is exactly the sort of thing that leads to a general downward spiral, and, ultimately, to unsafe practices on the roads. Drivers would be driving in a state of heightened fatigue, unable to pay attention to the detailed things that happen on public roads.

Another objective of the bill is the introduction of right-of-entry provisions. Other members have talked about this. It applies for suspected breaches of an owner–driver’s contract or disputes, so the right of entry is very important as well.

The introduction of a statutory minimum notice period or payment in lieu of termination of all owner–driver contracts is especially important because it will give owner–drivers the certainty they need to know when their various contracts will come to an end. As we often hear, certainty in business is vital for ensuring that business owners are in a position to invest. In the trucking industry, investment in a good and reliable truck is essential for ensuring the safe operation of the vehicle, for ensuring it is fuel-efficient and not one of the old polluting clunkers, and for ensuring that it is

a clean and efficient vehicle that can be driven safely and do the job reliably. We want to facilitate investment in this part of the trucking industry, and the statutory minimum period is vital when it applies to a contract termination. It is the extra level of certainty that business owners need.

Finally, I make a point about addressing the various administrative deficiencies that emerged since the Owner-Drivers (Contracts and Disputes) Act 2007 commenced. Important technical work is to be done there.

My interest in the trucking industry probably goes back to days when I worked on the wheat bins. I thought that it looked like more fun to be driving trucks into the wheat bins than doing the receival point sampling or weighbridge operating. That was what inspired me to get my truck licence. It really is a job that requires a high degree of responsibility and skill. At the time, the challenge of being able to double declutch was just a very small part of it. A lot of forward thinking was required—looking ahead to see potential obstacles on the road and any bottlenecks that might emerge. I can certainly say that when I was driving a vehicle with livestock on board, in my case stud cattle, they were valuable livestock. You have to drive particularly carefully in that case. That is another skill set in itself. During Royal Show time, I enjoy seeing people driving from the country into Perth with trucks laden with magnificently groomed show cattle. Family members talk about driving into the city along Hay Street with its various speed humps on the approach to the Rokeby Road and Hay Street intersection in Subiaco. They talk about going over the speed humps with cattle on board and seeing the city lights for the first time. It is all a part of their Royal Show experience, which they are more than ready for. They go down to Claremont Showground for that important event, which is an opportunity for the state to demonstrate how, through careful bloodline examination, we are breeding livestock that is best adapted to our Western Australian conditions. Our animals are efficient in converting feed into muscle, are easy to work with and have all the other traits we look for in our livestock. Getting them around the place requires some very careful driving.

I commend the work of anyone involved in the trucking industry, especially owner–drivers who face challenges coping with the pressures put on them by sometimes unscrupulous hirers. Sometimes, it has to be said, unscrupulous hirers have wanted to push them to the limits and force them into situations in which they are either driving vehicles that are not particularly modern but not knowing when they can upgrade because of uncertainty about the longevity of their contracts or having to face serious fatigue matters.

Finally, I also acknowledge a former student of Thornlie Senior High School who was at a recent school graduation a few months back now. Senator Glenn Sterle spoke to the Thornlie Senior High School community about his time at that school and the life opportunities that opened up to him through his truck-driving career. That was something that captured the imagination of the graduating class at Thornlie Senior High School. It was a nice demonstration of the opportunities provided through truck driving. He is now a senator, of course, and someone who makes a great contribution to the nation in that way.

I commend the bill to the house and thank the minister for her work in ensuring the comprehensive nature of the bill.

**MS R. SAFFIOTI (West Swan — Minister for Transport)** [3.21 pm] — in reply: I thank everyone for their contributions to the debate on the Owner-Drivers (Contracts and Disputes) Amendment Bill 2022. I have learnt a lot about members. The member for Thornlie gave us an insight today into his quite interesting firsthand experiences. I thank the Deputy Leader of the Opposition for his contribution to the debate, his acknowledgement of the legislation, and also the fact the opposition will support the bill. I also acknowledge the work that has been undertaken by the key stakeholders in the bill. I acknowledge the Transport Workers' Union of Australia, the Western Roads Federation and the Livestock and Rural Transport Association. I have engaged with the association positively on a number of issues and I will make it a point to further engage with it in future as well.

I will go through some of the points raised by the Deputy Leader of the Opposition.

I also wanted to acknowledge all those who are involved in the industry. Sometimes it is a very tough job, travelling long distances from family and loved ones. The government is investing a record amount in road safety to help address longstanding road safety issues, particularly in the north of the state. For example, the government is trying to replace one-lane bridges with two-way bridges and, of course, it is implementing the regional road safety program. The other key area is rest stops. We are partnering with the commonwealth government to provide \$50 million to be spent on new rest stops and better facilities across the state.

I will go through some of the issues raised by the Deputy Leader of the Opposition and other members and try to address some of those in my response. I refer to the right-of-entry provisions. Sections 35 and 36 of the act never became law. Soon after the act was passed, it became apparent they would cause difficulties and were inconsistent with the right of entry under the industrial relations legislation. The amended right-of-entry provisions proposed in clauses 13 to 18 of the bill provide for a holistic right-of-entry scheme, which is consistent with the equivalent right-of-entry provisions prescribed in the Industrial Relations Act 1979. The new provisions set out defined processes, with supporting protections for authorising, suspending or revoking a right-of-entry authority consistent with the right-of-entry provisions under the WA Industrial Relations Act 1979, and they will facilitate the procurement of evidence to inform the tribunal's dispute resolution processes. The enhanced right-of-entry provisions were developed in consultation with the WA Industrial Relations Commission and the Department of Mines, Industry Regulation and Safety.

With regard to owner–driver consent regarding right of entry, proposed section 34E provides that written authority by the owner–driver is required to ensure that an authorised representative expressly has the owner–driver’s consent to act on their behalf to investigate a suspected breach under an owner–driver’s contract. The right-of-entry provisions in proposed section 35 in division 3 of part 8 are consistent with section 49I of the Industrial Relations Act 1979, which also does not require an authorised person to identify whether an employee has authorised the representative to act on their behalf; rather it is implicit that an authorised representative is authorised to represent an owner–driver by virtue of them holding an authority consent by virtue of holding a written authority. This allows an owner–driver to confidentially seek an authorised representative to carry out investigation while preventing further discrimination of an owner–driver for raising concerns. If it was suspected that the authorised representative did not have an owner–driver’s consent, proposed section 34D(3) will provide for anyone, including the occupier of a workplace or hirer, to apply to the tribunal to suspend or revoke the right-of-entry authority. Under proposed section 34D(3), the tribunal can suspend or revoke on the grounds of being satisfied that the authorised representative has acted in an improper manner in the exercise of their powers to conduct an investigation under division 3.

The provision for confidential reporting of suspected breaches of the act, code of conduct or individual owner–driver contracts provides for issues to be addressed to enhance industry practice without fear of discrimination or jeopardising an individual owner–driver’s future work opportunities. In addition, proposed part 6B provides that discrimination against an owner–driver is grounds that the tribunal can take into account when making a determination of unconscionable conduct. Unlike section 49K of the WA Industrial Relations Act, an authorised representative under the owner–driver legislation will not have the right to enter a part of a workplace that is principally used for habitation by an occupier of a workplace or a member of the occupier’s household.

Key industry and government stakeholders were consulted during the development of the bill. They include the Road Freight Transport Industry Council, comprising the Transport Workers’ Union and the Western Roads Federation. As I said, the Livestock and Rural Transport Association will be further consulted as we progress. I have met with the association on a number of issues over the years I have been minister, and I also try to attend its conference when I can. Other stakeholders include the Road Freight Transport Industry Tribunal; the Registrar of the WA Industrial Relations Commission; the Department of Mines, Industry Regulation and Safety; and the Small Business Development Corporation.

As I said, the Road Freight Transport Industry Council has industry representation from both owner–drivers and hirers through their peak industry bodies and will continue to be consulted. Up to eight people can be appointed to the council. Members are to have the experience, skills and qualifications considered appropriate to enable council members to make a contribution to the work of the council.

