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

ANIMAL WELFARE — CATTLE — PASTORAL STATIONS

Statement by Minister for Agriculture and Food

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Agriculture and Food) [10.02 am]: Yesterday, we held a roundtable meeting in Broome with senior pastoral industry representatives to address two serious animal welfare issues in the Pilbara and Kimberley. The meeting included representatives from the Kimberley–Pilbara Cattlemen’s Association, the Pastoral Lands Board, the Kimberley Agricultural and Pastoral Company, the Ashburton Aboriginal Corporation, the Pastoralists and Graziers Association, Nyamba Buru Yawuru, Lamboo station, Pardoo Beef Corporation, Hancock Agriculture and Rio Tinto. It was an opportunity for a situation update from senior officers in the Department of Primary Industries and Regional Development on various matters, including emergency management activities at Yandeyarra and Noonkanbah, our livestock compliance unit response, and the ongoing engagement of the Aboriginal economic development team. Central to discussions were opportunities for industry and government to work together to mitigate risks and co-design a sustainable and profitable northern pastoral sector. With several Aboriginal pastoralists involved, we workshoped alternative business approaches including co-management models and opportunities to add governance expertise in partnership with the KPCA.

As we heard yesterday, good seasons make good managers. Conversely, pastoral stations with poor governance and management expertise are not equipped to respond to the challenges of a tough season. For at-risk stations, failure is not necessarily borne from a lack of financial capacity. In some cases, governance structures are simply not fit for the purposes of dealing with the commercial reality of running a pastoral enterprise. Yesterday’s meeting was about charting a strategic response to the issue, examining the structural problems and bringing together all parties to prevent a repeat of what we have seen in the last two months.

The head of the Kimberley Agricultural and Pastoral Company, Wayne Bergmann, presented the KAPCO model, which is a coalition of several stations in the Kimberley, centrally managed by an experienced general manager with oversight from an experienced board of advisers. Other major players in the pastoral industry have shown a real enthusiasm to engage with Aboriginal pastoralists to find a solution to these issues. In May, we will hold a Kimberley–Pilbara Aboriginal pastoralists forum to continue this dialogue with a focus on governance and animal welfare management.

PAPERS TABLED

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

DISALLOWANCE MOTIONS

Notice of Motion


Notices of motion given by Hon Robin Chapple.

ANIMAL ACTIVISM

Motion

HON COLIN de GRUSSA (Agricultural) [10.07 am] — without notice: I move —

That the house calls on the government to —

(a) provide greater protection for the safety and welfare of farmers, families, workers and livestock against animal activists who illegally trespass on private land or interfere with lawful activities, by investigating harsher penalties, stronger regulations or other protections;

(b) provide extra resources for law enforcement agencies to tackle rural crime and increase community protection in rural areas; and

(c) strengthen regulation and enforcement around the use of drones for clandestine surveillance, trespass or other unlawful activity.
As we begin this debate today, I want to reflect on something that happened only moments ago in the chamber and that happens every sitting day—that is, the Legislative Council prayer. I draw members’ attention to one section of that prayer, which says—

… bless this Legislative Council now assembled to deliberate upon the affairs affecting the well-being and good order of society in Western Australia;

That is, in part, why I bring this debate to the house today because it is about the wellbeing and good order of society and members of our Western Australian community feeling safe and secure in doing the jobs they do every day. We are calling on the government and members collectively to do more amid what are no doubt rising tensions in rural Western Australia, particularly around animal activism and some of the terrible incidents that are occurring. Last week, there was the incident in Harvey when animal activists clashed with a farmer while he was doing his job, which he is entitled to do under law and should be allowed to do without interference. I obviously do not have all the details of that incident, but it highlights the aggressive behaviour that is occurring across our state and nation in the name of animal activism—which I do not believe helps their cause, by the way.

On 15 February, just last week, concerns were raised about threats that had been made at Muresk Institute. Although those threats did not eventuate, police were required to establish a checkpoint at the entrance road, and members of the state support unit attended the site to review its security measures. Muresk is a place of learning for our young people, and they have the right to be safe. Our kids should be safe in our schools, and our families should be safe in their homes.

Last month, about 30 animal activists entered the Muchea saleyards and interrupted what is a lawful activity, trespassing, filming and shouting until the police were called. I have no issue with people who want to protest and espouse their views on particular issues. However, they should do that in a lawful manner and without interfering with people who are going about their lawful business. Another target was Outback Jacks steakhouse in Northbridge. I have also heard reports that livestock transporters have been harassed and people have entered their trucks when they are parked at rest stops in and around the metropolitan area. That is dangerous, because they are big, heavy vehicles, and people may be hurt and potentially killed. This sort of activity should not be taking place.

Recently, a lot of media attention has been drawn to the publication by the group Aussie Farms of an online “attack map”. The Nationals condemn this map and have reached out to industry and to the federal Minister for Agriculture and Water Resources seeking to have this map taken offline. We have also asked for this so-called charity to have its charitable status removed. This is not a charitable action. It is not acceptable in any way, shape or form to publish this kind of rubbish and to encourage and incite people to attack farmers in their homes—because, of course, their place of work is their home.

I want to read from an article about the Aussie Farms group that was published on the website farmonline.com.au on 21 January. It states, in part—

The map is sourced from a database available at www.aussiefarms.org, which is based on information submitted by the general public.

The interactive map lists the location of hundreds of rural properties, including livestock farms, meatworks and dairies.

Aussie Farms’ registered users are encouraged to upload information about farming practices and images of livestock and production.

The Aussie Farms group states its goal is “fighting to end commercialised animal abuse and exploitation through public education about modern farming and slaughtering practices”.

I would suggest that the modern farming and slaughtering practices are a heck of a lot better than what they were many years ago. Again, this is a lawful activity that is being undertaken, with no issue from a legal perspective.

Another major consideration is the biosecurity risk of people entering farming properties and saleyards. These animal activists may not be aware that by entering these places, they may be bringing in weeds, pests and diseases that may harm or injure the animals. Therefore, although they may believe they are doing a good thing, the fact that they may harm those animals goes against everything that they are trying to achieve.

People in regional areas have the right to be safe in their environment. That includes farmers, transporters and people in the stockyard and livestock industries. Just this week, the Premier condemned the behaviour of those activists and labelled their activity as illegal. I agree. The Premier was right in saying that. The police have resources at their disposal to deal with trespass and harm. However, the question I am asking today is: is the legislation strong enough or should it be strengthened? We have submitted a question on notice to the Minister for Police seeking further information about the number of police responses, charges and convictions for these types of incidents. I look forward to the answer to that question. We may need to strengthen our legislation and introduce other forms of protection.
An example from the United States that is worth considering is the Animal Enterprise Terrorism Act. That is a federal law that criminalises certain types of demonstrations or acts on behalf of animals, and classifies these demonstrations as acts of terrorism. The act makes it a crime, designated as terrorism, to damage or interfere with animal enterprises by intentionally damaging property. I am not suggesting that this is the way we need to go.

**Hon Darren West:** That’s good.

**Hon COLIN de GRUSSA:** However, there may be some merit in parts of this legislation, and it is certainly worth debating. We must consider every extreme as we debate this issue. Under this law, the definition of “animal enterprise” is expansive. It includes zoos, circuses, rodeos, farms, animal laboratories, pet stores, animal shelters, furriers and any fair or similar event intended to advance agriculture, arts and sciences.

**Hon Alannah MacTiernan:** Member, is this an actual piece of legislation?

**Hon COLIN de GRUSSA:** This is called the Animal Enterprise Terrorism Act.

**Hon Alannah MacTiernan:** So it does exist?

**Hon COLIN de GRUSSA:** Yes, it does exist.

**Hon Darren West:** Is it a federal act or a state act?

**Hon COLIN de GRUSSA:** It is a US federal law.

**Hon Alannah MacTiernan:** It is a US law?

**Hon COLIN de GRUSSA:** I am referring to a US law as an example that we may want to look at. It is interesting that under this law, the penalty for nonviolent action that causes damage of up to $100,000 is a fine or imprisonment for up to one year, or both. Thus, nonviolent civil disobedience may constitute terrorism under this act and result in an activist spending one year in prison. It is worth noting that the penalty for nonviolent action that causes damage of over $100,000 is a fine and a maximum of 10 years in prison, and the penalty for over $1 million in economic damage is a fine and a maximum of 20 years in prison. That is one extreme. I am not suggesting for a minute that we need to go that far. However, these issues are taken seriously by other jurisdictions. In this state, changes to the penalties should be considered. We as a Parliament and a state should look at all avenues to ensure that our farmers, livestock handlers and all those working in our rural industries and rural communities are safe and have the law on their side when it comes to the animal activism that has been taking place.

It is also worth noting that WA Farmers has organised a meeting in Harvey next week—a “calm the farm” meeting, if we want to call it that—with representatives from the Western Australia Police Force and lawyers, who will speak to dairy and meat producers about their legal rights and how to respond to activists who are trespassing on their property. It is important to strengthen the legislation and review penalties; however, it is also very important that people know what protections are available to them under the current laws. The role of government is to disseminate and make that information readily available to people. I commend WA Farmers for organising this meeting. Another meeting scheduled for 1 March will feature the Pastoralists and Graziers Association and representatives from the transport and saleyards sectors. This is an important step for farmers and people in associated industries in understanding their rights. We must inform people of their rights under existing laws, as well as look at whether those laws need to be changed.

Another issue is the need for extra resources for the police to tackle rural crime. This issue comes up from time to time and has certainly been raised with me as I travel around my electorate. People do not feel that the necessary resources are available for them to call on when they are needed. As I have said, and I will say it again, people have the right to feel safe and secure in their rural properties. We must put the necessary resources in place to ensure that these crimes can be investigated and, when necessary, prosecuted. I want to refer to a petition that I presented to the house last week, from a resident of the south west, Geoff Charteris. He created this petition because he had had enough; he has had a gutful of the criminal activities going on in his patch. This petition that I read in the house last week, with almost 500 signatures, was about doing something about rural crime. It is not going away; it is getting worse. The activist part of it is only part of that rural crime. Theft, stock rustling—if we want to call it that—and those sorts of things are also occurring and certainly need investigating.

We are calling for a review of legislation aimed at protecting landholders against trespassing, hunting or fishing on private land without permission. We want to protect against theft, damage and the destruction of livestock or property, including reviewing the adequacy of maximum penalties. We need to look at these penalties. We need to address biosecurity risks and look at any other activities as we try to strengthen protections for people.

Property and stock theft is very significant. Given the value of livestock and wool, it can amount to a massive economic loss for farmers. More than that, these people have worked hard to produce these livestock. Many of them know each individual animal. As one farmer put it, they feel violated when these people enter their properties because of the hard work and commitment they have made to breeding those animals. It is a disgrace that this is happening. Perhaps we need to consider forming a stock squad or some other dedicated response unit that can investigate these incidents and prosecute offenders. We have not had a specialist stock squad since about 2008.
Perhaps we need to investigate that. It is important to consider having that resource in our regional areas to be able to specifically focus on those types of issues and investigate them with the knowledge and understanding that is needed to do that job properly.

The Victorian government has announced the formation of a livestock and rural crime squad to specialise in rural crime, farm and livestock theft. This squad will be staffed with 20 new specialist rural crime investigators, after stock thefts rose by 40 per cent from April 2017 to March 2018. During this time frame, 232 incidents of burglary, break and enter and theft offences were recorded in which livestock were stolen; however, just 10 of these resulted in arrest or summons.

Hon Alannah MacTiernan: Are you suggesting that those stock thefts were related to vegan terrorism?

Hon COLIN de GRUSSA: No, I am talking about rural crime in general. I am not sure that vegans would be stealing animals. I remind members that the motion is about not only rural crime and providing greater protection for the safety and welfare of farmers, families, workers and livestock against activists, but also providing extra resources for law enforcement agencies to tackle rural crime. The reference to the stock squad is about the rural crime issue itself. They are interrelated. Rural crime is a crime; whether it is committed by an activist or someone else for their own gain is irrelevant. It is time to recognise that stock theft is a serious issue, and we have to do something about it. We need a dedicated resource available for these issues to be dealt with. Our police are already busy enough dealing with plenty of other issues in our regional areas. Creating this dedicated stock squad or rural crime unit—whatever we want to call it—will also take the pressure off local police forces.

I want to talk a little about drones. The third part of the motion relates to regulation and enforcement around the use of drones. Obviously, in many respects, this is a federal issue because the regulation of remotely piloted aircraft systems is handled by the Civil Aviation Safety Authority. On 1 December 2017, CASA produced a report that included the results of a survey it carried out about regulating the use of remotely piloted aircraft systems. Eighty-six per cent of the respondents—I think there were about 3 700 responses—supported registration. Eighty-four per cent of recreational users of drones supported some form of registration of that equipment. That is handy. Obviously, if a drone is registered, there is the ability to track that device if it is captured, for example. If it is found on someone’s property, perhaps the owners could be tracked as well. It is another mechanism to ensure that we have all the tools in our toolbox to try to manage the crimes perpetrated by the owners of these devices. Illegal surveillance by these drones is becoming more and more prevalent. I am a member of a number of groups in my home area of Esperance—online chats on WhatsApp or whatever app people are using. There are regular reports on that app of drone sightings on someone’s farm. People walk out of their houses in the morning and see a drone, hovering low, flying across the front of their shed to see what is in there.

Hon Rick Mazza: Shoot them out of the sky!

Hon COLIN de GRUSSA: Most often they try but quite often they do not have a gun handy. What protection do they have? What legal options are available to people in that instance? Is that constituted as trespass? Does it breach privacy laws?

A report entitled “Landowner protection from unauthorised filming or surveillance” was presented to the New South Wales Legislative Council in October last year. This is a great report and could form the basis of some investigation in this state. In the time I have left, I want to refer to a couple of the recommendations of that report.

Recommendation 3 states —

That the NSW Government review the Surveillance Devices Act 2007 to consider whether to insert a public interest exemption for unauthorised filming or surveillance.

Recommendation 4 states —

That the NSW Government establish a whole of government working group to review the current legislative framework around unauthorised filming and surveillance and identify barriers to enforcement and successful prosecutions.

One of the critical things about the legislation around drones is that it is more than just licensing and regulating their use; it is about what they can be used for and what breaches of what act are made. It is quite complex. I believe that we may be able to use state legislation to offer some protections to landowners. That needs to be investigated.

Recommendation 5 states —

... review the laws and penalties of trespass and unauthorised surveillance to consider the responsibility of those planning illegal activities ...

Recommendation 6 states —

That the NSW Government, through the Council of Australian Governments, raise the need for a comprehensive approach to the regulation of drones across state and federal jurisdictions, with particular regard to the potential privacy and security impacts of the increasing use of drone technology.

That is a good suggestion and one that I hope this government can pursue through its involvement in COAG.
HON RICK MAZZA (Agricultural) [10.28 am]: I would like to thank Hon Colin de Grussa for bringing this very important matter to the house. Obviously, rural security and crime is an important matter that has to be dealt with. I want to focus on paragraphs (a) and (c) of Hon Colin de Grussa’s motion in the limited time that I have. I will start by saying that I appreciate the ministerial statement that the Minister for Agriculture and Food made on Tuesday. It is good to see that the government takes vegan activism and an attack on our food producers seriously. Mention was made of the Muchea saleyards. I believe that 30 activists attended the saleyards. Anyone who has been to a saleyard would understand that it can be a very dangerous place. Trucks are backing in and out and there are large animals. If the operators of the saleyards are distracted by people protesting, it could end up in serious injury or death. I thank the minister for that ministerial statement. In fact, there are significant penalties—a year’s imprisonment and a $12,000 fine—but I will talk about that later on.