In relation to membership of the council, they can nominate and they will be appointed by me through cabinet. Membership nominations are sought during the term of the current council members’ term of appointment, and will be approved by the relevant minister, like me, and cabinet.

The government has committed to continue further considerations and we will be working with the department and also with key stakeholders to continue to reform this space. We see this in a sense as the first tranche. We are committed to investigating further amendments to the WA owner–driver laws to broaden the scope of the act. Members have raised the issue of wider use of employment activities in the transport industry and looking at how we can improve the safety and minimum conditions of everyone involved in the transport industry. The government has committed to this and will continue to work on with a view to a second stage of reforms.

I thank government members and the opposition for their contributions to this bill. I would like to see it progress. I understand we will be going into consideration in detail to answer some questions that the opposition might have. I thank everyone for their contributions.

I commend this bill to the house.

Question put and passed.

Bill read a second time.

[Leave denied to proceed forthwith to third reading.]

#### *Consideration in Detail*

**Clause 1 put and passed.**

**Clause 2: Commencement —**

**Mr R.S. LOVE:** This commencement clause has four paragraphs. I must admit I have found it very hard to follow the process. I actually went to the Clerk, who helped me to work through the progression of these different paragraphs and how it will all happen. Can the minister explain for the benefit of the chamber why there are four different paragraphs for the commencement, and especially the operation of paragraph (c), which refers to sections 17 and 18?

**Ms R. SAFFIOTI:** The staged commencement of the bill is necessary to ensure that industry has time to adjust to the reforms, and to enable the necessary supporting systems, consequential proclamations and subsidiary legislation

to be put in place. I will go through it. Paragraph (a) provides that sections 1 and 2 will come into operation on the day on which the act receives the royal assent. Paragraph (b) provides that section 12 will commence on the day after the act receives the royal assent. This reflects section 65 of the Industrial Relations Legislation Amendment Act 2021, which amends section 98 of the Industrial Relations Act 1979 to limit the powers of industrial inspectors by condensing and modernising these provisions. Existing references to section 98 of the Industrial Relations Act 1979 in the Owner-Drivers (Contracts and Disputes) Act will be updated by proposed section 12, which amends section 32.

Paragraph (c) provides that sections 17 and 18 will commence immediately after sections 35 and 36 of the Owner-Drivers (Contracts and Disputes) Act 2007 come into operation. Paragraph (d) provides that the remaining provisions of the act will commence on proclamation. This is necessary as consequential amendments will need to be made to the Owner-Drivers (Contracts and Disputes) (Code of Conduct) Regulations 2010 in support of the bill, and for resourcing, procedural and communication activities to be undertaken by various agencies, including the Department of Transport, Department of Mines, Industry Regulation and Safety, and Western Australian Industrial Relations Commission, in support of the operation of this bill.

**Mr R.S. LOVE:** Paragraph (c) states —

sections 17 and 18 — immediately after the *Owner-Drivers (Contracts and Disputes) Act 2007* sections 35 and 36 come into operation;

Sections 35 and 36 have been in the act for 15 years but have not come into operation. What will prompt those sections coming into operation? What will be the trigger? Also, how will we know when that has occurred? Will it be gazetted? What underlying change will need to happen to bring sections 35 and 36 into operation?

**Ms R. SAFFIOTI:** Sections 35 and 36 as they were passed in 2007 will need to be proclaimed. They will then be amended under clauses 17 and 18 of the bill. We will be proclaiming provisions that have been sitting there since 2007 but have not been proclaimed. We have to proclaim them first before we are able to amend them. That will happen immediately.

**Mr R.S. LOVE:** Is the minister saying that sections 35 on 36 will actually be brought into operation under paragraph (d); that is, when the rest of the act is proclaimed?

**Ms R. SAFFIOTI:** They will be proclaimed separately. There will be two proclamations. There will be the proclamation of sections 35 and 36, and then the remainder, under paragraph (d). What we have to do under paragraph (c) is proclaim those parts of the existing legislation that never have been proclaimed. The other parts will then be proclaimed separately, and sections 17 and 18 will impact sections 35 and 36.

**Mr R.S. LOVE:** To be clear, the fact that it does not say that sections 35 and 36 will be proclaimed is because they are already in the original act and is not subject to legislation per se?

**Ms R. SAFFIOTI:** Correct.

**Mr R.S. LOVE:** Thank you.

**Clause put and passed.**

**Clause 3 put and passed.**

**Clause 4: Section 3 amended —**

**Mr R.S. LOVE:** Clause 4 seeks to insert in section 3 of the act various new terms for the interpretation of the Owner-Drivers (Contracts and Disputes) Act. One of those is “minimum notice period”. It states that the “minimum notice period” is —

- (a) 90 days; or
- (b) if the aggregate term of the original contract and any consecutive series of successive contracts between the same parties that contain substantially similar terms and conditions is less than 90 days — 7 days;

I want to get an understanding of how contracts will be judged. An owner–driver may have been working more or less for the same contractor for a period of well over 90 days, but has been doing discrete and separate jobs for all that time, such as being hired to take a truck to Mt Newman, or to head off to Kalgoorlie. There may also be many different small, short contracts. A contract may involve the use of different trailers, or include a range of different matters, but that owner–driver may have been working for the same contractor continuously for that 90-day period. What will be considered when making a judgement about whether the period is 90 days or a lesser period?

**Ms R. SAFFIOTI:** It will depend upon the nature of the contract and whether the length is more than 90 days. The contract may contain different destinations, different types of work and different types of trucks. It is not the type of activity, but the length of the contract. That contract may mean that the driver is not there every day doing the same work. The length of the contract is the key determinant, not the nature of the activity, the type of vehicle, or how regular it is.

**Mr R.S. LOVE:** I want to move on to the term “prescribed representative body”. The bill states —  
*prescribed representative body* means a body that —

- (a) represents the interests of owner-drivers or hirers; and
- (b) is prescribed by the regulations for the purposes of this definition;

In order for a person to be a prescribed representative body, will it be necessary for that person to be recognised in regulation as such? If that is the case, how will it interact in a situation in which owner–drivers may be represented by a union? In this case, the only union that is mentioned is the Transport Workers’ Union of Australia, but I would imagine it could be others. Could an owner–driver also be represented at the tribunal by one of the transport groups, like the Western Roads Federation? This might not be the right clause to talk about it. If not, we will get to it later.

**Ms R. SAFFIOTI:** The TWU is already prescribed in the regulations. The bill will prescribe the definition of “transport association” as “a representative body prescribed by the regulations for the purposes of this definition”. The regulations will prescribe the Western Roads Federation as a transport association. I understand the member’s point about the Livestock and Rural Transport Association of Western Australia. I had a number of meetings with its representatives, and they have been very, very good to deal with. I have also had them involved in the Freight and Logistics Council of Western Australia more recently. Currently, we are prescribing the Western Roads Federation, but in the future if we need to expand that definition, we can do so by regulation; we would not need to amend the act.

**Mr R.S. LOVE:** So, the Transport Workers’ Union is already in the act and it is just a tidy-up of its name. If another union were to be nominated by a person—they may have a bad history with the Transport Workers’ Union, for instance, or they may have previously been a member of a different union or whatever—what would be the process for that union to be involved as their representative?

**Ms R. SAFFIOTI:** It could be prescribed. It would just require approval and, of course, an amendment to the regulation to prescribe it.

**Mr R.S. LOVE:** Would that be an amendment to the regulation, not to the actual act?

**Ms R. SAFFIOTI:** Yes.

**Clause put and passed.**

**Clause 5: Section 10A inserted —**

**Mr R.S. LOVE:** This is listed in the explanatory memorandum under the heading “Part 2—Content of Owner–Driver Contracts: Division 1—Prohibited provisions”. Proposed section 10A, “Prohibited: provisions allowing less than minimum notice period”, is a direct instruction that any attempt, by contract, to try to reduce the notice period is unacceptable. It is quite clear in the act that there are many other provisions that either say or imply that, so why was it deemed necessary to put this in the bill?

**Ms R. SAFFIOTI:** I am advised that this explicitly strikes out any possible clause in a contract. I think it is just very clear and explicit; that is how legislation is drafted.

**Clause put and passed.**

**Clause 6: Section 15A inserted —**

**Mr R.S. LOVE:** This implies a minimum period of notice if an owner–driver contract does not have a valid provision about the notice period. Is it possible to have a different arrangement for termination, such as one that may seek to vary the types of termination arrangements without seeking to limit them? It would not run contrary to proposed section 10A, but it may be a different arrangement that could be entered into by the parties.

**Ms R. SAFFIOTI:** I am advised that the termination period can be longer but not shorter.

**Mr R.S. LOVE:** There is a financial arrangement as well, in lieu. Is it possible for that to be varied in any way to offset a different arrangement? What I am getting at is that there may be a mix of notice and payment that may suit both parties. It may be that a larger contract is coming to an end. Is there a way of working out the notice that suits everybody better? It might be a different mix between finance and the actual amount of time.

**Ms R. SAFFIOTI:** Again, it can be a larger figure but not a smaller figure.

**Clause put and passed.**

**Clause 7: Section 18 amended —**

**Mr R.S. LOVE:** Clause 7 talks about the membership of the Road Freight Transport Industry Council being amended. It deletes the Transport Forum WA, which was the forerunner of the Western Roads Federation, and puts in place a representative body prescribed by the regulations for the purposes of this legislation. I guess the minister has already explained this, but why is it that the Transport Workers’ Union appears in this legislation, now that we are seeing its name being amended? There is an amendment, so it is fair enough to ask. Why is it necessary to specify one particular union?

**Ms R. SAFFIOTI:** The TWU is already prescribed in the legislation. It has been there since day one, and it has consistently represented the workers in that industry. This will give us the ability to have representative bodies prescribed under regulation; the Western Roads Federation will be the first. Should bodies change their name, as has happened in the past, this will give us the flexibility to change the body's name and also to add others in the future if there are other bodies that we believe should be appointed to the council.

**Mr R.S. LOVE:** I take the point that it is just having the union there. There is no mention of a successor name or anything like that, so if a union wants to change its name, the government would have to make a legislative change. I would have thought there might be some way of recognising that. But that is by the bye, and I am not going to pursue that any further.

If the minister would indulge me, I would like to know whether at the moment eight persons are appointed to the council, how many are appointed, and what groups they might represent.

**Ms R. SAFFIOTI:** Anne-Marie, from the department, chairs the meeting. There are four representatives on that council, including from the Transport Workers' Union of Australia; the Western Roads Federation; Heather Jones from Success Transport, a regional representative; and Robbie Marks from Marks Haulage. Robbie is representative of regional WA and also an Aboriginal representative on the council.

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

#### **Clause 8: Section 30 amended —**

**Mr R.S. LOVE:** Clause 8 will amend section 30 so that it refers to unconscionable conduct by hirers and then clause 9 mirrors it but refers to owner-drivers. It refers to "unfair" activity and later there is quite a degree of definition around that. I want to know whether the minister could give me an interpretation of "unconscionable" as used in both clauses 8 and 9.

**Ms R. SAFFIOTI:** For unconscionable conduct, business behaviour may be deemed unconscionable if it is particularly harsh or oppressive and is beyond hard commercial bargaining. Unconscionable conduct does not have a precise legal definition and it is a concept that has been developed on a case-by-case basis by courts over time. Conduct may be unconscionable if it is particularly harsh or oppressive. To be considered unconscionable conduct, it must be considered more than unfair. It must be against conscience as judged against the norms of society. For example, Australian courts have found transactions or dealings to be unconscionable when they are deliberate, involve serious misconduct or involve conduct that is clearly unfair and unreasonable.

A court will consider a number of factors when assessing whether conduct in relation to the selling or supplying of goods and services to a customer, or to the supplying or acquiring of good or services to and from a business, is unconscionable. These include the relative bargaining strength of the parties; whether any conditions were imposed on the weaker party that were not reasonably necessary to protect the legitimate interests of the stronger party; whether the weaker party could understand the documentation used; the use of undue influence, pressure or unfair tactics by the stronger party; the requirements of applicable industry codes; the willingness of the stronger party to negotiate; and the extent to which the parties acted in good faith. This is not an exhaustive list and it should be noted that the court may also consider any other factor it thinks relevant.

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

#### **Clause 9 put and passed.**

#### **Clause 10: Section 31A inserted —**

**Mr R.S. LOVE:** Clause 10 is the provision we alluded to before when we spoke about unfair terms. It provides a list of what is considered to be unfair terms that the tribunal may have regard to; it goes through from proposed section 31A(1)(a) to (o), so quite a few terms are outlined there. I wonder whether the minister could talk to a couple of them. In particular, I am looking at proposed section 31A(1)(d), which reads —

whether the term provides for the payment by the hirer to the owner-driver of the guideline rate;

I wonder whether the minister can explain what the guideline rate is, how the guideline rate is calculated and how often the guideline rate is updated. Is there input from industry into the development of the guideline rate?

**Ms R. SAFFIOTI:** The guideline rates are a series of pre-calculated rates in both per kilometre and per hour dollar amounts. The guideline rates deal with metropolitan and regional driving environments and can be a range of vehicle types. They do not set a minimum or maximum but provide a clear starting point for negotiation. The council is consulted in determining the guideline rights. It has to formally approve the guideline rates. Factors that are considered include CPI, the cost of fuel and other key components. As I said, they are advertised and available on the Department of Transport website.

**Mr R.S. LOVE:** It mentions a guideline rate, but I am assuming there must be a range of rates depending on the configuration that is being used for the vehicle and also perhaps for the different types of industries and the terrain that has to be covered. I will not delve too far into it. I am merely pointing out that a wide leeway would have to be given when judging whether the guideline rate was applicable or represented the type of work that was being

undertaken. For instance, going backwards and forwards in heavy traffic on Leach Highway may have a different effect on a vehicle than travelling on gravel roads in the far north of the state. I will leave it at that, but I point out that I hope there would be a lot of flexibility around the interpretation of what would be a fair or unfair guideline rate.

**Ms R. SAFFIOTI:** That is correct. As is outlined in the bill, there are guideline rates. The guidelines try to give some variation but we cannot go down to the level of every truck. It is a reference rate that everyone can use to assess what rate they should be charged or that they should pay.

**Mr R.S. LOVE:** Now that we have established that the guideline rate cannot be held to account for everything, that might be relevant later. I want to talk briefly about the two points that are listed at proposed section 31A(1)(g) and (j) that go to the heart of the level of understanding that perhaps an owner–driver will have around the contract. Proposed section 31A(1) states —

(g) the extent to which a party understood the term and its effect before the term was agreed to;

...

(j) whether a party obtained independent legal or other expert advice before agreeing to the term;

I am conscious that there will always be a degree of naivety—I do not want to use the word “naivety”, but there probably is—by some individuals who are venturing into business or who have been in business for a long time and have come across a term they might not be aware of. Will this set up a situation whereby many contracts could actually run, to some extent, foul of the unfairness provision? I know it refers to individual terms for the whole contract, but it seems to me that an argument could be made in pretty much every circumstance that unless the owner–driver sought independent expert legal advice, they would not have the ability to fully understand the term. Would it be better to have prescribed in the legislation a body like the Small Business Development Corporation or some other place where people could go and quickly seek advice? Will such a body be available for people? I think this will lead to contracts being regularly overturned.

**Ms R. SAFFIOTI:** We will not have the same advisory function as the SBDC, but a model contract is available on the website with different key clauses that those in the industry can use to help them develop their own contracts for their own situations. The other point is the word “may”. This will give the tribunal guidance on things it may consider, but it will not have to consider every item and it may even have other items to consider. There is, as I said, a model contract available to those in the industry.

**Mr R.S. LOVE:** An argument could be made about many of these terms. They all basically mean the same thing. I move now to proposed section 31A(2), which states —

For the purposes of subsection (1)(d), a term of an owner–driver contract that provides for the payment by the hirer to the owner–driver of less than the guideline rate is presumed to be unfair ...