Food security, obviously, is very important to the community in Western Australia and Australia in general. Biosecurity breaches caused by people entering farms without permission and without going through biosecurity measures cause great problems. More importantly, the vegan movement needs to be brought into check. I want to distinguish between vegans and vegetarians. I have no beef with vegetarians! I know there are a number within this chamber. Vegetarians generally follow quite a healthy diet; they will eat eggs, cheese and other animal products, and often eat fish. But vegans eat no animal product, and the diet is actually a disguise for animal rights activism; that is what it is. The Oxford Dictionary defines activist “terrorism” as —

The unlawful use of violence and intimidation, especially against civilians, in the pursuit of political aims.

I think that describes very well what has been going on with a number of our farmers who have been harassed and attacked. It is domestic terrorism, and we, as a Parliament, should move to protect food producers and farmers from that.

The attack map that has been referred to is an absolute disgrace. In some cases it points a butcher’s knife at locations and farmers, which does not send a very good message. On social media a number of farmers have been explaining how very anxious they are that their farms are being identified. Everybody deserves the comfort of being in their own home, and that is what this is about for farmers—their farm is their home. It is akin to home invasion when people go there and harass them while they go about their lawful business of producing a very high quality food product for not only Western Australia, but also Australia and the world. Our food producers produce a very, very good product, and in the main their animal welfare methods, practices and consciousness are world standard. It is disgraceful that people think that they have a right to harass and intimidate people in their own home and environment. Stronger penalties are needed. One year’s imprisonment and a $12,000 fine may sounds like a lot, but what it translates to is a small fine, a good behaviour bond or maybe some community service.

Today’s Farm Weekly covers this subject, and also quotes federal Minister for Agriculture and Water Resources, David Littleproud, who said —

The example in Caloundra Magistrates Court in Queensland last week where a serial farm invader got only a $200 fine for her third offence trespassing on farms …

That is what happens. They get a small slap on the wrist and if any penalty of significance is issued, the activism group may cover that fine. The chances that they will go to prison are almost nil.

Hon Martin Aldridge interjected.

Hon RICK MAZZA: Pretty much.

It is very important that the government looks into this issue. It is important that the Parliament protects its citizens so they are able to go about their lawful business of food production. There is no doubt that at times some members of Parliament aggravate the issue. Lisa Baker’s comments in the other place last week infuriated a lot of people.

Hon Darren West: You should read what she said.

Hon RICK MAZZA: The Premier came out and rejected Lisa Baker’s comments on this issue, and quite rightly so. It is good that he supports that.

Hon Darren West: You should read the Hansard.

Hon RICK MAZZA: I am sure Hon Darren West will have something to say about this later on.

Again, Farm Weekly made some comments in today’s article, which states —

While the relationship between producer and consumer has never been more important, the divide between farmer and activist has grown wider in the past weeks.

Further down, the Minister for Agriculture and Food says, “I didn’t even know they were there until after.” Sorry; I will backtrack.

Several members interjected.

Hon RICK MAZZA: Yes—that was the farmer.

Hon Martin Aldridge interjected.
Hon RICK MAZZA: The article is a little difficult to read! This article refers to a farmer in Harvey, who said that he felt intimidated by these people. He did not even know that the activists were on his property at the time he went out to shoot a few crows in the afternoon, as he does every day. The Minister for Agriculture and Food says—

... over the past few months we have seen a number of incidents of vegan activism in WA: protests at …
Northbridge … and at the Muchea saleyards, the … Aussie Farms website …

At least the Department of Primary Industries and Regional Development has identified that. I hope that the government moves towards implementing stronger penalties for these domestic terrorists who are harassing food producers.

Hon Samantha Rowe interjected.

Hon RICK MAZZA: That is what they are. They are harassing food producers. They are identifying farms.

Hon Alison Xamon: You’ve got to be kidding!

Hon RICK MAZZA: As I have said, this is a disguise for extreme animal activism. In fact, it has become such a problem that, in May last year, the Daily Mail published a story about vegan parents who had neglected their 20-month-old daughter to the point that she was suffering from malnutrition and rickets. Some people really do take this to the extreme.

Hon Alison Xamon: Wow-wee!

Hon RICK MAZZA: That is the headline. I am not saying that; it is right there in the headline.

It is up to Parliament to make sure that the rule of law is obeyed in this state and that the penalties for people who trespass on properties and harass and intimidate people need to be much stronger. That protection needs to be provided as soon as possible.

HON ALISON XAMON (North Metropolitan) [10.36 am]: Wow! I rise to make some comments on the motion. I must say that some of the things that the two previous speakers said were reasonable and I concur with them, but a fair degree of licence was taken in some of their comments. I have to say at the outset that I become really, really concerned when members throw terms like “terrorist” around so loosely in the chamber. I think it is deeply irresponsible. I remind members that we will be debating legislation very shortly that provides for how we deal with terrorism. It is a serious matter and when people are so cavalier with that term, I become very, very concerned.

I ask that people rein it in a bit so we can talk about the genuine issues that face us today.

I must say at the outset that I do not support the tactics employed by the animal rights activists and I will explain why that is. I will also put some context around the issue as well. I recognise that when people enter other peoples’ private properties, it is deeply problematic, particularly if a person lives in the regions and is far away from law enforcement and is fearful about those people entering their property. I am also persuaded by the concerns that have been expressed about the impact on biosecurity. I think that is a very legitimate issue and there are concerns about that. I do not accept that we need to increase penalties, but I do think that perhaps more work needs to be done so people know their rights. Perhaps it would be useful to look at how people can gain that support.

However, I want to talk about what motivates people to go to such extreme measures. These are not measures of terror; they are certainly extreme measures and they are about breaking the law. The reality is that the key concern of a lot of animal rights activists is that they have lost faith in the capacity of the state to appropriately oversee whether animal welfare is adhered to within this state. We know that this is not actually new. People have been going onto farms and filming gross acts of cruelty, for example, for decades and decades. In the past, that is how breaches of animal cruelty have been revealed, whether it be looking at cruelty on battery hen farms, cruelty towards pigs or cruelty towards other livestock animals. They have taken it upon themselves because they have not had faith that the systems in place will enable people to ensure the state is doing the job of overseeing animal welfare. If we want to discourage this sort of activity—I think there is good reason to do so—the simple solution is to enable inspectors to independently and appropriately inspect to see whether biosecurity measures and animal welfare are being upheld to the standards we expect. We know that this is what the community wants from us as well. The community wants to know that animals are being treated fairly and that gross animal cruelty is not occurring on our farms. I strongly believe that the majority of farmers do not operate that way but there will be rogue farmers who mistreat their animals, and that needs to be exposed, and I think it needs to be exposed by the state. That is why we need to ensure animal inspectors can go in, without having to give notice, and report back through the appropriate channels. Members opposite want this matter addressed, and I completely understand why, and that would be a start.

The second thing I would like to comment on is animal rights activists protesting at restaurants. It is with some despair that I watch this activity. I despair because I am one of the people in this chamber who is vegetarian. I am not vegan; I was vegan, but I found that it was too difficult when I fell pregnant, but that is another story. I have been vegetarian for 29 years; I became vegetarian primarily on animal welfare and environmental grounds. My children have chosen to be vegetarian but my husband is not. I tell animal rights activists that they will not win...
over hearts and minds by berating people for how they eat. I am concerned and saddened when they do that because I am sympathetic to the idea of educating people about the impacts of eating meat and perhaps looking at reducing the amount of meat they eat, but I do not think berating people is a fair or effective way to achieve that outcome. However, I have to say that it goes both ways. I do not berate people for what they choose to eat. Good luck to anyone here who can say that I ever have, but people, including people in this chamber, have mocked me because of what I choose to eat. I have to say how incredibly lame that is, people. If they want animal rights activists not to protest about what they eat, fair enough, that goes both ways. We do not berate people because they eat halal or kosher food or because they are diabetic and do not eat sugar or have coeliac disease, so do not berate people if they choose not to eat meat or any animal products. I am seeing that lack of respect going both ways. I wanted to stress that.

Hon Colin de Grussa raised broad concerns about the theft of livestock. Obviously, any suggestion that animal welfare activists are responsible for that would be outright ludicrous, but I did not hear Hon Colin de Grussa necessarily suggest that. Concerns were raised about the theft of stock, biosecurity, and unlawful shooting and fishing on people’s private property. Concerns were raised also about a lack of independent oversight of these activities, which goes far beyond concerns about animal rights activists trespassing onto people’s property. It sounds as though there is a much broader issue here, and I concur that it sounds as though it needs to be addressed. I think there is a bit of a bandwagon-type mentality going on here because people have seen a political opportunity to target a particular type of activism. As I said, I do not particularly support this type of activism. Unfortunately, it alienates more people than it brings on board so I think it is ineffective in that regard but it happens because people lose faith in the state’s capacity and willingness to independently oversight animal welfare measures on properties.

The first thing we should do is make sure that we step up that oversight so the good farmers, who are doing the right thing, can effectively be exonerated, if you like, from suggestions that they are not. However, it would mean that rogue farmers who are not doing the right thing could be picked off and people would not feel the need to take matters into their own hands, because they should not. I want to be very clear. I do not know whether any of the farmers involved are good. That is not my assessment to make and probably not that of the animal rights activists to make either, which is precisely why if people had faith in the system and the appropriate people were independently going out to properties, without notice, and determining what needed to happen, it would be much easier for all.

I remind members that the Productivity Commission report itself has said that we need reform in this space; new standards for farm animal welfare; enforcement of farm animal welfare standards; an assessment of the efficiency and effectiveness of the livestock export regulatory system, and that we need to improve it; a standalone statutory organisation that can look at animal welfare; and independent evidence-based advice on animal welfare science and community values. We do need reform in this space and that has been recognised by the Productivity Commission. We are seeing a brand of activism emerge out of frustration. That is not good and I hope people can reassess some of the tactics because, as I say, I do not believe they are bringing the community along with them with their activism. Frankly, the animals deserve better. They need that effective oversight and that is the state’s role.

HON ALANNAH MacTIERANN (North Metropolitan — Minister for Agriculture and Food) [10.46 am]: I thank Hon Colin de Grussa for bringing this motion forward. This is an appropriate forum to be dealing with issues of this type. We are seeing a changing environment and we have to be prepared to look at providing the appropriate response. Before I deal in some detail with this matter, I compliment Hon Alison Xamon for what I thought was a very measured and well-argued position. I have to say to Hon Rick Mazza that it is completely unproductive for us to try to engage in a cultural war here. This is not what we need.

I point out that the food that vegans eat are produced by farmers. Whatever it is they are eating, whether it is smoked tomatoes, almond milk or mushroom-based products, they are products produced by farmers. It is incredibly important that we understand, as was put so eloquently by Hon Alison Xamon, that it is wrong to denigrate people because they have chosen the path of veganism, and it is just as important that activists must respect the right of Australians to exercise their choice to eat meat. I know many very decent human beings who have chosen this particular pathway for moral and health reasons. It is not one that I have chosen. I ostentatiously eat meat to assure people that I support all farmers. I urge us to move away from this culture war. It is not in anyone’s interest for us to inflame this situation.

As Hon Colin de Grussa has said, there are very real concerns for farmers. I understand that this type of activism can be a real, practical threat. People feel unsafe in their environment when there is a risk of people trespassing on their property or a drone flying over it. It is a very uncomfortable feeling. They also have a deeper and more profound existential concern. Many livestock producers have put it to me that one of their concerns about moving forward with animal welfare legislation is that if we give in on this part, then the activists’ ultimate agenda is to continue to have more. Certainly, it is true that the ultimate aim of a percentage of animal activists is to close down livestock production, but that is not where the bulk of the Australian population lies. We stand strongly behind our livestock producers and believe that it is possible to raise animals in a humane way whilst feeding the Australian
population its chosen diet. Calm heads must prevail and we have to be committed to credible animal welfare so that the bulk of the Australian and Western Australian population will remain firmly behind our livestock producers, as they are today.

The Premier and I have made it very clear that we want to distinguish this latest round of vegan activism from veganism itself. This activism is counterproductive and there is a degree to which one might think that perhaps this comes out of some sort of smugness, complacency or self-indulgence that they are going to achieve anything positive by going into a restaurant or threatening a farmer on their property. It seems that this type of activism is not designed to achieve a positive outcome and, quite frankly, it is setting back the cause of animal welfare. I ask those people who are doing these things to think very hard and long about what they are actually trying to achieve.

The member raised the question of whether the existing penalties for trespass, for example, are strong enough. The real challenge is putting in place enforcement. We can come in here and have a knee-jerk reaction and set the penalty at 10 years’ jail or a fine of $20,000 or $40,000, but the difficulty lies in our ability to enforce that. As the member has acknowledged, there is certainly one meeting, possibly two meetings, next week between industry and very senior players in the police. I have been in constant dialogue, as has the Premier, with the Minister for Police on the trespass issue to ensure that we have an appropriate response. As we know, there have been a number of these cases. For example, in the Harvey case there was no trespass. No matter what laws we have against trespass, there would not have been an offence to prosecute.

The member also raised the issue about drones and drone surveillance, which is a real issue for not only farmers, but also many other people. The public and farmers have raised proper concerns about this issue. The safety aspect of using drones is regulated under the Civil Aviation Safety Regulations and the privacy aspect is dealt with under the Surveillance Devices Act 1998. Given the emerging prevalence of drones in the intervening 20 years, it is really quite important that we look at whether these laws are adequate for these purposes. It is something that we certainly need to take on board. In a number of cases, livestock producers have taken on activists using not only criminal action, but also civil action and suing them under civil tort provisions —

Hon Rick Mazza: Sorry, minister, who was suing whom with that?

Hon ALANNAH MacTIERNAN: The livestock producers were suing the activists. There are a couple of cases. In 2002, one such case involved a television journalist. As I understand it, the television company was found to have committed the tort of trespass. The television company then appealed saying that because it was a business, there was an implied right for the public to enter the property. The court found that the legislation did not cover the type of surveillance carried out by the television company and subsequently found in favour of the livestock producers. In 2011, there was a similar case in which the livestock producer was awarded damages for trespass. Clearly, there are avenues for recourse, but we want to get beyond those. It will be really important for us to look at the Surveillance Devices Act. Perhaps one of our committees could have a look at whether this act is really fit for purpose.

On the more general issue of rural crime, in particular, livestock theft, the stock unit of the Western Australia Police Force was abandoned in 2008. It was felt at the time that there were more efficient ways of dealing with livestock theft. I suspect that as the price of livestock has increased quite considerably, this very real risk of livestock theft has increased. This is an important issue that can be raised at the meeting that is happening next week with senior officers of the police about whether we need to have a more focused unit. I have just come back from Broome and, as always, in any conversation with pastoralists up there, the centuries-old tradition of cattle rustling is still an issue for pastoralists with various people claiming who has been rustling whose cattle. It is a lot more difficult to ascertain up there because animals move across boundaries quite readily. This is clearly a serious issue and I thank the member for raising it. We will put the issue of whether we need to look at the restoration of the stock squad on an agenda for discussion with the Commissioner of Police.

Hon Jim Chown: In Australia, we call it cattle-duffing, not rustling.

Hon ALANNAH MacTIERNAN: It depends where one comes from. Cattle rustling is the term I have always used.

Hon Jim Chown: It is American terminology.

Hon ALANNAH MacTIERNAN: All right; cattle-duffing. I bow to the member’s superior knowledge on this. I hope it is not personal knowledge!

Perhaps one of the fundamental underlying provisions is: how can we move beyond these culture wars? I do think there is a place for having a higher degree of transparency around our animal welfare laws. It is ultimately in the interests of the farming community to be able to point to a very credible system of monitoring and compliance. Indeed, at the recent meeting of agriculture ministers, an item put on the table by the federal minister, written by his department, was a proposal for us to really get our house in order in relation to the livestock standards and guidelines to ensure that we have a credible process for establishing those guidelines and a credible and consistent approach across the nation for the enforcement of those guidelines. This is going to be an important part of the armoury of our livestock producers to show the community that they are doing the right thing—that a clear set of standards are being complied with. The majority of us who choose to eat animal products can then be assured that we are doing this ethically.
HON CHARLES SMITH (East Metropolitan) [11.00 am]: I want to make a few brief comments regarding part (b) of the motion, which states that this house calls on the government to —

provide extra resources for law enforcement agencies to tackle rural crime and increase community protection in rural areas;

I will also take this opportunity to again raise the issue of Aboriginal incarceration rates and Aboriginal crime rates, because this is an area in which the government continues to fail.