Earlier, the minister said that the guideline rate was not actually a minimum rate, but that provision seems to set it up very much as a minimum rate. Is that the intention? That does not seem to allow for the variation that we talked about earlier.

**Ms R. SAFFIOTI:** I do not quite get the question. What is the member’s point? Is it that this proposed section sets out —

**Mr R.S. LOVE:** Earlier, I was talking about judging whether the term was unfair. Proposed section 31A(1)(d) states —  
whether the term provides for the payment by the hirer to the owner–driver of the guideline rate;

The minister said that the guideline rate was not a hard-and-fast minimum but that it is merely a guideline. However, I read that proposed section in conjunction with proposed section 31A(2), which states —

For the purposes of subsection (1)(d), a term of an owner–driver contract that provides for the payment by the hirer to the owner–driver of less than the guideline rate is presumed to be unfair ...

It more or less sets it up as a minimum rate because if someone goes to the tribunal and says they have been paid less than the guideline rate, the presumption will be that it is unfair.

**Ms R. SAFFIOTI:** It is a rebuttable presumption. The guideline rate is not mandatory. In a sense, it is a guideline rate for a reason. It is what is believed to be a safe and sustainable rate. People are able to try to rebut it, but the presumption is that the guideline rate should be the rate that is charged. Rebuttable is the terminology. I love legal terms! That is why I did not do law. The owner is placed on the highly justified deviations from the guideline rates due to the potential imbalance of power between the hirers and the owner–drivers. No, it is not mandatory, but the whole point is that someone can charge a different rate but they must be ready to justify those different rates. It is a rebuttable presumption. I love those terms.

**Mr R.S. LOVE:** Perhaps we should be saying that there is a presumed guideline minimum rate that there must be a good argument for. I am quite interested in the whole concept of the guideline rate because surely quite a bit of the rate must also include a fair return to the owner–driver, which will be based upon the value of the unit they are using,



as well as the maintenance. If I have a vehicle that is 10 years old, I will have higher maintenance costs but virtually no depreciation, and if I have a vehicle from the showroom, I will have huge depreciation and little maintenance, although some, obviously. To make a presumption about what an average figure has to be for a particular rate, unless people argue it or have another way of determining it, seems to me to be setting up the possibility of a lot of confrontation around whether it is a fair rate or whether it should be followed as a presumption or rebutted.

**Ms R. SAFFIOTI:** I have a copy of just one page from the owner–drivers’ cost calculator. There are some sophisticated models that are already up and available on the website that allow people to input all the types of different factors. It does not include every road and every type of truck, but it does include, for example, the driving environment—whether it is regional or metropolitan—the number of drivers, the type of vehicle and other key factors that are input into the equation such as overtime and superannuation. A significant calculator is available that allows the owner–drivers in particular to input their costs to help identify what they believe their rate would be as part of their negotiations. Again, it will be subject to negotiation, but it gives as many tools as possible to owner–drivers in the industry. The whole point is that we do not want rates to be unsustainable. Basically, a lot of key representatives from the major companies I speak to want a fair and sustainable industry. When people try to undercut or drive to the bottom, serious concerns about the sustainability of the industry and the safety of the industry arise. That is what we are trying to manage.

**Mr R.S. LOVE:** Proposed section 31A(3) states —

In considering for the purposes of sections 30(2)(l) and 31(2)(k) whether a term of an owner-driver contract is an unfair term, the Tribunal must not have regard to any unfairness arising out of circumstances that were not reasonably foreseeable when the parties agreed to the term.

When I saw this, I scratched my head and wondered what it meant. Perhaps the minister can explain what the unfair terms will be?

**Ms R. SAFFIOTI:** This proposed section outlines transitional provisions. Proposed section 31A(3) basically says that if arrangements are established prior to this legislation coming into effect, the minimum term of a termination will not be considered as part of the unfair contract. It is a transitional provision to facilitate movement to the new regime. It means that the minimum notice of termination provision does not apply to contracts that have been entered into because the provision did not exist when that contract was entered into.

**Clause put and passed.**

**Clause 11: Parts 6A and 6B inserted —**

**Mr R.S. LOVE:** Again, the provisions for both the hirer and owner–driver mirror each other, but this time they are included in the same clause. Part 6A, “Misleading or deceptive conduct”, includes proposed section 31B, “Misleading or deceptive conduct by hirer”, which is mirrored in proposed section 31C for the owner–driver. Can the minister explain what possible sanctions there will be under the remedies that are listed in the bill to prevent misleading or deceptive conduct by an owner–driver? I can see there would be plenty of ways in which a hirer, who is the person responsible for making payments et cetera, could be penalised. But what misleading or deceptive conduct by an owner–driver does the minister envisage will lead to anything other than the cancellation of a contract?

**Ms R. SAFFIOTI:** I think that the member is asking for examples of what an owner–driver could potentially do. They could mislead someone about their capabilities; for example, they may have a refrigerated unit that does not work properly and that leads to the product being spoilt. It would be the inability to deliver the quality of a product as required under the contract.

**Mr R.S. LOVE:** We can talk about this under remedies, but I want to get to the bottom of it. If we use the minister’s example, and that leads to a hirer suffering real losses, the remedy for that loss is not set out or is it? Could the hirer, for instance, seek some sort of recourse under the legislation if the owner–driver simply does not do the job or does it poorly or it leads to breakage or spoilage or some other loss that actually flows through to the hirer and to the detriment of the hirer?

**Ms R. SAFFIOTI:** This provision just allows for the early termination of a contract should there be that type of behaviour. Proposed section 47A provides for remedies. They include, mainly, the termination of a contract without further payments being made. I also suspect much of this will be covered by some form of insurance potentially, especially in the example I gave. The bill does not allow for a refund of some of the value of the product. It allows for the early termination of contracts.

**Mr R.S. LOVE:** I have one last question on proposed section 31D(3), which states —

For the purposes of this section, subjecting an owner-driver to detriment includes doing one or more of the following —

...

(d) refusing to engage a person as an owner-driver;

If someone is not engaged as an owner–driver, they are not in a contractual relationship, so how can they in any way cause discrimination to someone in an existing contractual situation? They can cause detriment to a person by discriminating, but proposed paragraph (d) states, “refusing to engage a person as an owner–driver”. That seems contradictory, because if the person is not engaged, how can they fall under the provisions of this bill?

**Ms R. SAFFIOTI:** That is an interesting question; we are having our own discussion here as to whether an existing contractual relationship needs to exist. The view of the advisers is that yes, it is in a sense a re-engagement, in that there would have to have been an existing contractual relationship. I put forward the proposal that it could be a situation in which someone’s contracts work out and someone comes up and says, “I’ll do that work”, and they say, “We won’t engage you under this form; we’ll try to engage you under a different form.” I asked whether that could be the case, but we will seek to clarify that for the upper house. We will have it clarified before the debate in the upper house, because it is a good question.

**Clause put and passed.**

**Clause 12 put and passed.**

**Clause 13: Part 8 Division 1 inserted —**

**Mr R.S. LOVE:** Clause 13 will insert, at the beginning of part 8, proposed section 33A under the heading “Division 1—Preliminary”. It states —

**33A. Terms used: record**

In this Part —

*record* means a record required to be kept under the code of conduct.

I had the code of conduct and now I have lost it; I had to speak before I could find it. Could the minister give the chamber an explanation of what that is under the code of conduct?

**Ms R. SAFFIOTI:** It is a series of regulations proclaimed in 2010. The schedule to the regulations sets out the code of conduct and outlines things like guidelines around contract negotiations; guidelines around rates of payment, penalty clauses and deductions for money payable to owner–drivers; and other things, like rates of interest, overdue amounts and records to be kept by a hirer. That is what it relates to. Clause 13 identifies that records need to be kept by the hirer; division 7 of the regulations outlines the records that need to be kept. Under regulation 43, records to be kept by the hirer are prescribed under the code of conduct and include owner–driver and service provider names; a description of services provided; dates of services provided; amount payable due, and how calculated; and actual amount paid.

**Clause put and passed.**

**Clause 14 put and passed.**

**Clause 15: Section 34 amended —**

**Mr R.S. LOVE:** This clause amends section 34(2)(a) by inserting the word “hirer’s” before the word “records” and deleting the words “concerned that are required to be kept by the hirer under the code of conduct; and”, and inserting “concerned; and”. Does this have any effect on anything, or is it simply a reordering of information? What does this clause actually seek to achieve?

**Ms R. SAFFIOTI:** There are two things. It will allow for access to and inspection of records that may include not only information that is required by the code of conduct, but also other information that may be held. It will provide access to that information. It will also update these provisions to reflect a more modern drafting style, so it is also an administrative change.

**Clause put and passed.**

**Clause 16: Part 8 Division 3 inserted —**

**Mr R.S. LOVE:** This clause will insert division 3, which is headed “Division 3—Authorised representative’s right of entry to conduct investigation”. There is quite a number of proposed sections. I suppose this is a modification of the original sections in the act that were never enacted because they were seen to be quite draconian. These are some of the provisions that will be affected by the commencement date we talked about earlier. Presumably there will be a proclamation, under the existing act, of proposed sections 35 and 36, and then these proposed sections will come into effect immediately after that, so there is no further need to proclaim them; they will just naturally occur at that point.

This is obviously a matter of some concern to people; it has been raised as a concern with me by various people—not just representative organisations, but also hirers. It is a matter of some note. I also note that there are a number of changes to what was originally envisaged, which will enhance the personal security of those people who may be expected to open their workplaces to inspection et cetera. In my view, it has tried to achieve a balance to actually get the information without making it onerous on the person. In some cases, it may be their home office or what have you. Members can see the need to handle this sensitively; we do not want people to be invaded, as such, in their home.

I just want to work through a couple of issues. I refer to division 3, “Authorised representative’s right of entry to conduct investigation”. Proposed section 34A refers to terms that will be put in place. It states —

*authorised representative* means a person to whom an authority is issued under section 34B(2);

We will get to that in a little while. I just want to clarify the next line —

*occupier*, of a workplace, includes a person in charge of the workplace;

In explaining that, perhaps the minister can also tease out what is meant by “workplace” because it may be that a person works from a depot or they may have signed their contract in a managerial office but there may be another place where records are kept and that information is stored. Could the minister just explain the definitions? I know the proposed section does not, strictly speaking, define a workplace, but it does define an occupier of a workplace, so perhaps the minister could explain a little about what constitutes a workplace.

**Ms R. SAFFIOTI:** The Owner-Drivers (Contracts and Disputes) Act 2007 actually defines “workplace”. It states —

*workplace* means a place, whether or not in a vehicle, building or other structure, where owner-drivers or hirers work or are likely to be in the course of their work.

It is where they normally work from in their capacity as either the hirer or the owner–driver.

**Mr R.S. LOVE:** Proposed section 34B(1), “Authorised representative”, states —

The secretary of an organisation that is a transport association may apply to the Registrar for a person nominated in the application to be issued with an authority for the purposes of this Division.

Can the minister explain exactly what those organisations are? Is that simply the Transport Workers’ Union or does the minister envisage that will apply to other organisations?

**Ms R. SAFFIOTI:** It is currently the Transport Workers’ Union. It is a registered organisation under the IR act and a transport association.

**Mr R.S. LOVE:** I refer to proposed subsection (2), which states —

Subject to subsection (3), the Registrar to whom an application is made under subsection (1) must issue a written authority for the purposes of this Division to the person nominated in the application.

This is the written authority that must be produced when entering the workplace and, presumably, has to be with the person at all times. I will just read through the explanatory memorandum. I am not going to read all about subsection (2) again. The explanatory memorandum states —

... Registrar is defined under section 3 as having the meaning given to that term by the *Industrial Relations Act 1979* —

I am not greatly familiar with that act —

... That is the chief executive officer of the registrar’s Department ...

Is that the chief executive officer of the Department of Mines, Industry Regulation and Safety? What is that role?

**Ms R. SAFFIOTI:** It is the registrar of the WA Industrial Relations Commission.

**Mr R.S. LOVE:** Is that also the chief executive officer of the registrar’s department? Which department is that?

**Ms R. SAFFIOTI:** It is the Industrial Relations Commission. The registrar and the CEO are the same thing in the Industrial Relations Commission.

**Mr R.S. LOVE:** I will move on to subsection (4). The explanatory memorandum states —

... despite section 43 ... section 49 of the *Industrial Relations Act 1979* ... does not apply to a decision of the Tribunal under subsection (3)(c) that a new authority may be issued.

I think this is one of several instances when there are no rights of appeal that appear in other legislation. Why is there no right of appeal in this particular circumstance?

**Ms R. SAFFIOTI:** There is no discretion in the act about whether the registrar can issue the authority. As a result, there is no right of review or appeal because discretion has not been implemented.

**Mr R.S. LOVE:** I refer to proposed section 34C(2), which states —

A contravention of subsection (1) is not an offence but that subsection is a civil penalty provision for the purposes of the IR Act section 83E.

For the purposes of explaining this to the chamber, what do those civil penalty provisions provide for?

**Ms R. SAFFIOTI:** The civil penalty for serious contraventions may be amounts not exceeding \$650 000 for a body corporate and \$130 000 for individuals; non-serious contraventions are \$65 000 for a body corporate or \$13 000 for individuals.

**Mr R.S. LOVE:** We are talking about an authorised representative. In the penalties the minister just read, there was mention of a body corporate. Does that imply that a body corporate can also be an authorised representative or does this refer to circumstances when the organisation—the transport association—has actually failed to do some act or, perhaps, advise the registrar or some other body that a particular person is no longer a representative of it? Otherwise, why is there a mention of that in the answer?

**Ms R. SAFFIOTI:** The penalties I outlined are contained in section 38E of the Industrial Relations Act. We believe there will not be penalties for the body corporate in this instance. It picks up the definition of a civil penalty from that section of the IR act.

**Mr R.S. LOVE:** I move to proposed section 34D, “Revocation or suspension of authority”, which states —

- (1) Subject to subsection (2), the Registrar must revoke an authorised representative’s authority —
  - (a) on application by the secretary of the organisation that made the application under section 34B(1); or
  - (b) if the Registrar becomes aware that the authorised representative no longer holds —
    - (i) an authority issued under the IR Act section 49J(1); or
    - (ii) an entry permit issued under the *Fair Work Act 2009* (Commonwealth) section 512.

That was the germ of the question I just asked. Is there an implied requirement on the organisation if a person moves on from their role to inform the registrar of that?

**Ms R. SAFFIOTI:** It is the personal responsibility of the authorised representative.

**Mr R.S. LOVE:** Not the organisation, essentially?

**Ms R. SAFFIOTI:** No.

**Mr R.S. LOVE:** Proposed section 34D(3) reads —

The Tribunal may, on application by any person, revoke, or suspend for a period determined by the Tribunal, an authority issued under section 34B(2) ...

That is, if it finds a number of factors to be the case. That “any person” would not have to be one of those representative organisations or a hirer themselves. Could they make an application of this nature for an owner–driver if they no longer wanted a particular matter to be pursued?

**Ms R. SAFFIOTI:** Yes.

**Mr R.S. LOVE:** I want to clear up a matter we discussed at the briefing around the effect of the written authority of an owner–driver being required. Proposed section 34E states —

An authorised representative is not entitled to exercise a power conferred by this Division for the purpose of conducting an investigation into a suspected breach ... unless the representative is authorised in writing by the owner–driver who is a party to the contract to carry out the investigation.

How would the hirer know that the person is in fact authorised by the owner–driver; and, if they do not know, is that not running a risk that the representative could be having a bit of a fishing expedition and not have a complaint?