I would first like to thank the member for raising the issue of community safety in rural and regional Australia. For those members who do not know where rural Western Australia is, all they need do is drive on Great Eastern Highway or Great Northern Highway and keep going until the green turns to red dust. Members may know that I lived in Kalgoorlie–Boulder for around 10 years, so I have personal insight into regional life. For the residents of country towns like Kalgoorlie–Boulder, Kununurra, Esperance, Geraldton and Bunbury, nothing is more important than feeling safe in their own home. The harsh reality is that residents are absolutely fed up with their homes being broken into, putting up with antisocial behaviour and hearing appalling language in public places. Kalgoorlie–Boulder still struggles to attract professional people, like medical and mental health practitioners, due to the crime and antisocial behaviour issues. In rural and remote regions, the harsh reality is that young Aboriginal members of the community, particularly young Aboriginal boys, commit high volumes of crime and participate in antisocial behaviour. This has just been acknowledged and recognised by the member for Kimberley, who recently called for traditional cultural punishment. She at least knows that this is a significant problem and that it is out of control. She has my total respect for raising this issue. Unfortunately, I cannot agree with traditional cultural punishments just for one segment of our society. I think it is a great idea for all criminals to be speared —

Hon Colin Holt: What?

HON CHARLES SMITH: — and particularly perpetrators of domestic violence. Yes, I say that tongue in cheek, for those who are questioning my comments. At least the member for Kimberley is prepared to recognise that there is a problem that needs to be dealt with. The Western Australian government needs to acknowledge this and act with Aboriginal people if it is to make rural and regional Western Australia a better place to live, work and play for everybody.

Approximately two years ago, I advised the house on Aboriginal incarceration issues. I will repeat what I said then, because the McGowan government needs to stop ignoring people who have some insight into the realities of living in regional Western Australia. The disparity in Aboriginal incarceration rates overwhelmingly comes down to two things — violence and reoffending. More than 50 per cent of Aboriginal prisoners are in prison for violent offences, meaning assault, murder, sexual assault and robbery. Aboriginal people are also disproportionately victims of murder and assaults. Family violence also has a huge part to play in these offences. From firsthand experience, I can relate to the house that 99 per cent of all police work out in the bush is dealing with Aboriginal domestic violence. Recent data from the Australian Institute of Criminology’s national homicide monitoring program between 1989 and 2012 shows that 67 per cent of Aboriginal murders were classified as domestic violence murders, compared with 26 per cent of non-Aboriginal homicides. The report also found that 70 per cent of Aboriginal murders involved alcohol, compared with only 22 per cent for non-Aboriginal murders, despite drinking rates for Aboriginal Australians being no greater overall than those for non-Aboriginal people. In fact, a higher proportion of Aboriginal people are non-drinkers than non-Aboriginal people. The report also found that those who do drink are more likely to drink harmful amounts. That is the crux of the situation. Family and community violence thrives in socioeconomic disadvantage and its bedfellows of social dysfunction, alcohol abuse and unemployment.

Another major factor in the disproportional rate of Aboriginal imprisonment is reoffending, which I will talk about now. Of the 2015 prisoner population, 77 per cent of Aboriginal prisoners had a prior sentence compared with 50 per cent of non-Aboriginal prisoners. Believe it or not, there are known facts that indicate whether reoffending is likely. One important factor is having accommodation available to offenders post-release. Having accommodation for prisoners who are released is a major factor in reducing reoffending. That is an area that the government needs to look at.

The ACTING PRESIDENT (Hon Dr Steve Thomas): Member, can I interrupt you briefly. There is a fair bit of movement around the chamber and, I suggest, perhaps some question mark about the degree of relevance under standing order 47. I thought the same thing until I read part (b) of the motion before the house, which reads —

provide extra resources for law enforcement agencies to tackle rural crime and increase community protection in rural areas;

The member is addressing Aboriginal issues. My understanding is that there are plenty of Aboriginal people in rural areas, so I will allow the member to continue. Hon Charles Smith has the call.

HON CHARLES SMITH: Thanks, Mr Acting President. I want to quote Warren Mundine, who has stated —

… governments and commentators must move past the narrative that indigenous offenders are victims of racism, colonisation and intergenerational trauma; that they deserve pity rather than the consequences of their actions.
He went on to say —

It doesn’t help offenders or produce good policy.

I want to conclude by addressing the problems that the police are facing in rural and regional areas. That is a new issue in the last year or so, as police seemingly no longer wish to relocate to the regions. Police officers in regional areas have received a $2,000 pay increase over the last two years — $1,000 a year — but the government has increased rents in those areas. The rent increase total $3,020, compared with the pay increase of $2,000. Why would any police officer move to the regions to take a pay cut? In years gone by, there were incentives for police to go to the regions. It is now becoming very, very difficult to attract police officers to regional police stations. Even popular spots such as Margaret River are failing to attract officers and fill vacancies. Therefore, I urge the government, in the strongest terms, to look at reversing those Government Regional Officers’ Housing hikes and make country policing an attractive proposition as it once was.

HON JIM CHOWN (Agricultural) [11.10 am]: I congratulate the majority of members who have spoken on this important matter for regional Western Australia and the farming community at large. I took great heart from the minister’s response to this excellent motion moved by Hon Colin de Grussa. My experience in my farming career is that animal activist activity surges and wanes. My family has personal experience of animal activists coming onto a property on more than one occasion. We owned one of the largest private piggeries in Serpentine until a few years ago. On at least three occasions, they came into our state-of-the-art facility that complied with every requirement for the animal husbandry of these animals. They would come in at night or in the early hours of the morning. They all had torches. They would let animals go. They stressed the animals beyond belief. They also stressed my mother, who was living on the property, and my brother. We would go down to the piggery because we could see lights and vehicles and our dogs would be very upset and barking — that is how we were alerted — and we would have no idea who was in the dark or how many people there were, but there was more than half a dozen on each occasion. They would run off and we would spend the rest of the night calming down animals and getting them back into their appropriate places. Such was the stress caused by these extremist animal activists, these animals would not eat for a day or more because they had been disturbed beyond belief.

Hon Rick Mazza: They were terrorised.

HON JIM CHOWN: It was almost an act of terrorism. They came back again and again. The police and the department of agriculture and food were informed. Officers from the department came down and inspected the property, as they should, and gave a tick of approval every time. The activists even went to the point of putting on a website supposed photos from the property involved, but those photographs did not come from the property. The animals were never put under those conditions. The police tracked the photographs from that website and they were from elsewhere in the world — probably Asia. It was absolute fraud. These are the extremes these animal activists go to and, quite frankly, it is an issue of great concern to regional Western Australia.

I am concerned that, at some stage, unless something is done about this through legislation, or at the very least alerting the police in the farming communities of what could happen, someone will be seriously injured. I do not know whether it will be a farmer or an activist, but certainly tempers become frayed and people become stressed as they go about their normal business and run into activists. Their normal reaction when they are alone on a property at night or early in the morning is to take action. These activists have a group mentality and they get courage from each other. Some of them are quite young and, as we know with all young people, they can react in the wrong manner and regret it later, but the action is still undertaken. The gist of this motion needs to be considered seriously by a responsible government and at the very least we need to give farmers some protection from these incursions as we go forward.

I am very happy to hear that the Premier made a statement and the Minister for Agriculture and Food backs that statement and understands the situation. But heaven forbid if at some stage in the future we were found wanting as a Parliament and a government when someone is seriously injured by activists who did not understand their responsibilities and were doing their cause no good at all. I wonder what motivates them. The motivation is not about the care and welfare of animals, as I have stated. As Hon Alison Xamon expressed, these people are doing their cause more harm than good. Some people would say, “Why don’t you encourage it more, because you don’t like these left-wing activists?” I am quite a balanced person. The reality is that we need to inform our communities at large that this practice will not be entertained and has inherent danger involved in it, certainly in rural communities.

I congratulate members for their comments on this matter this morning and I look forward to less activism. Activists can demonstrate in front of Parliament and at the roads down at the wharf, as they have done for years, but they should not take their activism onto private property or private saleyards. They should go out and do it on the road. We do not want them there and they are not doing their cause any good at all. In fact, they are having the opposite effect in the general community at large.

HON DARREN WEST (Agricultural — Parliamentary Secretary) [11.15 am]: It looks like the farmer might get the last word! I commend Hon Colin de Grussa for bringing on this motion. As the only working farmer in Parliament, this issue can affect me and only me, and all those involved in agriculture. I note that as the only farmer in the house, I am sitting next to the only vegetarian in the house and we get along just fine!

Hon Martin Aldridge: That is not what she told us.
Hon DARREN WEST: As far as I know, we are getting on fine.

That goes to the minister’s point. These cultural wars between those who produce meat and those who choose not to eat it are not helpful and should not be encouraged. I get concerned when people inflame the rhetoric with words such as “terrorism”. They are trying to inflame that cultural war for whatever reason—possibly electoral. Usually the word “terrorism” gets thrown around a lot in the lead-up to federal elections. I make that point. Members, how do we know whether our friend is vegan? Does anyone know?

Hon Rick Mazza: Wait six seconds.

Hon Alison Xamon: They will tell you about it.

Hon DARREN WEST: They will tell us. That is the right answer, member. Vegans are very passionate about what they believe in. I understand that people have very strongly held views on all ranges of subjects and people who choose to be vegans are included in that group. As the Minister for Agriculture and Food said, vegans eat food produced on farms too. Whether it is bread or mung beans or chickpeas or whatever vegans choose to eat, it is produced by a farmer—not at my farm, but it is produced by a farmer. In fact, most of the produce off our farm is not meat. It is fodder or grain or other such things. I encourage vegans to investigate further the consumption of Western Australian white lupins. They are a superfood. We have processing in place to de-hull those and make them into all kinds of flour, as the bakery in Mingenew does—it makes a terrific lupin flour. That is a great food of the future that we produce abundantly here in Western Australia.

Hon Rick Mazza: Do you grow it?

Hon DARREN WEST: Absolutely. We grow them.

Hon Martin Aldridge: It is an ad.

Hon DARREN WEST: Absolutely! I have some for sale if the member would like some. This is a great food. They are also a legume crop so they help build up soils and get on top of weeds. I encourage all vegans who may be listening, or reading the transcript, to get behind Western Australian white lupins.

Hon Jim Chown was wondering what the activists are trying to achieve. I can tell the member and everyone else that it is to try to draw attention to their cause. That is what they are trying to achieve. All these stunts—let us face it, a few political stunts have gone on from time and time for that same reason—are trying to attract attention. They got their attention last week. I side with the farmer in Harvey. I know that he was very distressed at the time, but it was not all that helpful because he provided the activists with the footage that they sought. The best thing that we can do is to ignore these people. Ignore them and not give them the attention that they are seeking.

Hon Rick Mazza quoted Farm Weekly. Farm Weekly sensationalises these issues to try to flog a few copies of its magazine. It is not helping at all. The best thing that we can do is try to ignore the activists that come out and seek that attention. That person who parked on the side of the road outside that farm in Harvey has achieved exactly what they set out to achieve, because we are still talking about it in Parliament today and giving it even more attention. I suggest that the best thing farmers can do, and what I would encourage farmers to do, is not provide them with the footage that they want. Tell them to go away; and, if they do not go away, call the police and put an end to the situation. It is not helpful when people behave in the manner that the activists want. Therefore, the advice that I would offer to my fellow farmers is to not encourage these people.

My colleague Lisa Baker, the member for Maylands, whose name was brought up in this debate, made a speech recently. Her issue was timing, because it happened the day after the Harvey incident. In that speech, she essentially paraphrased an article in the British medical journal The Lancet. Her speech was spun so far out of context by The West Australian that it was unbelievable. Lisa Baker suffered unnecessarily from a whole lot of people, when she did not actually do anything wrong. Lisa and I completely disagree on this issue. However, if someone is misquoted and has their story spun completely out of context in The West Australian, at least in fairness the people who have criticised her should first have read what she actually said.

Several members interjected.

Hon DARREN WEST: There is an example in The West Australian in which she is called a “meathead”. I am talking about that article.

No-one has ever interrupted, intimidated or caused any concern on our property. We have not had any drones fly over our place. I expect that could happen one day.

Several members interjected.

Hon DARREN WEST: There is a piggery on our farm, but we are not on the attack map. I am pleased about that. I do not agree with the attack map, because all farmers live at work. We have never had any problems, and I would suggest that most farmers have not had either. I am not saying that people do not trespass on our farm and break the law. Of course they do; that happens from time to time. People come onto other people’s farms and steal livestock and equipment. There is a law against that. Although we live on a reasonably busy road, we have never had these problems. I do not think it is as widespread as some of the non-farmers in this place would lead us to believe. I think everyone needs to calm down. People are using the word “terrorism”. Seriously! Terrorism!
Several members interjected.

**Hon DARREN WEST**: The people who use that word are seeking attention. Let us be very clear about that. I know that a federal election is coming up, and people use that word a lot around federal elections, especially people on the opposite side. It is not terrorism.

I acknowledge that Hon Colin de Grussa, a former farmer, has brought this motion to the house for the right reasons. I support the motion, because the motion is clearly in the interests of the farming community, of which I am a member. Some very important issues have been brought out in this debate today. We should not provide the oxygen and attention to activists that they seek. We should not have a culture war.

Several members interjected.

**Hon DARREN WEST**: I accept that the Premier and the minister have sided with farmers. What is wrong with that? The reason they have done that might be that Labor is the only party in government that has a working farmer in its caucus. The Premier and the minister have supported our farmers. That might be because there is a farmer in the Labor caucus. There is not a farmer in any other caucus, but we have a farmer in our caucus. It has been good to be able to work with the minister and the Premier on this issue.

**Hon Alannah MacTiernan** interjected.

**Hon DARREN WEST**: He has leased out his farm. He is not farming anymore. I am the only working farmer in this Parliament.

Several members interjected.

**The ACTING PRESIDENT (Hon Dr Steve Thomas)**: Order, members! Hon Darren West, the problem with seeking and allowing interjections is that you will not infrequently get them. I advise you to direct your remarks to the Chair, and I ask other members to allow Hon Darren West to complete his address in silence.

**Hon DARREN WEST**: Thank you, Mr Acting President. I do enjoy a robust debate, as members know, but I will direct my comments through the Chair.

It is important that we talk about these things. However, it is also important that we understand where we are all at. Activists seek attention. Let us remember that first and foremost. When we give them attention and provide oxygen, and call it terrorism and have articles in the newspaper that are spun out of proportion, it benefits only the activists. Our farming industry is very well run. We have very good animal welfare standards across the board. Our farmers care about their livestock and actively contribute to and promote the consumption of meat and other products. We will keep producing what the consumer wants. If people choose to be vegan, that is their right, and we will produce the food that they eat, because we all need to eat.

I thank the member for bringing on this motion. I am always happy to discuss matters of agriculture. That is what I spent my life doing before I came into Parliament and what I will continue to do after I leave Parliament. It is important that we all work together and cooperate and get along, because we have a great future in agriculture. There has never been a better time to be involved in the agricultural sector. A few activists are not going to spook me away, and I think most farmers would say the same.

**HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment)** [11.25 am]: I want to put my thoughts on the record. I congratulate Hon Colin de Grussa for bringing forward this motion. As a regional member of this place, I share the concerns about “activists” and their actions over the past few months. I was overseas during the parliamentary recess, and it seems to be a worldwide phenomenon. Activists have been able to get a foothold in various cities around the world. It seems to be the case that a philanthropist of some sort has provided the money and they are campaigning for that cause. In Dublin, there are ads on the back of buses and signs saying that veganism is the way of the future and we should stop eating meat. It is fair enough to campaign. In the past, I was an activist on various issues. Campaigning is fine. We live in a democratic society. However, I have an issue with these so-called activists going onto people’s farms and putting cameras in people’s faces. That is wrong and we should all say that is wrong.

I appreciate the comments today from the Minister for Agriculture and Food and her support for farmers and the farming community in this state. It is appalling that these so-called activists are coming into restaurants at which people are eating with their families and are screaming that they should not be eating meat. It is scandalous and should not be allowed to happen. I want to call that out for what it is. It is shameful. People should be allowed to eat meat in restaurants without being persecuted by someone. Farmers should be allowed to farm. There is stringent legislation in this state to protect farmers. We often have debates about some of the agencies that monitor the work of farmers. However, the fact is we have laws. These farmers are operating within the laws. These activists are skirting around those laws and causing grief in regional communities. I do not support what they are doing.

Hon Colin de Grussa has moved a very good motion. I certainly support the comments of Hon Alannah MacTiernan and congratulate her for her work in this portfolio.

Motion lapsed, pursuant to standing orders.
CONSUMER DEPOSIT SCHEME

Motion

HON DR SALLY TALBOT (South West) [11.28 am] — without notice: I move —

That the Legislative Council congratulates the government on its plans to introduce a container deposit scheme and other important initiatives to make Western Australia a sustainable low-waste community.

There is a nice segue between the previous motion that extended debate on our agricultural practices in this state and the final contribution by the Minister for Environment, Hon Stephen Dawson, about the provisions in the laws of this state and how we have an obligation to abide by them. The motion that I am moving today is about a very significant change in the law that will bring about a very significant change in not only our practices, but also our cultural attitudes towards waste in this state. It has been a very long time coming. It is unbelievable that we are nearing the end of the second decade of the twenty-first century and Western Australians are still lagging so far behind the rest of this country with their attitudes to waste and the way we generate and dispose of that waste. I would go further than that and say that one of the pressing challenges that we have had in front of us as a society for the last three or four decades is to do a radical rethink of the whole concept of waste and perhaps even abolish the concept of waste and come to a full realisation that nothing that is produced in the materialistic world in which we live today is without consequence. I am very proud to be part of a government that has taken that step. Governments are sometimes reluctant to engage in these programs to adopt legislation that has cultural change at its heart. The government of which I am part is brave enough and has sufficient commitment and a set of shared values that is robust enough for it to attempt that. I am equally proud to say that behind that move is a vast wave of community support—it has been there for a couple of decades—to radically rethink our concept of waste and to bring Western Australia into the twenty-first century when it comes to our attitude towards the way we get rid of the things that we have finished consuming.

I have framed this motion around the introduction of the container deposit scheme. We will see container deposit legislation debated in this chamber within the next couple of weeks. As I said, it has been a long time coming. They say that the ship of state is slow to turn around. In the last few years we have seen that the Liberal Party in this state is even slower to turn around. In eight and a half years, we saw no action on this front. Indeed, I go further than that and say that we went backwards during that eight and a half years. We were poised at the end of the first decade of the twenty-first century to take very significant steps, which included not only a container deposit scheme and action on plastic bags, but also things like the fertiliser action plan. They all went for nothing once the Liberal–National government took office in late 2008. I am happy to say that momentum has now been restored. As I have noted, the ship of state is slow to turn around but it has taken Hon Stephen Dawson less than two years to do exactly that. Indeed, it took him only a matter of months to move on plastic bags, such was the momentum in the community.

Some members on the benches opposite were sceptical about the removal of single-use plastic bags from the environment. We have had hours of debate in this place during the 14 years that I have been here, with those on the opposite benches—the Liberal and National Parties—suggesting that if we were to remove single-use plastic bags from the environment, the sun would not rise and the sky would fall down. Guess what? They have not. Although some people were not fully converted—they remain that way—we have all learned and every day in every shop and supermarket in Western Australia, we see that people have worked out that life goes on without single-use plastic bags. Very shortly we will begin to see the environmental, social and economic benefits that come from making that kind of move. Incidentally, I will quickly share a couple of great stories connected with the ban on single-use plastic bags. I gather that anybody who wears a uniform that includes a hat was very happy. There were great stories of police officers filling their hats with their shopping when they called into the shops after work. My favourite story was about the person who carried a roll of gaffer tape with them. If they bought too many things at the shop and they did not have their reusable bags with them, on their way to their car they gaffer taped everything they bought to their body.

As I said, we will spend considerable time talking about the container deposit legislation over the next few weeks and months in this place as this new scheme becomes law. I will not spend much time on that today. I wish to say that the container deposit scheme is not the only thing that this government has done. I have considerable knowledge and experience in this field, having been shadow Minister for Environment for several years. The most important thing that the McGowan Labor government has done is put in place the “Waste Avoidance and Resource Recovery Strategy 2030”. At last we have a plan. We do not just have a plan when we print several thousand copies and use them as doorstops. We have a strategy that is supported by a business plan, a budget, task forces and working groups that have a commitment to action. It is not easy to translate values and principles into concrete action, but that is what this government is doing, and we see it unfolding on almost a daily basis at the moment. We have the strategy in place now that will take us through at least until 2030. Clearly, if members have taken the time to read that document—I urge members to do that if they have not done so already—they will know that it is not a heavily technical document; members will not
have to lock themselves in a quiet room and use cold compresses to get rid of a headache every couple of hours. The document is only 30 or 40 pages long. It is clear and concise and tells us what the state will do to lead this change over the next decade or so.

We have the strategy in place. The strategy very cleverly and very smartly moves on from the old policy, which was framed around the Towards Zero slogan and did not quite make the distinctions clear enough between ideas like reframing the waste hierarchy and that kind of circular economy idea in which we abandon the notion of waste and just look at what we are now calling the embodied energy in waste, so that instead of seeing something as rubbish, we see it as a resource. It is one of the most powerful intellectual tools that we have come across in this area. When I say an “intellectual tool”, I mean a tool that can drive policy. If we read the strategy, we will see that this idea of a circular economy, of embedding or embodying value in what we used to call rubbish, will drive this new approach. We move from the old Towards Zero approach to an approach that is framed around avoid, recover and protect. Those three concepts summarise this idea that Labor governments are famous for. Only Labor governments get their heads around these ideas and turn them into practice. It is the idea that we do not have to sacrifice economic outcomes for environmental outcomes. When we talk about that old triple bottom line, the concept with which we are all familiar—that we must always consider not only the economic benefits, but also the social and environmental benefits—we can have all three balls in the air at the same time. That is why I think one of the highlights of the last two years of the McGowan Labor government was yesterday when the Premier released the “Our Priorities: Sharing Prosperity” program.

A great look of puzzlement has now taken over the faces of members on the benches opposite. Nobody on the other side of the chamber, nobody in the Liberal Party or the Nationals WA, has the faintest idea what we are talking about when we say that you can walk and chew gum. These guys are hopeless. That is why they spent eight and a half years falling over their feet, because every time they took a step, if they had gum in their mouths, they would fall flat on their faces. That happened for eight and a half years. Fortunately, we now have a government and an environment minister who can both walk and chew gum. What lies behind the “Our Priorities: Sharing Prosperity” program, against which this government will be measured? The platform on which this government will seek re-election in two years’ time is now there in black and white. Those members on the opposition benches who have learned to work the internet will be able to track it daily to see how the government is going. They will be able to get up day after day and ask questions about it so they can expand their understanding of how the government is going to integrate its economic priorities with environmental sustainability and social benefit. That is what this government is doing. That is the heart that this government wears on its sleeve. That is why I am proud to be a part of this Labor government, which is setting a constructive and creative path for reworking our waste strategy.

I want to say a number of other things and I will have a right of reply at the end of this debate, but I know that a number of my colleagues have a lot to talk about too. One thing about the container deposit scheme is that it has always had very wide support. In my initial remarks on this subject, I said that I wanted to do a second thing and that is to pay tribute where it is due. I have already mentioned Hon Stephen Dawson and the McGowan Labor government in general, but I want to also pay tribute to the community groups whose lead, in a sense, we are following. The town that I come from, Denmark, is renowned for being clean and green. The people of Denmark really have led the way in plastic reduction. There is a group in Denmark that has been meeting every two or three months at the community resource centre, or the environment resource centre, that has changed its name from Plastic Bag Reduction Denmark to Plastic Reduction Denmark. It is a great group of mainly women, although I notice in its latest Facebook post about a workshop that that group held about a week ago, one male was there. That is a great thing because it is something that everybody can get involved in. Hon Simon O’Brien is a beneficiary of that program. A couple of months ago, I noticed he was carrying around a very tatty old bag that contained all his committee paperwork, so I gifted him—I am sure he will disclose it on his declaration of interest—a bag made by that plastic reduction group in Denmark.

**Hon Simon O’Brien:** And I have toted it in public.

**Hon Dr SALLY TALBOT:** I am very proud to have helped Hon Simon O’Brien to go down that particular path. I want to pay tribute to all those groups that are operating statewide. There were ban-the-bag community groups in almost every town in the south and I am sure the same was true in the Agricultural Region, Mining and Pastoral Region, Kimberley and Pilbara. People feel very strongly about this matter and it is a great thing to see the government acting on those concerns.

We also have the support of local government and that is absolutely key to this issue. What local government wants above and beyond everything else is a constructive and productive industry built around the possibilities associated with recycling. That is what we are going to see. Local governments want clean waste streams. It is hard to recycle things like glass unless glass is separated from the waste stream. That is one of the most valuable things that a container deposit scheme will do. That will be in place by 2020 and we will begin to see the benefits of that before too long. There is lots of material to cover. I am sure that those who do not get a chance to speak today will take the opportunity when the bill is introduced into this place in a few weeks. I want to congratulate the McGowan government for making these moves.
Hon Stephen Dawson (Mining and Pastoral — Minister for Environment) [11.44 am]: Thank you very much.

Several members interjected.

Hon Stephen Dawson: I know all members want to make a contribution to this motion and I look forward to their contributions later. To clarify, do I get 15 minutes as the minister replying?


Hon Stephen Dawson: That is a shame. Members will have to listen to me for nine and a half minutes and not 14 and a half minutes—lucky them!

At the outset, I thank Hon Dr Sally Talbot for bringing this motion before the house. Being a typical male, I am not sure that I can do two things at once, so on the assertion that I can chew gum and walk, I will have to practise before definitely saying that I can do that. It is a pleasure to be the Minister for Environment. I know when Hon Donna Faragher had the portfolio, she recognised that it was a pleasure to be in that role. I have really enjoyed the role and I continue to enjoy the role. It has been very exciting and I do get excited about waste issues, which probably makes me odd. We can effect positive change and I think that we are on the road to do that.

Hon Dr Sally Talbot pointed out that when the ban on plastic bags was introduced, some people said, “Woe is me! The sky is going to fall in”, but it has not. The last figures that I saw showed that around 600 million fewer single-use plastic bags were given out this financial year than in the previous year. That is significant. I think the yearly figure previously was that about seven million bags ended up in our waterways and as litter. Many of those bags are now not being littered and much of our wildlife is not ingesting single-use plastic or bits of plastic as a result of these bags not being in the waste or litter stream anymore.

When the government came to office in 2017, it had a range of commitments, but one was in relation to the container deposit scheme. I do note that just before the election, the previous government made a commitment that it would bring in a scheme if it was re-elected. What I have done as minister over the past year and a bit in particular is to go about the task of bringing a scheme into Western Australia and working out what it will look like. I established very early on a reference group that had representatives from industry, environment groups and local government. Together we embarked on a journey to arrive at where we are today. Hopefully, later in the day, the container deposit scheme legislation may be read into this chamber, provided the other place does its work today. However, we can never be assured of the people down the other end and how they operate. We can never understand how they operate, so we live in hope! However, I hope we get an opportunity to read that in this afternoon and have the debate in the coming weeks.

We designed the scheme. It is important to note that this state historically has produced more waste per capita than any other Australian state or territory. I am not sure what the reason for that is, but that is a fact. I have to say also that our rates of recycling have been amongst the lowest in the nation too. Is that to do with the tyranny of distance? Is that to do with the fact that we are far away from other states and do not get to collaborate with other states? I am not sure, but I am pleased to say that our waste and recycling performance is moving in the right direction. However, there is definitely room for improvement and, hopefully, we will work on these things collectively as we move forward.

Certainly, the feedback from stakeholders in the community is that they want more in this space. They are onside. They want us to do more; in fact, they have been demanding that we do more. It has been great to have the support of organisations such as what was Plastic Free July and is now Plastic Free Foundation. They are out there as advocates, helping us—not using a big-stick approach, but talking to the community about how, together, we might reduce the amount of single-use plastic that we use. They are not castigating people, but are committed to working in collaboration with people, giving them ideas and the how-to, so that together we can make a change and reduce our footprint. The stakeholder feedback confirms that as the reason I desire to do more and improve our waste management. In the main, Western Australians want to do the right thing. I think they are activated more than ever now to make a positive change. I have to give credit to programs like the ABC’s War on Waste, which has frightened us in many respects, or reminded us about the amount of waste we create. As a Catholic, guilt has played a big part in my life and I think it may well have guilted us into acting to do the right thing for the environment.

For whatever reason, it has shone a spotlight on the issue and made us more aware that we do waste too much and for that much of it goes to landfill, so we are doing the right thing.

Our commitment to better managing waste is reinforced by the Premier’s announcement yesterday of the “Our Priorities: Sharing Prosperity” program, including the fact that recycling and the re-use of waste is one of the targets we need to focus on and will do for the next few years as a government. It does not have to be a choice between environmental sustainability and economic growth. We can have both. The facts show there are three times more jobs associated with recycling than there are with landfill, based on 10 000 tonnes of waste generated. It is significant for the whole state.

As I have said before in debates in this place, I am very focused on ensuring that wherever we live in Western Australia, be it Ballidu, Bidyadanga, Broome, Busselton or Baldivis, we can all play a part. The
container deposit scheme is being designed to allow regional and remote communities to participate. I think I might have mentioned previously in this place that Marra Worra Worra, an Aboriginal organisation that operates in Fitzroy Crossing in the Kimberley, has been able to implement a container deposit scheme of a sort in that community—a recycling scheme—and that 30 of 34 commercial enterprises in town use the scheme to recycle their material. It is collected by Marra Worra Worra and is sold like other cans and bottles would be in the metropolitan area. If it can be done in Fitzroy Crossing, of all places, without losing money and where it is creating jobs, it can be done in the goldfields, the wheatbelt or wherever else. There is a great opportunity. Waste has been traditionally recognised as a problem and a cost, but circular-economy thinking can help shift the debate towards recognising the benefits of reducing and recovering waste.

The decision by China to stop taking certain types of waste, or waste that does not meet a certain threshold, has been a wake-up call for industry not only in Western Australia but also across the country and, indeed, the world. Previously, there was a market; our waste could be sold and a tidy profit was made. At least we knew it was being recycled. China’s decision—obviously within its right—has meant that we had to have a conversation. As a result of that decision by China, I established a waste task force in Western Australia to look at what we could do in particular to ensure that there was a market for the waste that was previously going to China. That waste task force had representatives from the waste industry, state and local governments and community organisations. Late last year, it provided me with some feedback about what we needed to do, and that included having a conversation with the community about what can and cannot be recycled and to look at how we might create the opportunity for industry in Western Australia to recycle here rather than send it overseas and interstate. We are still working on that.

I could speak on this for days; the 42 seconds I have will not do it justice. As Hon Dr Sally Talbot mentioned earlier, a few weeks ago we released our waste strategy, a document covering from now until 2030. It outlines some ambitious targets. It refers to three bins, with food, organic and garden waste being in separate bins. I am a big believer that we can do more as a community. This waste strategy is a blueprint for the Western Australian community to help us do more and do the right thing. As I said, at the same time, it does not have to cost us economically but can benefit the economy too. With that, I congratulate Hon Dr Sally Talbot on her motion.