**Ms R. SAFFIOTI:** Proposed section 34E provides that when an authority by an owner–driver is required to ensure that an authorised representative expressly has the owner–driver’s consent to act on their behalf to investigate a suspected breach under an owner–driver contract, the part A, division 3, section 35 right-of-entry provisions are consistent with section 49I of the Industrial Relations Act 1979, which also does not require an authorised representative to identify an employee as an authorised representative to act on their behalf; rather, it is implicit that an authorised representative is authorised to represent an owner–driver by virtue of them holding an authority consent by virtue of holding a written authority. This will allow the owner–driver to confidentially seek the authorised representative to carry out an investigation or prevent further discrimination of the owner–driver for raising concerns. If it was suspected that authorised representatives did not have an owner–driver consent, proposed section 34D(3) will provide for anyone, including the occupier of a workplace or hirer, to apply to the tribunal to suspend or revoke the right-of-entry authority. Under proposed section 34D(3), the tribunal could suspend or revoke on the grounds of being satisfied that the authorised representative has acted in an improper manner in the exercise of their right-of-entry powers to conduct investigations under division 3.

**Mr R.S. LOVE:** I thank the minister. That clears it up and gives some comfort that someone can verify there is a complaint that is being acted on. Given notice is required for the production of records in any case, I assume the person would have the opportunity to contest that issue if they were concerned, before they had to produce records et cetera. Is that the time line that this would work to? I would receive notice that the representative wanted to look at the pay sheet, the run sheet, the manifests or whatever and that would be sufficient time for the hirer, if concerned, to go to the authority to seek confirmation there was a complaint.

**Ms R. SAFFIOTI:** Yes, that is correct.

**Clause put and passed.**

**Clause 17: Section 35 replaced —**

**Mr R.S. LOVE:** Clause 17 will delete the existing section 35 and insert a new section 35. This is interesting because when we discussed the operation of the commencement clause, we were told that because section 35 already exists in the act, it does not need to have a separate proclamation and it would be proclaimed under the provisions of the existing act. But we are seeing the entirety of it being deleted, so it is no longer the same provision as it is in the original act and it will now be a separate and new provision. That raises some concern for me about whether the proposed method is valid. I would have thought it would have its proclamation listed in the commencement date. I will get the minister's view on that and we might discuss the clause in detail.

**Ms R. SAFFIOTI:** Under this bill, existing sections 35 and 36 will come effect; and, immediately after that, proposed sections 17 and 18, which amend sections 35 and 36, will come into effect. That is how this will be done.

**Mr R.S. LOVE:** As I have said, I have struggled with the concept of the commencement clause, and I have had a discussion with the Clerk. I am very confused when I see that section 35, which was supposedly in the original act and did not need to have a fresh proclamation date given to it, will be completely changed—in fact, deleted altogether. Clause 17 states, “Delete section 35 and insert”. It is no longer the section 35 that was in the original act. This seems to be a bit of a conundrum. Maybe this could go to the Standing Committee on Legislation in the other place and it could talk about these types of things. I do not think that committee has met yet in this term of Parliament. This might be an excellent opportunity for that committee to tease out some of these discussion points that we are going through. As part of my third reading contribution, I might suggest that this matter go to that committee, which is a valuable resource that has not been used for the entirety of this Parliament. That may well be a very good exercise. Given the public interest in making sure that these provisions are well known and considered to be very fair, that may be an excellent path forward. That is a comment. I am still struggling to accept that the commencement matters are appropriate, but I will accept the will of the house and move along after making that point.

Section 35 is proposed to be replaced with a new section 35, “Authorised representative’s right of entry”. It states —

An authorised representative may enter any workplace where an owner-driver works, during working hours at the workplace, for the purpose of investigating any suspected breach of —

- (a) this Act; or
- (b) the code of conduct; or
- (c) an owner-driver contract to which the owner-driver is a party.

Would an authorised representative need to have been given a complaint from an owner–driver in order to check the premises to see whether there has been a breach of the code of conduct? It is not looking at the terms of the contract. It is looking at whether the code of conduct is being abided by. The contract could be with a group of owner–drivers rather than one owner–driver. I ask the minister for her view of that.

**Ms R. SAFFIOTI:** They would need to have the consent of the owner–driver under proposed section 34E.

**Mr R.S. LOVE:** New section 35B, for instance, does not set up a separate power or a separate circumstance where the authorised representative could enter where an owner–driver or an owner–driver group works during working hours to investigate a suspected breach of the code of conduct, as opposed to a contract.

**Ms R. SAFFIOTI:** They would need to have consent in relation to the owner–driver.

**Mr R.S. LOVE:** Presumably the inferred place where the owner–driver works is the hirer’s workplace or the premise from which the owner–driver may from time to time come and go.

**Ms R. SAFFIOTI:** The definition, as I read out before, is where the majority of the work is undertaken and where we would expect to find the hirer and the owner–driver, as I recall. It is where the owner–driver or hirer are known to be in the course of their work. It will depend on where the hirer is working from and where the owner–driver is working from.

**Mr R.S. LOVE:** I want to ask about the situation where there might be a series of contracts rather than just one contract. The example I have here is an article on the options that Co-operative Bulk Handling Ltd has for moving grain. There are a couple of options. CBH can use its own trains; it can use trucks that are provided by farmers; it can subcontract to a group known as Cropline Haulage; it can joint contract with farmers on certain routes; and farmers can subcontract to a current CBH road contractor, which is unspecified. In terms of where the authorised representative can go to understand whether the contract is fair and appropriate, may they enter only the workplace of the owner–driver’s direct hirer, or may they enter the workplace of another organisation that has set up the basic terms for the whole fleet, which may involve several subcontractors, but none of them determine the price, if you like, and the conditions; they are determined by another organisation that has subcontractors working for it? In that case, can the authorised representative go to both that workplace and the workplace of the head contractor?

**Ms R. SAFFIOTI:** It is the relationship between the owner–driver and the hirer. It does not include the head contractor. Although that may be the ultimate hirer or the ultimate contractor, it is the relationship between the owner–driver and the hirer, and maybe the subcontractor.

**Mr R.S. LOVE:** That is the end of the trail; we cannot go any further in the discussion beyond that. That brings me to a point I would like to ask: if one of the subcontractors was a smaller operator and perhaps also an owner–driver, presumably that person could be used to enter up the scale. At what point does someone stop being an owner–driver and become ineligible to fall under this act, just as a matter of interest? I neglected to ask that at the start.

**Ms R. SAFFIOTI:** Section 4(2)(a) of the act defines owner–driver, and it is a driver —

- (i) who carries on the business of transporting goods in one or more heavy vehicles supplied by that person; and
- (ii) whose principal occupation is the operation of those vehicles ...

Basically, they both drive and own the vehicle.

**Mr R.S. LOVE:** If we move on to proposed section 35B, “Conduct in workplace”, before, we touched on the fact that the workplace could well be a person’s house. The first proposed subsection of this is —

- (1) An authorised representative does not have the right under section 35 to enter into any part of a workplace that is principally used for habitation by an occupier or a member of the occupier’s household.

Quite clearly, that is there to protect against any unwanted intrusion into a person’s household. I am interested to read in the explanatory memorandum that this aligns with existing section 49K of the Industrial Relations Act. However, it does not adopt the amendment to section 49K made in 2021 because the balance of privacy considerations does not need to be made, as it does under that act, because someone could be employed in the household.

I think understanding that provides some comfort to people that their houses will not be invaded, and their workplaces— if they are also their homes—will not necessarily be subject to intrusions, which are to be moderated. Further, it goes on to say —

- (2) An authorised representative must comply with any reasonable request by an occupier to take a particular route to reach a room or area in the workplace.

In other words: do not walk through my lounge room; go around the side, or whatever. That is a good thing to see in there, given the circumstances that some of the smaller operators may be working under.

Proposed section 35C(1) then refers to the production of records and other documents —

- (c) during working hours at the workplace, inspect, and take photographs, film and audio, video or other recordings of, any work, material, machinery or appliance that is relevant to the suspected breach.

To me, that sounds more like going into a workshop and seeing, for instance, that the equipment is up to standard; I would have thought it is not so applicable to the production of records. Can the minister explain to me exactly what is meant by taking “photographs, film and audio, video or other recordings of, any work, material, machinery or appliance” and why is it relevant in this particular piece of legislation?