HON COLIN HOLT (South West) [11.54 am]: This feels like a bit of a dry run for a potential debate that might come up in the future. It is a shame that I did not get the call before the response by the minister, because he might have been able to address some of the issues I am going to raise today and we will have to revisit them yet again down the track.

Hon Stephen Dawson: There will be plenty of time down the track.

HON COLIN HOLT: I probably will focus on the container deposit scheme. I am a supporter of the scheme and I welcome the introduction of it by the government. It probably should have been done a long time ago. However, I will probably fall short of congratulations at this point simply because implementation is what will really matter. The success of the implementation of the program across this very large state of ours is what will matter and will be what we can or cannot congratulate the government on.

Hon Stephen Dawson: Typical opposition. It pains you to say anything positive.

HON COLIN HOLT: Did I not congratulate the minister for introducing it and said it should have been done a long time ago?

Hon Stephen Dawson: Maybe I was reading something. Thanks for clarifying.

HON COLIN HOLT: The minister must have been.

Other plans by the government have not gone so well when they were introduced, but that has been well documented in this place.

A number of questions still need to be raised. In my mind, one of the biggest is: given that the current recycling methodology is to put all the containers, which will in future attract 10¢ each, into the trash stream, what will happen to the trash stream when that changes? At the moment, about 44 per cent by volume —

HON DARREN WEST: Do you save up your containers for when the scheme comes in?

HON COLIN HOLT: Has the member not read the notes? We are not allowed to save them up, and that leads to another interesting question. I wonder how that can be policed. If we cannot save them now —

HON DARREN WEST interjected.

HON COLIN HOLT: Ask the minister.

There will be a logo on the containers, so we cannot save them up now. If the member had been listening or getting a briefing from his own side about it, he would know that they cannot be saved right now. That was a question I was going to raise.

The volume of containers that potentially can be recycled through the new scheme is 44 per cent. I would have thought the value of that 44 per cent would be much greater. Although we will be taking out 44 per cent in volume, we will probably be taking a much greater percentage—maybe 60 to 70 per cent—of the value out of our current
recycling trash stream. If we take that value out of the current yellow bin, what will happen to the rest of the recyclables—paper, cardboard, other plastics, and wine bottles are also included—in the yellow bin? How economical will it be then to have a yellow bin collected from the roadside? There are more questions about that.

I note the minister’s commentary when he talked about Fitzroy Crossing and how Marra Worra Worra has been able to develop a recycling scheme. When a greater percentage of value is taken out of that trash stream through the container deposit scheme, what will happen to the recycling model in Fitzroy Crossing with all the other low-value products in the yellow bin?

**Hon Stephen Dawson:** They are simply recycling the cans and bottles that will be part of the scheme, but they are not getting 10¢. They now get a lot less than that.

**Hon COLIN HOLT:** I know, and I will come to that. I am asking: Once that is taken out of the current stream, what will happen to the rest of the recycling? What will happen to the high-volume, low-value paper, cardboard and all the rest of it? Those questions have to be answered, especially in regional Western Australia where potential transport costs blow the whole thing up when it comes to recycling all those other materials. That question needs to be discussed.

I was interested in some commentary that came out in an article on ABC news about a conflict between “bin chickens” and the yellow bin collectors. Bin chickens are rifling through the yellow bins to get the high-value trash or containers they can get 10¢ for, in conflict with the people who see it as a really valuable resource in the trash stream. They are trying to grapple with that conflict that has people going onto private property to rummage through bins to get the bottles that will provide them with a 10¢ refund. There is some conflict around that —

**Hon Alannah MacTiernan:** Trash terrorism!

**Hon COLIN HOLT:** Trash terrorism! Do not distract me. I might be taken out of context for such a thing as trash terrorism. People will say that we are trying to raise the profile of terrorism for some sort of political gain! It was not me who raised that.

That sort of conflict will also arise and the debate in this place about how we manage it will be interesting. I have some real issues around how we ensure that everyone in this state participates in the scheme, including people in regional Western Australia, which has a unique geographic spread compared with other states. We have large distances between small communities. How we enable all those communities to participate in a container deposit scheme is one of the challenges for this government. I note that the conservative government in New South Wales recently took the step to introduce a container deposit scheme. I am sure its members were pretty proud of themselves and congratulated themselves on the fact that they introduced it, but they have admitted that there are teething problems with how they have gone about implementing the scheme. Even the New South Wales Premier Gladys Berejiklian said that this program had major teething problems. The Deputy Premier, John Barilaro, was reported as having said —

> … the scheme had been made logistically difficult, particularly in regional areas which lack Sydney’s density.

> “We’ve got to find sites. We’ve got the tyranny of distance. It is difficult for an operator to find a way through the regions,” …

That is what is happening in New South Wales where he is comparing their regional area with Sydney. This state is much bigger than New South Wales with a smaller population in towns that are more spread out. The implementation of this scheme will be a real challenge for the government. Let us just hold off on the congratulations until the scheme is up and running. I am also not yet clear on what extra costs will be passed on to the consumer. In the “frequently asked questions” section on the Department of Water and Environmental Regulation’s website, I noticed one question that asks —

> Will I have to pay more for drinks which are eligible under the scheme?

The answer states —

> The cost of cans and bottles may increase to reflect the refund and scheme costs.

I would have thought that it would “definitely increase”, not just “may increase”. I am absolutely certain that this scheme will increase the cost and it will be by much more than the 10¢ that consumers get back for their bottle. If we think about how the system is going to work, that 10¢ has to go around and around. The person who buys the bottle then gives it to the recycler to get back their 10¢. That recycler then has to do something with it. In the past, that can or bottle in the trash stream was worth way less than 10¢, as the minister pointed out in an interjection a little while ago. Perhaps we will put its value at 1¢. A recycler will get 1¢ back for that raw glass. They actually have to pay 10¢ but get back only 1¢, so they are losing 9¢. How will they be compensated? They then have to transport the bottles from Kununurra, for example, and maybe they will find a way to get them to Darwin. Perhaps they are in Meekatharra and they have to find a way to get them to Perth. They have already lost 9¢ and then suddenly they have to pay for all this transport. Surely the value of the container will be going up by more than 10¢. I would have thought it would go up by at least 20¢, maybe even more.
**Hon Stephen Dawson:** That has not been the case in other states.

**Hon COLIN HOLT:** It has not been? How did they make —

**Hon Stephen Dawson:** We will talk about this later. Sorry, the member has only a few seconds left.

**Hon COLIN HOLT:** Yes, okay. A large number of questions need answers before we offer our congratulations. It is a good thing that we have had the opportunity to debate the legislation. Hopefully in the future we will move closer to a solution. I recognise that the community is definitely asking for a container deposit scheme. It provides some opportunities for the community and community groups, but it has also created some discussion and debate and we will have more questions when the legislation arrives in this place.

**HON PIERRE YANG (South Metropolitan) [12.04 pm]:** Like the Minister for Environment, I, too, would like to congratulate Hon Dr Sally Talbot for bringing this motion to the house. I like to give credit where credit is due. It is important that we look at what the government is doing to save and protect our environment. Not long ago, we introduced the plastic bag ban, which is very important to our environment. We use billions of bags each year, but banning the bags will make our environment safer and better. Today we have heard in this motion that the government will introduce a container deposit scheme, which will come into effect in 2020. That is another great initiative that will save our environment and make it a better one in which to live, and we owe this to our children. We create all this waste as we go about our daily business. Who will suffer the consequences? If we do not do anything, our children will suffer the consequences of our actions today. I am sure that members will all agree with me that we live in a very lucky country. We have clean air, clean water and a pristine environment and we should protect that for our children and their future generations. Plastic is a great invention of the human species and has certainly helped our life in many ways, but plastic is overused. We have seen that plastic bags end up in oceans. Large and small marine animals mistake plastic bags for jellyfish. They eat them and then many of them suffer a gruesome death. We have also seen that marine animals such as turtles get caught in the six-pack rings. As they grow and are restricted by these rings, they become deformed and their lives suffer. I watched a You Tube video in which a large turtle had a plastic straw stuck up its nose. Obviously, no-one wants to have a plastic bag or straw up their nose, so why should animals suffer from that? I have noticed that parliamentary Catering Services have moved on from using plastic straws, which is a great thing and the service should be commended for taking the initiative.

Plastic is great. I am not saying that we should get rid of it altogether. I had a quick read the other day and found an article that said we can live without plastic but it would be very difficult. One example of the difficulty it provided was: how would we create a toothbrush? There would be terrible consequences if we did not have a toothbrush to use in everyday life, and many other plastics products for that matter. However, we should be looking at ways to reduce and recycle the plastic we use. The container deposit scheme is a great way to recycle our plastic containers. I note that the scheme will also cover other forms of containers such as those made of glass and cardboard, which would also help to reduce waste. Certainly plastic containers are a big part of this scheme.

I was listening to the radio yesterday and heard about the waste we create in Australia. There are three main streams of waste. The first stream comes from industrial and commercial activities, the second comes from demolition and construction—as we demolish old houses and build new ones, a lot of waste is created through that process—and the third comes from everyday activities and is collected through council collections and disposed of. The major way in which we deal with our waste is, of course, landfill, which has a lot of issues. As landfill sites become full, we need to find other sites to dispose of our waste.

Another way of dealing with waste is through waste to energy stations. I note that the first waste to energy facility is being built in Western Australia as we speak. As members know, I was a member of the Gosnells city council. For a brief period I was nominated by the Gosnells city council to sit on the Rivers Regional Council, which consists of eight local councils, if I remember correctly. That collective was looking at ways to dispose of waste from member councils. At the time, the proposal was to have an incinerator facility—to collect all the waste, burn it and get the energy out, so that those councils could reduce the costs associated with landfill. After my departure from the local council and on coming to this place, I am very pleased to see that the process has continued for that proposal. As we know, the construction of that facility started in October last year.

Another way of dealing with waste is through recycling. As a nation, we could learn a lot from the Japanese. The Japanese have fine-tuned their recycling process. Knowing that the islands of Japan do not have the same abundance of natural resources as we do in Australia, it is always at the forefront of their minds to recycle and make the best use of existing resources. We can certainly learn a lot from the Japanese when it comes to recycling. The government’s initiative of having this container deposit scheme will certainly help our environment and our recycling process. Let us not forget that we have only one earth. The more we can protect it and the more we can leave it in a better shape for our children, the better it will be for the future of the human species. I will conclude my remarks so that other members can utilise the remaining time. I congratulate Hon Dr Sally Talbot for bringing this motion to the house. I also congratulate the McGowan government for this initiative.
In conclusion, it is fundamental that the scheme is designed to maximise convenience at a sensible cost. The most expensive scheme for the community is one that the people cannot get their refund. The government should use and therefore a reduction in the need for the waste to be incinerated. This should be the endgame in WA — no if the container deposit scheme is successful in WA, we will see a reduction in valuable material going to landfill a house and getting rid of general waste.

Hon ROBIN CHAPPLE (Mining and Pastoral) [12.13 pm]: It is with great delight that I rise to deliver my response to the motion by Hon Dr Sally Talbot. I speak on behalf of my Greens colleagues when I say well done to the government for progressing towards implementing a container deposit scheme in Western Australia. It is a scheme that the majority of Western Australians have wanted for quite some time. I am reminded of debates that Hon Dr Sally Talbot and I had in this chamber back in the 2000s. But let us not get ahead of ourselves just yet with the congratulations, because there still seems to be a lot of important decisions to be made.

This is an important time for Western Australia in terms of how we deal with our waste, and we should not squander it. My fear is that the government will get it wrong and will just follow what other states have done, instead of being creative and looking for better ways. My view and the view of my colleagues, the community and key stakeholders with whom I have discussed the container deposit scheme is that it will work if it is incentivised, has excellent customer service standards, is open to expansion, and, importantly, diminishes the chance of waste to energy ever happening in Western Australia. To ensure its success, the scheme must take an infrastructure approach and not be market driven. This cannot happen if we allow consortiums like Exchange for Change, which is in fact Coca-Cola Amatil, Asahi, Carlton and United Breweries, and Coopers and Lion, to operate the scheme here in Western Australia as it does in the east. There must be incentives for not only consumers to return their containers for a refund, but also the scheme coordinator to ensure that the scheme works well. I do not see an incentivised scheme occurring in WA if the beverage industry is the preferred scheme coordinator. In Queensland, the scheme is run solely by the beverage industry, which provides the lowest cost network. In New South Wales and South Australia, the scheme coordinator and network operator are separate, but have competing interests. The network operator, TOMRA, battles to provide an incentivised scheme against a scheme coordinated by the beverage industry consortium, Exchange for Change, whose aim is to obstruct the amount of refunds. In essence, the beverage industry increases the price of drinks and hopes that consumers do not return their containers for a refund. This increases their profit margin and is a huge loss to the consumer and, especially, the environment.

In WA, not-for-profit organisations are already doing great work in this space. These organisations work with Aboriginal corporations, the disability sector and, indeed, mining companies to reduce our waste in WA. These organisations have WA’s best interests at heart. Organisations like these should deliver the scheme. I question whether a company like Coca-Cola Amatil puts people before profits. I think we all know the answer to that. In fact, it was Coca-Cola Amatil, Schweppes Australia and Lion that put in a challenge to the Federal Court in March 2013 to stop the container deposit scheme in the Northern Territory. It heartens me that the minister stated in his media release “Tenders invited for Cash for Cans co-ordinator” that the successful applicant will be a not-for-profit company appointed by him, and I hope he stays true to his word. But we know that large companies like those in the beverage industry are very clever at setting up not-for-profit organisations as a front; they stack the board with their members, and the directors guide the decisions that suit the beverage industry.

I also really hope that in rolling out the scheme, the minister, as a fellow member for the Mining and Pastoral Region, provides accessible and convenient services to rural, regional and remote communities throughout WA. In providing top-range customer service standards and determining refund points, I hope the government has considered not just the population of an area, but also beverage consumption within an area. This relates, in some regards, to the bottled water that is supplied to many remote Aboriginal communities. The co-location of refund points, such as being able to drop off cans when filling up at petrol stations, would be a huge incentive for people who, like me, live in regional areas. I add that if the government uses this opportunity to deliver just the container deposit scheme, it will continue to fail to address the need to reduce waste in WA. The implementation of a container deposit scheme is an opportunity to expand the scheme beyond containers to batteries, e-waste and much, much more.

I am concerned that this scheme already has its limitations, and we are still in the planning phase. In the scheme that the government is considering, there are limits to the types of containers. All containers are of equal value, but those made of glass should be worth more and potentially some communities in some local government areas will not get an allocated refund point. I do not want to see another situation in which we tell the government, “I told you so.” That occurred during the plastic bag ban when the government again put limitations on what should have been a complete ban on all plastic bags. Instead, now we go to the regional dump and we see the heavier plastic bags meant for re-use just littering the area.

Hon Stephen Dawson: Not in Port Hedland, member.

Hon ROBIN CHAPPLE: I am very pleased to hear that, but I can tell the minister that it is happening in Broome and Derby and places that I have visited. We have someone just down the road here dumping plastic bags behind a house and getting rid of general waste.

If the container deposit scheme is successful in WA, we will see a reduction in valuable material going to landfill and therefore a reduction in the need for the waste to be incinerated. This should be the endgame in WA—no demand, desire or commitment for waste-to-energy plants in WA.

In conclusion, it is fundamental that the scheme is designed to maximise convenience at a sensible cost. The most expensive scheme for the community is one that the people cannot get their refund. The government should use
this once-in-a-lifetime opportunity to put in place a structure that enables material beyond just containers to be recovered in regional Western Australia for recycling. We need a scheme that drives CDS value deep into the community, rather than capturing it in big business. It is an opportunity to establish a local reprocessing industry that makes WA less prone to shocks from global recycling markets. On that point, I commend a former Liberal government. Back in 1986, we started recycling paper in Port Hedland and we got all the mining companies to return to the local environment group Local Environment Affinity Force their wastepaper and the then government enabled us to backload that paper to Austissue, which was a company doing recycling in Perth at the time, for free. That generated enough funds for the organisation to keep doing that. We sent literally tonnes of paper back to Perth each week.

**Hon Simon O’Brien:** Was that 1986 or 1996?

**Hon ROBIN CHAPPLE:** It was from 1986 through to the 1990s. It was a really good opportunity and the government should avail itself of that in the future. We have a lot of trucks heading north and a lot of material on them and they all come back empty. We have an opportunity in that space with many of the organisations and corporations within the government.

**HON DONNA FARAGHER (East Metropolitan)**: [12.23 pm]: I will not take up too much time because we have only five minutes, so I will see whether I can wrap it up fairly quickly so that Hon Martin Pritchard can also say something.

The opposition supports the introduction of a container deposit scheme. However, I strongly disagree, as members will not be surprised to learn, with some of the comments that were made by Hon Dr Sally Talbot on the achievements of the former government in the environment portfolio. Perhaps that is a debate for another day but I want to put that on the record.

Time and again, we have heard in this place from Hon Dr Sally Talbot about environment and waste, albeit she said precious little today on the container deposit scheme to which this motion refers. I will say, because I am on my feet and I have the opportunity to do this, members who were around in around 2008–09 will remember that Hon Dr Sally Talbot stood in this place—I think she sat over there—for over 10 hours talking on the waste levy and changes to the hypothecation—

**Hon Dr Sally Talbot** interjected.

**HON DONNA FARAGHER:** We moved over there because we were still going. I make the point that in two years I have not seen this government change the hypothecation. I am interested to see what happens if that legislation comes forward and I am quite sure that Hon Robin Chapple is as well.

The opposition certainly supports the introduction of a container deposit scheme. Indeed, it follows from a decision that the former government made in 2016 to introduce such a scheme. I recall that at that time we had indicated that we were keen to see the introduction of that scheme by mid-2018. I agree, and I have said in this place before, that such a scheme has strong community support and strong community benefits will flow from it. The challenge, however, for any government—I am quite sure the minister would agree with me on this matter—in introducing such a scheme is that we need to ensure that it is workable and that the cost to the consumers and others can be managed. Various options have been put forward for a container deposit scheme. Dating back even to the Gallop Labor government, I note that it considered eight or nine different schemes and could not definitively say which one it thought would work best in this state. Certainly, when I was a minister, it was being looked at at a national level and we were agreeable to looking at it from a national approach. That stopped, and that is when states and territories decided to look individually at their potential to introduce schemes to reflect their state and territory. Hence, the former government announced the decision back in 2016.

There is, of course, a cost to such a scheme, and that was noted by Hon Colin Holt in his contribution. I am thinking back here, but I recall from one report that was done by the former government that such a scheme in this state would cost around $38 million. No doubt that has probably increased over time. As the minister said, we need to look at that cost in the context of a cost–benefit analysis and the broader community aspect. Certainly, this scheme, as members have said, has very strong community support. I think that is a very important element of ensuring a successful waste reduction scheme.

I very briefly mentioned this matter to the minister and I know he is alive to it. One issue is how it will work effectively in regional and, most particularly, remote communities. We will be able to flesh that out more when the actual legislation comes before the house. I think that is a fair issue that we need to tease out and I see the minister nodding in agreement. I think that is one of the challenges that we face perhaps more particularly in Western Australia than in some other states and territories. Yes, it is a very good idea, but we need to make sure that it works effectively, particularly in remote communities where there might be challenges.

With that, I have less than a minute to go. I indicate that we support the introduction of the scheme. We look forward to the legislation coming to the upper house and we can probably tease out some more of these issues. This initiative has been a long time in the making. It received support from the former government and I know the minister acknowledges that, albeit Hon Dr Sally Talbot will not. We look forward to addressing it when the bill comes before the house.
The ACTING PRESIDENT: Hon Martin Pritchard.

Hon Donna Faragher: Sorry, Hon Martin Pritchard!

HON MARTIN PRITCHARD (North Metropolitan) [12.28 pm]: No, I am perfectly relaxed. Thank you for giving me the call. I am very enthusiastic about this debate, but I note that there will be an opportunity in a short time to flesh this out in more detail.

Motion lapsed, pursuant to standing orders.

HUMAN REPRODUCTIVE TECHNOLOGY AND SURROGACY LEGISLATION AMENDMENT BILL 2018

Second Reading

Resumed from 19 February.

HON NICK GOIRAN (South Metropolitan) [12.29 pm]: The conduct of the government in the management of the Human Reproductive Technology and Surrogacy Legislation Amendment Bill 2018 has escalated from appalling to reprehensible. Let us be very clear about what is happening here today. Today is the third day on which the government has chosen to bring this bill before the house. Let us be clear that the government sets the agenda. The government selects the bills that are brought before this house. The first day on which the government brought this bill before the house was last Thursday—exactly one week ago. The government brought on this bill for a miniscule period on Thursday of last week. On Tuesday of this week, the government brought on this bill as its top priority. This bill was the only bill dealt with on Tuesday of this week. Yesterday, the government chose not to bring on this bill. Yesterday, there was a very revealing answer to a question without notice that I asked, and I will get to that in a moment. Today, the government has brought on this piece of legislation as its top priority.

The reason I assert that the government’s conduct has moved from appalling to reprehensible is simply that last Thursday I drew to members’ attention my concern that the government was hiding the report of Associate Professor Sonia Allan. I quote from Hansard of Thursday, 14 February. At the time, I was providing an outline of my second reading contribution, and in indicating that I was getting towards the end of my outline, I said —

I will then conclude my assessment of the legislation by giving some consideration to the Professor Sonia Allan review. Even though I will touch on that towards the end of my contribution, I mention it now —

Remember, this was last Thursday —

because I think it will be a good thing for members to contemplate as, in the not-too-distant future, we will recess until next week. The Professor Sonia Allan review was commissioned by the McGowan Labor government. The Professor Sonia Allan review of the two acts that we are being asked to amend has been kept secret by this government. Members may not be aware that the report of the review by Sonia Allan has been kept secret by the government.

There was then an interjection from Hon Alanna Clohesy, Parliamentary Secretary to the Minister for Health —

It has not.

I then said —

Where is it? Have you tabled it?

At the time, during that exchange, I thought perhaps Hon Alanna Clohesy had some information that I was not aware of. She implied to the house that the report had not been finalised, because she asked rhetorically —

Has it been finished?

I responded to that by saying —

Good question. What is happening with it?

She arrogantly responded to that by saying —


That was appalling. I had indicated to the house and to the parliamentary secretary that a source had told me that the government has had that report since January. It would be patently obvious to any member that last Thursday, 14 February 2019, was some time after January 2019. If the information that my source had provided was correct, that meant the report had been finished and the government had the report but was keeping it secret.

During question time yesterday, I asked the parliamentary secretary the following five-part question —


(1) Has the minister written to the reviewer during the time of the review?
The answer was no. I then asked —

(2) If yes to (1), will the minister table those documents?

The answer was that it was not applicable. I then asked —

(3) Has the minister received correspondence from the reviewer during the time of the review?

The answer was yes. I then asked —

(4) If yes to (3), will the minister table those documents?

The answer was —

(4) Yes. The attachment referred to is not provided, as the report has not been finalised. The Department of Health is assisting the reviewer in finalising the document for publication. The reviewer will brief the Minister for Health on the findings of the review, after which time the review will be published as soon as practicable.

I then asked —

(5) What has been the total of the invoices received for this review?

The answer was $225,373.31.

Attached to the document tabled yesterday by the parliamentary secretary was an email. The email is addressed to Minister Cook. To the best of my recollection, there is only one minister of the crown in the McGowan government with the surname “Cook”. Minister Cook received this email on 8 January 2019 at 1.08 pm. The email reads —

Dear Minister Cook,

It is with considerable pleasure and satisfaction that I am able to send you the Final Reports (Part 1) and (Part 2) on the review of the Human Reproductive Technology Act 1991 (WA) and the Surrogacy Act 2008 (WA).

Please find them attached.

Please find them attached, Minister Cook! The email continues —

It has been an honour to have been entrusted with such a weighty task, and I do hope that you are satisfied with the outcome.

I look forward to discussing them with you, in due course.

Kind regards,

The government has, rather pathetically, tried to hide the name of the person who sent that email, which provides all of the person’s qualifications, which include Associate Professor (Health Law), and Churchill Fellow 2011. If we hold the piece of paper up to the light, it becomes immediately obvious that the author is Sonia Allan. What a surprise!

Last Thursday, on 14 February, the parliamentary secretary plainly misled this chamber. It is absolutely reprehensible that during the course of that exchange, the parliamentary secretary had the gall to suggest that I was the one who was misleading the chamber. I remind members of what happened last Thursday in this exchange. I said —

This was a very helpful interjection by the parliamentary secretary.

Hon Alanna Clohesy replied —

Yes, I’m sure it was. Yes, but it’s not being kept secret, and that’s misleading and you know it is. You know it is misleading.

I then said —

Well, I do not know that. The information I had is that the government has had the report in its possession since January. We are in February now. That information I received from a source is true or not, but if it is incorrect then the parliamentary secretary can correct me and tell me where the report is. Has the government had it since January? If it has had it since January —

The parliamentary secretary would not even let me finish. She said —

You’re just trying to mislead.

There is one person in this chamber who misled Parliament last Thursday, 14 February 2019, and that person’s name is Hon Alanna Clohesy. She is required at some stage later today to provide a personal explanation to the house about why she saw fit to repeatedly interject on my contribution to the second reading debate on the Human Reproductive Technology and Surrogacy Legislation Amendment Bill 2018 and imply that I was trying to mislead the Parliament, when in fact it is Hon Alanna Clohesy and her government who are trying to mislead the Parliament, because the government and Minister Cook have clearly, categorically and unequivocally had this report since 8 January 2019.
This government is absolutely obsessed with secrecy. We have heard the pathetic stuff that comes from the mouths of its members. We heard it yesterday when Hon Darren West said the word “transparency”. Members opposite clearly do not understand the meaning of the word. This was the government that said that it would be held to a gold standard of transparency. Never before in Western Australian history have we had a greater government when it comes to transparency than the McGowan government! Apparently, that was going to be the case. Yet repeatedly, time and again, whether it is the gold tax, the lobster tax or the surrogacy bill—it does not matter what it is—these guys are trying to hide information from Parliament. It has to stop. We are sick of it. The people of Western Australia deserve better than this secrecy-obsessed government.

The government has spent more than $200 000 of taxpayers’ money on this review. It commissioned the review of Associate Professor Sonia Allan. It was not the opposition. What often happens in these debates is that the government starts to feign outrage and say that the opposition has caused these problems, the opposition is in cahoots with the crossbenchers and the National Party and we are trying to block things and so forth. All we are doing is holding the government to account. The government said that it would have a gold standard of transparency. We have seen anything but that. Worse, it holds this Parliament in contempt with its disgraceful behaviour by suggesting that I was misleading Parliament when in fact the government was misleading Parliament. The parliamentary secretary is condemned by her own words. Yesterday, 20 February 2019, she answered my question in Parliament, and tabled a document dated 8 January 2019. She cannot retract it now. I encourage her at the first available opportunity to give proper consideration to this. She can make a personal explanation to Parliament and indicate that what she did last week was not deliberate and apologise to the house. If she does that, she will not hear from me again about this matter. In all sincerity, I ask her to correct the record. What happened last week was appalling. The fact that I discovered this yesterday in question time makes the conduct of this government reprehensible. The government owe the people of Western Australia an apology. It owes an apology to the members of Parliament who have sworn to do due service in this place with integrity. It owes this chamber an apology for that reprehensible behaviour.

Although I will not pursue this matter with the parliamentary secretary any further in the event that she takes appropriate remedial action, it does not mean that I will be dropping the issue about the release of this report. The report needs to be released to the public. The taxpayers of Western Australia have paid more than $200 000 for a report that the government commissioned. The report is on the two acts that the government wants us to amend by the bill before the house. It is pointless providing this information to us as lawmakers after the event; we need the information now. I have previously said that the government has two choices. First, it can release the report so that members of Parliament can make a decision today or at some later stage with all the information available to them, so they can make a decision in an informed fashion. Second, if it does not want to release that report, it can defer the passage of this bill.

I remind members that it is the government and the government alone that sets out the Business Program every day. It is the government and the government alone that sets out the weekly bulletin. It determines which bills on the Daily Notice Paper get selected for the Business Program of the day. It does that without any consultation with us. That is one of the privileges of being in government. I do not dispute that for one moment. As the elected government, it is entitled to the privilege of determining the order of business. That has been a longstanding procedure and convention of this place, and I think it is a procedure and convention that should remain. The point is that it can select from an abundance of things on the Daily Notice Paper. As at today, there are orders of the day that the government can bring on, plus any others that it might want to bring on, assuming that it did anything over the summer recess, other than talk about lobsters. If it did do something else, it can bring those matters to the chamber for our proper consideration as well. The government ought not to prioritise a bill when it has key information at its disposal that it continues to hide.

This matter is made worse by the fact that we know that the government had the draft report as far back as September last year. We know that because the parliamentary secretary said so in answer to a question I asked last year. The government provided feedback on the draft report in September last year. Obviously, it cannot provide feedback on a report that it has never received. Plainly, we can be certain that the government had the draft report from at least September last year. It has provided feedback on that report. We can also be certain, courtesy of the information provided by the parliamentary secretary yesterday, 20 February 2019, that it has had the final reports, part 1 and part 2, since 8 January 2019. If that is the case, I call on the government to stop fiddling with the report. It has played around with this since September last year when it provided feedback on the draft report. It has been sitting on these final reports since 8 January. It should stop fiddling with the report.

With all due respect to the minister, we are not interested in his views on surrogacy. We are disinterested in his views. This is a person and a government whose words can no longer be trusted. When it says something like, “You’re misleading Parliament”, we know we cannot believe those words that are uttered. The government has a healthy track record in that regard. We are disinterested in the Minister for Health’s view on this topic. We are interested in the view of the person the government commissioned to review the legislation. Whether we agree with that person’s view is entirely different, but as lawmakers in this place, we are entitled to have that information at our disposal. We are most certainly entitled to that, especially since the taxpayer has paid $225 373.31. I am so
pleased that the government can be so accurate and precise to include the 31¢ that it paid the reviewer. It is so meticulous, down to the final cent. Thirty-one cents—give me a break! It can be so meticulous and so transparent about that 31¢ but it cannot provide the report. As if we could care less about the 31¢. As if any member of the public could care less about the 31¢. We are concerned about how the government spent $225 000 of taxpayers’ money and the fact that it is now trying to keep it secret.

The government has had the opportunity to release this report any time since 8 January. I accept that it could not provide the report earlier than 8 January because it did not have it before then. That was made clear by the email that was tabled yesterday. I note, however, that the original time line for the provision of this report was in October last year. I condemn this government for its mismanagement of the house because if it knew that it had this report since 8 January, why put it on the notice paper? Why put it on the weekly program or on the Business Program for the day? Yesterday, the parliamentary secretary said —

The Department of Health is assisting the reviewer in finalising the document for publication. The reviewer will brief the Minister for Health on the findings of the review, after which time the review will be published as soon as practicable.