**Ms R. SAFFIOTI:** This is modelled on section 49I(2) of the Industrial Relations Act, and it tries to reflect the different ways and mechanisms by which a record of information can be taken. It replicates section 49I(2) of the Industrial Relations Act and recognises that electronic recordings are an accurate and efficient way of investigating a suspected breach.

**Mr R.S. LOVE:** I appreciate it probably does mirror it, but I do not see how it is a necessary provision of the act because it is clearly designed for another circumstance. The proposed section could be ended after “work, material”. The inclusion of “machinery or appliance”, and taking “photographs, film and audio” of them, does not seem to have any relevance to this legislation. I would put it to the minister that perhaps that is another area that the legislation committee could look at and tidy up.

May I continue because I have a different matter? Proposed section 35C(3) says —

The Tribunal may, on the ex parte application of the authorised representative, waive the requirement under subsection (2) to give the hirer notice of an intended exercise of a power if the Tribunal is satisfied that to give such notice would defeat the purpose for which the power is intended to be exercised.

Can the minister describe the process for that application and the effect on the workplace? The person would be able to go straight into the workplace without giving notice, inspect any record and look at any matter they wanted to. Can the minister run through the process of how that application would work and what factors would be taken into account in coming to an order that would allow it to happen?

**Ms R. SAFFIOTI:** If the tribunal believes that the evidence or information would be destroyed or hidden, it may waive the requirement for notice.

**Clause put and passed.**

**Clauses 18 to 20 put and passed.****Clause 21: Sections 38A and 38B inserted —**

**Mr R.S. LOVE:** Clause 21 is erroneously described as clause 22 in the explanatory memorandum, which had me thrown for a little while. I thought I was having a sense of *deja vu*. Clause 21 is headed “Sections 38A and 38B inserted”, and if we go to proposed section 38A, we see —

- (1) The Tribunal may determine (a *summary determination*) a dispute or matter referred under this Part without a hearing if —

It then gives a number of reasons that are to be discussed. The last point of proposed section 38A(1)(b) states —

- (ii) a party’s case has no merit.

Could the minister outline what the outcome could possibly be from a summary determination under this proposed section, other than simply to dismiss the matter altogether?

**Ms R. SAFFIOTI:** It is to ensure that the tribunal is better equipped to deliver just and more efficient outcomes; a party can apply to a court or tribunal to give judgement in their favour without having to go through a formal trial process if a party can show that the other party has no reasonable prospect of succeeding. It allows for more efficiency. The tribunal can implement any of its remedies under proposed section 47A.

**Mr R.S. LOVE:** It would appear—correct me if I am wrong—that there will also be no appeal under proposed section 38A(5). Can the minister explain why there will be no appeal in this matter?

**Ms R. SAFFIOTI:** Again, because there is no discretion in that sense, there is no right of appeal.

**Mr R.S. LOVE:** If we move to proposed section 38B, “Tribunal’s power to make default determination”, we see that it states —

- (1) This section does not apply to —
  - (a) a failure to comply with the determination of a dispute or matter by the Tribunal; or
  - (b) an order made in, or as a consequence of, the determination of a dispute or matter by the Tribunal.
- (2) The Tribunal may make a determination (a *default determination*) against a party to the proceedings without a hearing if the party —
  - (a) does not comply with a direction, order or declaration made by the Tribunal during the course of the proceedings; or
  - (b) fails to file a response within the prescribed period.

I read it several times and looked at it from different angles, and it just seemed to me that those two proposed subsections do not sit together. They appear to be contradictory, so perhaps the minister can explain why the first provision says that it does not apply to a failure to comply with a determination or dispute but then the tribunal can make a determination without a hearing if the party does not comply with a direction, order or declaration.

**Ms R. SAFFIOTI:** The first refers to after the event and the second refers to in the process of court proceedings.

**Mr R.S. LOVE:** That concludes my discussion on that particular point.

**Clause put and passed.****Clause 22: Section 40 amended —**

**Mr R.S. LOVE:** Clause 22 will amend section 40 by inserting subsection (2) to provide that despite subsection (1) a dispute or matter under or in relation to an owner–driver contract cannot be referred to the tribunal under subsection (1)(a) or (c) more than 12 months after the contract expires. The purpose of this provision is to clarify the tribunal’s jurisdiction in relation to expired owner–driver contracts. As I understand it, there was some concern that if a contract had expired, there would no longer be a relationship and no ability to look at a contract or a situation. The government has set the bar at allowing the contract to be re-examined over 12 months. I am wondering why 12 months was chosen as the period that someone could go back and look at such an owner–driver contract.

**Ms R. SAFFIOTI:** It is based on consultation with key stakeholders, the tribunal, the council and industry.

**Clause put and passed.****Clause 23: Section 41A inserted —**

**Mr R.S. LOVE:** This clause looks at payments. It inserts proposed section 41A. I will read from the explanatory memorandum —

subsection (1) provides that this section applies if a payment dispute (the *first payment dispute*) arising under or in relation to, an owner–driver contract is referred to the Tribunal under Part 9—Road Freight Transport Industry Tribunal.

Subsection (2) provides that when determining the first payment dispute, the Tribunal may determine a subsequent payment dispute (the *subsequent payment dispute*) if it arises under the same owner–driver contract and is substantially similar to the first payment dispute.

We spoke earlier about diversity of Western Australia and the industry, so when we are talking about what is substantially similar to the first payment dispute, could the minister clarify exactly what factors will be taken into account to determine whether it is a substantially similar payment dispute?

**Ms R. SAFFIOTI:** Things that would be taken into consideration are whether the payment disputes are on the same owner–driver contract—in other words, between the same hirer and owner–driver.

**Mr R.S. LOVE:** It hinges, really, on whether that is the ongoing contract, not whether the payment might be for a completely different piece of work that the person has undertaken. They could be carting different material. They could be going to different destinations on different types of roads. It does not alter the ability for the tribunal to look at this as a string of payments.

**Ms R. SAFFIOTI:** Correct.

**Mr R.S. LOVE:** Could the minister explain whether there is any interaction between the code of conduct and what would be considered good payment practice?

**Ms R. SAFFIOTI:** What was the question?

**Mr R.S. LOVE:** It was about whether the code of conduct gives any guidance on what is good payment practice.

**Ms R. SAFFIOTI:** Yes, it does. It has different components, like rate of interest and other components and deductions and so forth.

**Mr R.S. LOVE:** Are there any instructions under this legislation, the code of conduct or any other legislation that determines the length of time between payments other than what generally applies between commercial parties?

**Ms R. SAFFIOTI:** We cannot find the exact line in the provision now, but we believe it does. We can provide that information in the upper house debate.

**Clause put and passed.**

**Clause 24 put and passed.**

**Clause 25: Section 47 amended —**

**Mr R.S. LOVE:** I did not talk about clause 24 because I think we have already discussed the appeal matter. Clause 25 will amend section 47, which is titled “Determination of dispute where no resolution by conciliation”. Proposed new section 47(1) states —

The Tribunal may hear and determine a dispute for the purposes of section 38(1)(a) and enquire into and deal with a matter for the purposes of section 38(1)(b) if the dispute or matter is not —

- (a) resolved by conciliation under section 44; or
- (b) disposed of by the Tribunal making a summary determination under section 38A; or
- (c) disposed of by the Tribunal making a default determination under section 38B.

In order for the tribunal to hear a dispute that has not been made by default or made a summary determination of—in other words, probably dismissed—is the legislation implying or saying that people must consider conciliation before a dispute can be heard or determined?

**Ms R. SAFFIOTI:** Yes.

**Clause put and passed.**

**Clause 26: Section 47A inserted —**

**Mr R.S. LOVE:** I think we spoke earlier about the remedies that are available other than the fines or civil penalties that would be applied. I am looking at the quite extensive list of remedies. They include ordering the payment of money; ordering restitution; ordering the refund of any money; making an order in the nature of an order for specific performance of an owner–driver contract; declaring that a debt is or is not owing; ordering a party to do, or refrain from doing, something; and making any other order the tribunal considers fair.