Stop fiddling with it. Just give us the report. What does the government mean when it says it is “assisting the reviewer in finalising the document”? The reviewer has given the government the document. The reviewer said, “It is with considerable pleasure and satisfaction that I am able to send you the final report.” She did not say, “This is a report that I am pleased you could assist me in finalising.” For goodness sake, table the document or defer the bill! Those are the two options, honourable members. I am disappointed that the Leader of the House is away on urgent parliamentary business today because at the end of the day the Leader of the House is the person who controls the business program and the order of business. The Leader of the House has decided that this matter will be the top priority today, but the Leader of the House is away on urgent parliamentary business today, as she is entitled to be. She has left this sandwich to the Deputy Leader of the House. I am sure the Deputy Leader of the House is delighted about that. But at the end of the day, I want some answers from this government today.

Hon Alannah MacTiernan interjected.

Hon NICK GOIRAN: They might come from the Minister for Regional Development, who always has a lot to say. Maybe she can help us to get to the bottom of this matter.

Hon Alannah MacTiernan interjected.

The ACTING PRESIDENT: Order! We have one member on his feet. I give the call to Hon Nick Goiran. Please refrain from interjecting when possible.

Hon NICK GOIRAN: If the Minister for Regional Development wants to interject and assist the house in the facilitation and the passage of this bill, I will be very happy to have her assistance. That is the best thing she can do as a very senior and experienced member. In fact, if we add up her years of parliamentary experience, she is probably the most senior member of the government. I do not know whether that is the case. If she is not the most experienced, she is certainly one of the most experienced. I think that she could be in the top three. She certainly has the most parliamentary experience of any Labor Legislative Council member at the moment. If that is the case, I call on the Minister for Regional Development, as the most experienced member opposite, to counsel her colleagues and say, “Look, this is a debacle. We, the Labor Party, are looking ridiculous in this situation because we are not being transparent; we are being the opposite of transparent.” She could say, as the most experienced member, “This is not good for the Labor brand. Mark McGowan said that he was going to be transparent, and we should make sure that we are.” But I do not know what is going to happen during the luncheon break. Perhaps cooler and calmer heads will prevail in government and somebody will see sense and say, “This is ridiculous. We, the Labor Party and the government, are embarrassed by our performance in this matter and we are going to rectify it.”

As I have said, a number of remedial actions need to take place. First, the parliamentary secretary should stand and deliver a personal explanation. A brief apology is all that is necessary and we can move on. Second, somebody with seniority in the government should explain what the government is going to do with this report. Is it going to keep it under lock and key? Is it in some kind of cage that cannot be opened? Does the government need some boltcutters, some assistance or some heavy hitters to open up that cabinet? Is that what is required? Whatever it is, the government needs to provide an explanation. I suspect, given that this document was provided in an attachment to an email that is readily available, that at a minimum, as a soft copy, it could be easily distributed to members over the luncheon break. The Minister for Health has that power. It is without question that the Minister for Health could release that report this afternoon if he wanted to. He could have released it any time after 8 January, so he can certainly do it today. That would be another course of action available to the senior members opposite. I call on them, with all sincerity, to actively consider that as an option.

The third option is that the government could defer the consideration of this bill to another occasion after the report has been tabled. That is the course of action available to the government at this time. Will a sensible approach to this be taken or will an arrogant approach be taken? Will we be told, “No, we’re going to keep this secret and, yes, members of the Legislative Council, we’re going to give you a conscience vote on this matter, but we’re going to
make sure that we provide you with a blindfold while you’re doing it”? That is another alternative. That would be the fourth option—that is the option that has been taken to date by this government. That is the reprehensible approach. The government should never have done that in the first place, but it did, and now that it has been caught out, it needs to take remedial action. We cannot persist with this debate and with having a matter of conscience; indeed, I will not countenance it. I will not countenance the Labor government asking members of this chamber to cast a conscience vote with a blindfold on. I will not countenance it under any circumstances—definitely not.

Because of the arrogant approach of the government, which has now been caught out misleading the chamber, I had to speak at length on this matter earlier this week. Members may recall that I took them through what other jurisdictions have done with surrogacy legislation. I took members through the situation in the Australian Capital Territory and in New South Wales. I looked at the situation in the Northern Territory. I looked also at Queensland and South Australia, and I was coming to the conclusion of my analysis of Tasmania. I have already flagged with members that it is important that we look at the Victorian legislation as well.

Hon Peter Collier: I want to hear about the Victorian legislation.

Hon NICK GOIRAN: Yes, I will get to the Victorian legislation in due course. However, I very much suspect that in the report that the government continues to keep secret, there is some mention about what the other jurisdictions have done. It is inconceivable to me that the government would spend $225 000 of taxpayers’ money to get a reviewer to look at our legislation and that the reviewer would not look at any other jurisdiction. I very much suspect that in that report there will be some consideration about what has happened in other jurisdictions. That would be valuable information for members as they decide their conscience vote on this matter.

This is no simple matter. If it was a simple matter, the government would not give its members a conscience vote. The very fact that the government has decided to give its members a conscience vote, which I reiterate I urge them to cherish, indicates that this is a complex matter. It must be a complex matter; otherwise, why give members a conscience vote? If it is a straightforward matter, do not give them a conscience vote.

Hon Stephen Dawson: Member, our party rules state that on issues like this we have a conscience vote.

Hon NICK GOIRAN: There you go. According to the Deputy Leader of the House in this place, the Labor Party’s rules indicate that matters like this are so significant and serious that they demand a conscience vote. I think that is an excellent rule. Again, it is a matter for the Labor Party what its rules are. I indicate, as the lead speaker for the opposition, that although we do not have a rigid system like the Labor Party—I do not say “rigid” in a derogatory fashion at all; and ours is a more flexible system—we also have a conscience vote on this matter, and members will cast their vote accordingly. I am simply saying that members should not be expected to cast their conscience vote with a blindfold on—a blindfold created by this government and their obsession with secrecy. It has to stop. Government members have options available to them, and I urge them over the luncheon interval to give serious consideration to how they are going to manage this bill this afternoon.

It may be the case that they will revert to option four—that is the option they have pursued so far, which is to force members to proceed with a blindfold. I flag to members that if that is the case, rest assured I will conclude my remarks on the Tasmanian legislation, but I will spend some time looking at the Victorian legislation before comparing and contrasting that with our legislation in Western Australia—of course, that is the legislation that the government is looking to amend by virtue of the bill before the house, the Human Reproductive Technology and Surrogacy Legislation Amendment Bill 2018. The government has the option over the break to decide how we will manage this matter moving forward. So far it has moved from appalling to reprehensible. That has to stop. It needs to show proper regard for this chamber and its job as a house of review.

After that I propose to go through a number of other issues, including those that are on the supplementary notice paper, and look at some of the remarks made by the minister and the parliamentary secretary in the progression of this bill. My view remains that the onus is on the government to persuade the rest of us that this reform is necessary.

Sitting suspended from 1.00 to 2.00 pm

Hon NICK GOIRAN: Prior to the interruption of debate for the luncheon interval, I had set out for the government four courses of action. The first is to apologise to the house; the second is to release the report, which we now know it has in its possession; the third is to defer consideration of the bill, if the government is not prepared to release the report; and the fourth is to continue reprehensibly. I can indicate to members that I have not been contacted by the government during the luncheon interval, so it is clear that the government has decided to continue with the fourth course of action, which is to continue reprehensibly. For those tuning in for the first time, the government specifically wants members to cast their conscience votes with a blindfold on. It does not want members to have access to information that the taxpayer has funded to the tune of more than $225 000.

That being the case, we—the 35 members of this place who will vote on the second reading of the bill before the house, the Human Reproductive Technology and Surrogacy Legislation Amendment Bill 2018—have no choice but to work with the remaining documents that are in the public domain. Clearly, there is information that would be of assistance to members, but the reprehensible government seeks to keep it from us.
In my analysis of the documents that are on the public record, I took members through the various other jurisdictions in our Federation that have surrogacy regimes and schemes within their boundaries. The jurisdiction I was looking to conclude my remarks on is Tasmania. With specific regard to Tasmania, I had indicated to members that the relevant legislation in that jurisdiction is the Surrogacy Act 2012. I outlined a number of the guiding principles of the Tasmanian legislation and looked at the issues of altruistic surrogacy and commercial surrogacy. Members might recall that although altruistic surrogacy is permitted in Tasmania, a person must not enter into or offer to enter into a commercial surrogacy arrangement in that state. I also outlined who may enter into a surrogacy arrangement in that state and indicated to members that in Tasmania both gestational and traditional surrogacy may take place. I outlined to members the criteria that need to be met by commissioning persons and the criteria that need to be met by the surrogate mother. Interestingly, commissioning parents in Tasmania must be over the age of 21, whereas the surrogate mother must be at least 25 years of age. We will have a look at what the arrangement is in Western Australia in due course, but I will first finish my analysis of Tasmania, and then I want to look at Victoria before I look at the Western Australian regime.

We know that in Tasmania the advertising of surrogacy is not legal, and because of the Health Law Central website—the website that the reviewer, Associate Professor Sonia Allan, has put together—we know that there are some issues with regard to commercial brokerage or advertising of surrogacy arrangements; specifically, that those types of things are prohibited. I set out for members on the last occasion I spoke the provisions under section 41 of the Surrogacy Act 2012, the Tasmanian legislation. To conclude my analysis of the Tasmanian legislation, I will look at the issue of enforceability. I will look at that now before I look at parentage orders and the issue of access to information for children.

With regard to enforceability, a surrogacy arrangement in Tasmania is unenforceable, which means that parties can change their mind. However, there is an obligation to pay or reimburse the surrogate mother’s reasonable costs, and that obligation can be enforced. I draw members’ attention specifically to section 10 of the Surrogacy Act 2012, that being the statute applicable in the state of Tasmania.

With regard to parentage orders in Tasmania, an application for a parentage order may be made not less than 30 days and not more than six months after the day on which the child is born. Interestingly, in respect of that window of time within which a parentage order application may be made in Tasmania, there is provision to apply for special leave from the court. In that regard, I draw members’ attention to section 15 of the Tasmanian legislation. For parentage orders to be made, all the criteria for commissioning parents and the surrogate mother must have been met and, of course, the parties must have freely consented to such orders being made.

With regard to the issue of access to information, we know from the Health Law Central website that entry onto the register of births, deaths and marriages regarding a parentage order must refer to the legislation and make reference identifying the entry of birth of that person as shown in the register before the parentage order or corresponding order was made. There are no specific legislative provisions in Tasmania regarding the notification of status to the child or that make provision for the release of information to children.

Members might recall the national ethical guidelines to which I referred during previous consideration of the Human Reproductive Technology and Surrogacy Legislation Amendment Bill 2018 are very instructive in the Northern Territory regime or domain, where there is no specific legislation in force. Each jurisdiction has its own legislation. For example, the Australian Capital Territory has the Parentage Act 2004 and the Adoption Act 1993, and New South Wales has the Surrogacy Act 2010 and the Assisted Reproductive Technology Act 2007. The Northern Territory has no specific laws governing surrogacy. Queensland’s act is the Surrogacy Act 2010, and South Australia has two pieces of legislation—the first is the Family Relationships Act 1975 and the second is the Assisted Reproductive Treatment Act 1988. Tasmania has the Surrogacy Act 2012.

The national ethical guidelines are very instructive in the Northern Territory regime, where there is no specific statutory guidance. The situation with those guidelines in the Tasmanian regime is that they provide that children have a right to information about their genetic heritage. Given the paramountcy of children’s best interests, they would be entitled to know about the circumstances of their birth, and information about their birth mother and any donors of genetic material. In effect, what Associate Professor Sonia Allan is saying to members of the public, by virtue of her analysis on her Health Law Central website, is that these national ethical guidelines are instructive and informative for all the regimes in our Federation, not just the Northern Territory, and that a practical example of the working of those guidelines is the Tasmanian legislation.

Without further ado, I move to the state of Victoria. Two pieces of legislation set out its scheme. The first relevant act in the Victorian regime is the Status of Children Act 1974. That is particularly relevant when we consider surrogacy in Victoria when looking at the issue of legal parentage orders. But that state has a second statute that is relevant when considering these matters, much like our own jurisdiction where there are two pieces of legislation that are relevant and for consideration—I might add, two pieces of legislation that the government thought to have somebody review independently and provide a report on that the government has had since 8 January and continues to keep secret. Nevertheless, the second piece of legislation that is relevant in the state of Victoria is the Assisted Reproductive Treatment Act 2008. That has relevance to the assisted reproductive treatment regime in
that state. As is the case in other jurisdictions, the Victorian legislation has enshrined a number of guiding principles in its legislation. The associate professor usefully sets out for us five of those guiding principles on her website, Health Law Central. The first guiding principle is —

the welfare and interests of persons born or to be born as a result of treatment procedures are paramount;

The second guiding principle in the Victorian legislation is —

at no time should the use of treatment procedures be for the purpose of exploiting, in trade or otherwise the reproductive capabilities of men and women or children born as a result of treatment procedures;

The third guiding principle in the Victorian legislation is —

children born as the result of the use of donated gametes have a right to information about their genetic parents;

The fourth guiding principle is —

the health and wellbeing of persons undergoing treatment procedures must be protected at all times;

The fifth guiding principle that is pertinent to the Victorian regime is —

persons seeking to undergo treatment procedures must not be discriminated against on the basis of their sexual orientation, marital status, race or religion.

As to the kinds of arrangements that are legal in Victoria, altruistic surrogacy is permitted and commercial surrogacy is prohibited, as is the case in other jurisdictions. When it comes to altruistic surrogacy in Victoria, it is important to note that the contracts are not enforceable. I will speak a little more about that in a moment. However, altruistic surrogacy in Victoria permits the reimbursement of reasonable costs. That is allowed; there is scope for that in the Victorian legislation.

It should be noted that a registered artificial reproductive technology provider can carry out a treatment procedure on a woman party to a surrogacy arrangement only if there has been approval from the Victorian Patient Review Panel. In that respect, our attention is drawn to section 39 of the Assisted Reproductive Treatment Act 2008, which is of course the applicable legislation in the Victorian jurisdiction.

I have mentioned that commercial surrogacy is prohibited in Victoria. A surrogate mother must not receive any material benefit or advantage as a result of a surrogacy arrangement. Indeed, significant fines and/or up to two years’ imprisonment apply if a person breaches this provision. In that respect I respectfully draw to members’ attention section 44(1) of the Victorian Assisted Reproductive Treatment Act 2008.

Who may enter into a surrogacy arrangement in Victoria? It is a person who is unlikely to become pregnant or unlikely to be able to carry a pregnancy or give birth, or, if the commissioning person is a woman, she would be likely to place her life or health or that of the baby at risk if she became pregnant, carries a pregnancy or gives birth. That is the scope of persons who may enter into surrogacy arrangements in Victoria.

Members will recall that, in different jurisdictions, both gestational and traditional surrogacy are permitted, although not always in every jurisdiction. According to the Health Law Central website, authored by the government’s preferred reviewer, Associate Professor Sonia Allan, only gestational surrogacy is permitted in Victoria. Section 40 of the Victorian Assisted Reproductive Treatment Act 2008 provides that the surrogate mother’s eggs are not to be used in the conception of the child. That is the clear regime in Victoria. As is the case in other jurisdictions, Victoria has a number of criteria that need to be met by both the commissioning persons and the surrogate mother. Very interestingly, one of the criteria that must be met by commissioning parents in Victoria is that criminal record checks and child protection order checks must be undertaken. The Victorians have the gold standard with that provision. In comparing and contrasting legislation throughout the commonwealth, it is clear that the Victorians have the best system, in requiring criminal record checks and child protection order checks for commissioning persons. I will speak on that a little later. As members will be aware, I have an amendment on supplementary notice paper 88, issue 1, which was provided to members on 11 February 2019. I recommend that members spend a moment familiarising themselves with that supplementary notice paper, which sets out a number of amendments, including one that will bring Western Australia into line with Victoria in requiring that commissioning persons undertake criminal record checks and child protection order checks. As I said, I will elaborate on that a little later.