Proposed section 47A(2) goes on to say —

Without limiting subsection (1), if the Tribunal determines that a hirer or owner–driver has engaged in conduct that is unconscionable having regard to an unfair term of the owner–driver contract, the Tribunal may do one or more of the following —

- (a) declare a term of the contract void;
- (b) insert a new term into the contract;
- (c) vary a term of the contract.



Are all those matters appealable under the legislation; and, if so, in what form will that appear and how will someone go about making such an appeal?

**Ms R. SAFFIOTI:** An appeal or decision of the tribunal can be made to the Full Bench of the Western Australian Industrial Relations Commission. An appeal is not an opportunity to rerun a case. An appeal of a tribunal's decision must be instituted within 21 days of the decision against which the appeal was brought on the grounds that the decision is in excess of the commissioner's jurisdiction or that the decision is erroneous in law.

**Mr R.S. LOVE:** What is the process for an owner–driver to ensure that the orders or the determinations that are reached and the remedies that are given are actually carried out? Let us go back to the whole genesis of this, which is that a driver is in a power imbalance working for a company that refuses to carry out the order. What recourse will the owner–driver have to ensure that the remedy is carried out?

**Ms R. SAFFIOTI:** It will be up to the tribunal to make sure that the orders are carried out and followed through.

**Mr R.S. LOVE:** When the minister says it is up to the tribunal, presumably, the owner–driver would go through the authorised representatives that they use in the first place to seek that that be enforced. Is that what the minister is saying?

**Ms R. SAFFIOTI:** Yes. The existing act outlines the proceedings. For example, section 50 outlines the enforcement of a monetary order and how that would be implemented.

**Clause put and passed.**

**Clauses 27 and 28 put and passed.**

**Clause 29: Part 11 inserted —**

**Mr R.S. LOVE:** This clause will insert part 11, “Transitional provisions” and proposed section 60, which is headed “Notice of termination before commencement day”. Can the minister explain the intention of this provision and how it will operate with the commencement date when we have so many commencement dates?

**Ms R. SAFFIOTI:** As outlined before, all these transitional provisions will come into effect upon proclamation. Clause 5 sets out the provisions in section 10A regarding prohibited provisions allowing less than the minimum notice period. We discussed that. Proposed section 31(2)(k) sets out that the tribunal may have regard to the terms of an owner–driver contract, including whether the term of the contract is an unfair term. We discussed that. Proposed section 31A(3) provides that in considering, for the purposes of proposed section 31(2)(k), whether a term of an owner–driver contract is an unfair term, the tribunal must not have regard to any unfairness arising out of the circumstances that were not reasonably foreseeable when the parties agreed to the term.

**Clause put and passed.**

**Clause 30 put and passed.**

**Clause 31: Schedule 1 Division 4 inserted —**

**Mr R.S. LOVE:** I think the Deputy Speaker will be pleased to know that there is only one more clause after this one, so we cannot go for much longer!

Clause 31 is the matter we touched on earlier about the termination of a contract. It will insert the following —

**4. Notice of termination**

- (1) A party may terminate this contract by giving the other party written notice of termination.

It then outlines a number of matters that must be given weight to. I want to discuss proposed subclause (4), which states —

Subclause (3) does not apply if this contract is terminated due to —

- (a) a material breach of the contract; or
- (b) the serious and wilful misconduct of the owner–driver; or
- (c) exceptional circumstances beyond the control of the terminating party that were not reasonably foreseeable at the time of entering into this contract.

Proposed paragraphs (a) and (b) are self-explanatory. Can the minister explain the types of exceptional circumstances that would lead to the operation of proposed subclause (4)(c)? Will that, for instance, be for the termination of a contractor's contract with an organisation? We spoke earlier about CBH and subcontractors. If CBH were to terminate the other party's contract, for example, would that be an exceptional circumstance? It is probably reasonably foreseeable because contracts come to an end. I wonder how those things will be determined. There may be other factors. We have gone through COVID, for instance, and lockdowns, and all sorts of things can happen. They are the obvious ones. Can the minister explain how the proposed clause will operate more specifically in terms of normal commercial operations rather than what we call a one-in-500-year event such as the pandemic we have just gone through?

**Ms R. SAFFIOTI:** It would include severe illness, but not just a cold or a flu. For example, as the member said, a head contractor may not require the service anymore or a ship may not arrive at a destination or is caught up for three months. All those types of things will be considered exceptional circumstances.

**Mr R.S. LOVE:** I move to proposed clause 5, “Payment in lieu of notice”, which states —

Despite clause 4(3), the hirer may terminate this contract by paying the owner-driver —

- (a) if the termination is to take effect immediately — the total amount that would be payable under this contract in respect of the minimum notice period, less 25%;

Other provisions refer to the mixing together of work. Why was 25 per cent considered an acceptable discount? I would have thought that the operation of a vehicle would make up more than 25 per cent of the contract.

**Ms R. SAFFIOTI:** It is based on industry consultation and acknowledges that some costs are not incurred, like fuel and so forth; it is based on industry consultation.

**Clause put and passed.**

**Clause 32 put and passed.**

**Title put and passed.**

[Leave granted to proceed forthwith to third reading.]

*Third Reading*

**MS R. SAFFIOTI (West Swan — Minister for Transport) [5.33 pm]:** I move —

That the bill be now read a third time.

**MR R.S. LOVE (Moore — Deputy Leader of the Opposition) [5.33 pm]:** Before the advisers and the minister’s office support staff fly the coop, I want to thank them for their patience. It was a fairly lengthy examination of a fairly short bill. I thank them for their patience and advice. I am sure that it has been a wonderful experience for them to sit there and go through all these matters at some length. I thank them very much. I thank the Minister for Transport for explaining the bill as we went through many of the clauses. This legislation is very important. Some provisions of the Owner–Drivers (Contracts and Disputes) Act 2007 were never proclaimed because there were concerns about the appropriateness of rights of entry. That is still a matter of concern for some in the industry. We went through a lot of the matters surrounding that, some of the restrictions on those rights and protocols that have been put in place, some of the matters that can be examined and the way that things can be conducted. We also discussed other matters, such as the termination provisions, and a whole raft of other things that looked at the interplay of the calculated rate. I think that it will be determined to be more a formula than a rate, because it will vary according to what figures are plugged in. We discussed some intricacies around the commencement procedures. We also discussed—I forget what division it was—whether a provision would apply when a person was not in a contract. The minister looked at those matters.

It is good for public confidence when all the intricacies of a bill are finely examined. I recommend that the other place consider sending this bill to the Standing Committee on Legislation to determine whether it will provide what we anticipate and what we want to see happen in the industry. I think everybody who has spoken in the chamber today agrees that we want a safe road transport industry. We want people to be treated fairly. Also, looking at the other side, we want the hirers treated fairly. That is what the bill will try to do. I commend the spirit in which it has been drafted. As I said, there are a couple of issues that need to be examined in further detail, but on the whole I am happy to see the bill progress to the other place for it to be interrogated and for the other place to do what it does so well—that is, to go through the legislation with a fine toothcomb to make sure that there are no unintended consequences from the legislation.

I thank the Presiding Officers and the minister for her good grace throughout the consideration in detail stage.

**MS R. SAFFIOTI (West Swan — Minister for Transport) [5.37 pm] — in reply:** I thank everyone for their support. I thank the advisers also.

Question put and passed.

Bill read a third time and transmitted to the Council.

**BILLS**

*Returned*

1. Bush Fires Amendment Bill 2022.
2. Family Court Amendment Bill 2022.
3. Conservation and Land Management Amendment Bill 2021.

Bills returned from the Council without amendment.

**ADJOURNMENT OF THE HOUSE**

*Special*

On motion without notice by **Mr D.A. Templeman (Leader of the House)**, resolved —

That the house at its rising adjourn until Tuesday, 13 September 2022 at 1.00 pm.

*House adjourned at 5.39 pm*

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