I mentioned that Victoria has a Patient Review Panel that must be satisfied of a number of things in relation to commissioning persons before approving a surrogacy arrangement. I will outline four of those things. I draw their attention of members with a particular interest in the Victorian legislation to section 40 of the Assisted Reproductive Treatment Act 2008 for a complete understanding of what the Patient Review Panel must be satisfied of before approving a surrogacy arrangement. The first criterion that the Patient Review Panel must be satisfied of is that a doctor must have formed an opinion that the commissioning parent is unlikely to become pregnant, or be able to carry a pregnancy or give birth or, if the commissioning parent is a woman, she is likely to place at risk her life or health or that of the baby if she becomes pregnant, carries a pregnancy or gives birth. The second criterion is that
the commissioning parents must have received counselling and legal advice. The third criterion is that the parties to the surrogacy arrangement are aware of and understand the personal and legal consequences of the arrangement. The fourth criterion is that the parties to the surrogacy arrangement must be prepared for the consequences if the arrangement does not proceed. Why would it not proceed? As I mentioned earlier, people are able to change their minds in Victoria.

A report from a counsellor who provided counselling must be provided to the Patient Review Panel in Victoria. There are similar requirements under the Status of Children Act 1974, which is the other relevant piece of Victorian legislation. This is necessary when an arrangement has occurred without the assistance of an artificial reproductive technology provider—for example, when self-insemination has been used. Sonia Allan, on the Health Law Central website, draws our attention to section 23 of the Victorian Status of Children Act 1974.

In Victoria, in addition to the criteria that must be met by the commissioning persons, a similar set of criteria must be met by the surrogate. Once again, criminal record checks and child protection checks must be undertaken by the surrogate mother and her partner, if any. Victorians have definitely hit a gold standard on child protection, with criminal record checks and child protection checks for both commissioning parents and the surrogate mother, and I note that that is extended even as far as the surrogate mother’s partner. I am encouraging members to consider that measure for Western Australia. Why would we want to have a lesser standard of child protection than exists in Victoria? I will look at that and elaborate on it in due course. The Patient Review Panel also has work to do on the criteria that the surrogate mother needs to meet. The Patient Review Panel cannot approve a surrogacy arrangement unless it is satisfied of a number of things. I will draw to the attention of members six things that the panel must be satisfied of.

In section 40 we learn of the criteria that must be met by the surrogate mother. The first criterion is that the surrogate mother’s eggs will not be used in the conception of the child. The second is that the surrogate mother has previously carried a pregnancy and given birth to a live child. This cannot be her first pregnancy. The third is that the surrogate mother is at least 25 years of age. Members will recall that that is the same threshold that exists in Tasmania. The fourth criterion that the Patient Review Panel must consider is whether the surrogate mother and the surrogate mother’s partner, if any, have received counselling and legal advice. That must be undertaken and the review panel must be satisfied that that has occurred before it can approve a surrogacy arrangement. The fifth criterion is that the parties to the surrogacy arrangement need to be aware of and understand the personal and legal consequences of the arrangement. Plainly, there must be some personal and legal consequences of surrogacy arrangements, otherwise that Victorian provision would be nonsensical. The Patient Review Panel must be satisfied that the parties are aware of and understand that. It is insufficient for the parties to simply be aware of the consequences. As well as being aware of the consequences, they must understand the consequences.

Hon ROBIN SCOTT: I believe we do not have a quorum.

The ACTING PRESIDENT (Hon Martin Aldridge): There is a quorum. There is no point of order.

Debate Resumed

Hon NICK GOIRAN: The final criterion that the Patient Review Panel must be satisfied of when it is considering a surrogacy arrangement, as set out in section 40 of that jurisdiction’s statute, is that the parties to the surrogacy arrangement are prepared for the consequences if the arrangement does not proceed in accordance with the parties’ intentions, including the commissioning parent deciding not to accept the child or the surrogate mother choosing not to relinquish the child. All the things I have described under what I have described as the “change of mind” provision need to be made crystal clear to individuals who are considering surrogacy arrangements in Victoria. It not only needs to be made crystal clear to them, but also, as an oversight mechanism, the Patient Review Panel must be satisfied that that is the case.

As was the case for the commissioning persons, if there is a report from a counsellor who provided counselling to the surrogate mother, that report must be provided to the Patient Review Panel. It is noted that similar requirements are necessary under the Status of Children Act 1974, which is the other relevant piece of legislation that operates in Victoria. Such requirements are necessary when an arrangement has occurred without the assistance of an artificial reproductive technology provider.

As I have done with other jurisdictions, I have looked to see whether advertising for surrogacy is legal. The answer with regard to Victoria is no. Advertising for surrogacy is not permitted. Section 45 of the Victorian Assisted Reproductive Treatment Act 2008 states that a person must not publish, or cause to be published, a statement, advertisement, notice or document—that includes in a newspaper, on television, radio or the internet, or by other means—that a person is or may be willing to enter into a surrogacy arrangement; is seeking another person who is or may be willing to enter into a surrogacy arrangement, or to act as a surrogate mother or to arrange a surrogacy arrangement; is or may be willing to arrange a surrogacy arrangement; is or may be willing to accept any benefit under a surrogacy arrangement, whether for himself or herself or for another person; is intended or likely to counsel
or procure a person to agree to act as a surrogate mother; or to the effect that a person is or may be willing to act as a surrogate mother. Those are the Victorian provisions regarding advertising. Indeed, the penalty is 240 penalty units, two years’ imprisonment or both. That is the seriousness of the matter in Victoria.

I mentioned earlier that surrogacy arrangements in Victoria are not enforceable. The legislation recognises that the birth mother may choose not to relinquish the child and that the commissioning persons may choose not to take the child. How exactly does Victoria deal with that type of situation? What if both the birth mother and the commissioning parents choose not to take the child? Perhaps, in the fullness of time, the parliamentary secretary can inform us about that when she delivers her reply. It may indeed be found in the review report that the government is keeping secret, but we do not know about that. If, at the very least, the parliamentary secretary could inform us of that, that would assist us in our ongoing deliberations.

I move to parentage orders in Victoria. Provided that the requirements I have set out earlier for the commissioning parents and the surrogate mother have been met and a child has been born, the commissioning parents may make an application to the court for legal parentage. They can apply to the court for what is referred to as a legal parentage order. They must do so no less than 28 days or no more than six months after the child has been born. Unlike the Tasmanian legislation, it appears that there is no capacity or provision for special leave to be applied for from the court. That appears to be a uniquely Tasmanian provision. Victoria has what appears to be a fairly strict window of time in which the application must be made—that is, no less than 28 days and no more than six months after the child has been born.

Members may recall that in Victoria two pieces of legislation apply. The second piece of legislation that is applicable is the Status of Children Act 1974, which requires that the court must be further satisfied that several things have taken place. I draw members’ attention to section 22 of the Status of Children Act 1974—not to be confused with the Assisted Reproductive Treatment Act 2008—which makes apparent that a court must be satisfied of certain criteria. Firstly, that the making of the order is in the best interests of the child; secondly, that the patient review panel approved the surrogacy arrangement before it was entered into; and, thirdly, that the child was living with the commissioning parents at the time the application was made. In the same jurisdiction—indeed, in the same section of the Status of Children Act 1974—the court also requires confirmation that no material benefit was gained by the surrogate mother and/or her partner, if any, in a particular case. The surrogate mother and her partner, if any, must consent to the order and the court may make any other consideration it deems relevant.

Additionally, that act provides supplementary provisions for surrogacy arrangements that have occurred without the assistance of a registered artificial reproductive technology provider. When a surrogate mother in Victoria becomes pregnant as a result of artificial insemination and the commissioning parents have applied for a substitute parentage order, the court must be satisfied of another three requirements. Firstly, that the surrogate mother was at least 25 years of age before entering the arrangement. Secondly, that all parties—that is, the surrogate mother, her partner, if any, and the commissioning parents—have received counselling as per the requirements set out in the legislation. Lastly, that all the parties have received information about the legal implications of the surrogacy arrangement they are entering into. In that respect, I specifically draw members’ attention to section 23 of the Victorian Status of Children Act 1974.

Sonia Allan has an assessment of the Victorian legislation on the Health Law Central website. We must consider what the Victorian scheme does for children’s access to information. We know from Associate Professor Sonia Allan’s website that when artificial reproductive treatment is sought in Victoria, it is a requirement that the donors of gametes consent to information being put on a central register. In the case of a birth, the ART providers and doctors must also provide the central register with details of the name of the person born as a result of the artificial reproductive technology, the name of the donor and the name of the woman on whom the procedure was carried out and the name of her partner, if any, as well as information about the kind of procedure that was carried out. This information can be found in part 6 division 1 of the Victorian Assisted Reproductive Treatment Act 2008. Lastly, I note that an application for information about a donor can be made by an adult who was conceived using donor gametes, or by a child subject to having the approval of their parents or guardians and having undergone counselling. Again, interested members can find that information in sections 56 and 59 of the Victorian Assisted Reproductive Treatment Act 2008.

What did the Standing Committee on Legislation say about the Victorian legislation when it considered that regime? I have referred members to the committee’s twelfth report of May 2008 in the thirty-seventh Parliament. The committee had a number of members who are still serving in this place and some who have since retired. On the Victorian legislation the report states on page 6, at paragraph 4.19 —

According to the Infertility Treatment Act 1995 (Vic) surrogacy agreements are void and cannot be enforced in court.

There is a footnote reference to section 61 of that act. The paragraph continues —

It is also illegal to “make, give or receive or agree to make, give or receive a payment or reward in relation to or under a surrogacy agreement or an arrangement to act as a surrogate mother.”
There a reference is made to section 59 of the Victorian Infertility Treatment Act 1995. The report states —

While the legislation does not specifically prohibit altruistic surrogacy where no payment is made, such agreements have no legal force.

The committee draws our attention to a Victorian Law Reform Commission paper. For members who want to access that paper, it is entitled “Assisted Reproductive Technology & Adoption: Position Paper Three: Surrogacy” and was published in 2005. The committee specifically draws our attention to page 10 of that Law Reform Commission report.

Paragraph 4.20 of the committee’s twelfth report to Parliament in the thirty-seventh Parliament states —

The Victorian Law Reform Commission’s 2007 comprehensive review of Assisted Reproductive Technology … and Adoption … recommended that access to ART services be provided to potential surrogates. Recommendations in relation to the regulation of surrogacy include:

The committee draws our attention to recommendations 99 to 130. All those recommendations are found in the Law Reform Commission report I referred to earlier. Specifically, if members look at pages 14 to 16 of that report, they will see that it touches on those matters. The committee thought it necessary, still at paragraph 4.20 of its report, to outline those recommendations, which are —

Surrogacy agreements should continue to be void however where parties to a surrogacy arrangement have agreed to the reimbursement of prescribed payments, that part of the agreement should be enforceable.

Commercial surrogacy should not be permitted however reimbursement of prescribed payments actually incurred should be permitted.

To be clear, the recommendation is that commercial surrogacy should not be permitted; however, reimbursement of prescribed payments incurred should be permitted. The committee’s third recommendation states —

The County Court should be empowered to make substitute parentage orders subject to certain conditions …

There the committee draws our attention to recommendation 123 of the Law Reform Commission’s report, which can be found at page 16. Those conditions are then set out at the top of page 7 of the committee’s report. There are six such conditions and they are outlined as follows —

• The court is satisfied it would be in the best interests of the child.
• The application was made no earlier than 28 days and no later than six months after the birth of the child.
• At the time of the application, the child is living with the applicant/s.
• The applicants have met the eligibility criteria for entering into a surrogacy arrangement.
• The surrogate mother has not received any material advantage from the arrangement.
• The surrogate mother freely consents to the making of the order.

When the Standing Committee on Legislation in the thirty-seventh Parliament tabled its twelfth report, it outlined some further recommendations that relate to the Victorian legislation. For the benefit of Hansard, I now refer to paragraph 4.20.4 on page 7, where it says —

Prescribed payments should be limited to reasonable medical expenses, lost earnings up to a maximum of two months in the absence of paid maternity leave, any additional lost earnings or medical expenses incurred as a result of special circumstances and reasonable legal expenses.

There the committee of the thirty-seventh Parliament references recommendation 121 of the Victorian Law Reform Commission Report. The committee goes on to say —

A woman intending to act as a surrogate should not be subject to the requirement that she is infertile.

There reference is made to recommendation 112 and specifically to page 15 of the Victorian Law Reform Commission’s report. The committee goes on to then discuss recommendations 114 and 115, which can be easily found at page 15 of the Law Reform Commission’s report. Those recommendations deal with the matters set out by the committee at paragraph 4.20.6, which says —

A woman intending to act as a surrogate should be at least 25 years old and in assessing whether she is able to give informed consent, consideration should be given to whether she has already experienced pregnancy and childbirth, however, this should not be a prerequisite.

As has become apparent, that is something that the Victorians must have changed, because that is now one of the criteria set out by Sonia Allan in her review contained on the website that I referred to earlier. At paragraph 4.20.7, the committee draws our attention to recommendation 116. Recommendation 116 states —

Partial surrogacy should be permitted where the surrogate mother’s egg is used in the conception of the child.
The report goes on to refer to recommendation 118, which states —

While a genetic connection between the child and commissioning parent/s is preferred, people who are unable to contribute their own gametes should also be able to commission a surrogacy arrangement.

There, reference is made to recommendation 118 of the Law Reform Commission’s report, and specifically page 15. In addition, reference is made to recommendation 105, which is found at page 15 of the Victorian Law Reform Commission report. According to the committee’s twelfth report at page 7, recommendation 105 states —

Regulations should specify issues to be addressed during counselling.

The last of the matters that the committee draws to our attention in the Victorian Law Reform Commission report is recommendation 127, which can be found at page 16 of the Law Reform Commission’s report. There it states —

The court should have the discretion to make parentage orders in favour of people who already have children through surrogacy arrangements if certain requirements are met.

When the committee in the thirty-seventh Parliament provided its assessment of the Victorian legislation to this chamber, it concluded by making these remarks, which can easily be found on page 8 of its report, starting at paragraph 4.21. It states —

The VLRC carefully considered the question of whether partial surrogacy and/or surrogacy using donor gametes should be permitted and concluded that it was “difficult to generalise about the value of genetic connections in family relationships.”

Paragraph 4.22 states —

Consequently the VLRC recommended that partial surrogacy should be permitted but that “caution needs to be exercised because there is limited research on outcomes for children and surrogates in these situations.”

Paragraph 4.23 states —

The Commission noted that research indicated that a genetic connection between the child and arranging parents is preferable however it was considered that this should not exclude those people who were unable to provide their own gametes but were otherwise eligible for ART.

Paragraph 4.24 states —

The VLRC concluded that surrogacy should be carefully regulated and that:

The committee then specifically quotes from page 179 of the Victorian Law Reform Commission’s report. It says —

[e]ven if the law permits gestational but not partial surrogacy, the surrogate should retain the right to refuse to consent to the transfer of parentage of the child upon birth.

That is the situation with the Victorian legislation. Before I embark on looking at the Western Australian legislation, I want to note and draw to members’ attention that when I had a briefing last year with the member for Churchlands, the shadow Minister for Health, some supplementary information was provided to us. I want to bring that to members’ attention at this stage because it relates to the situation in other jurisdictions. We were told in an email provided to us, it appears, on 18 September 2018 the following. This information comes to us courtesy of the senior policy officer in the office of the minister, and the email says —

I am advised by the Director of the Reproductive Technology Unit in Health (below advice in italics). Further to this info provided below, in the presentation the Direcotr has given to MPs she advises there have been 34 approved applications for surrogacy in WA since the surrogacy laws passed and this has resulted in 10 births:

I will pause there because, as members may recall from the debate on Tuesday, there is an issue with how many applications have been received and considered by the Reproductive Technology Council and how many of them have been approved, because there are three sets of information: what was provided at the briefing, what has been provided on the parliamentary record in answers to questions that I have asked over an extensive period, and the information that can be calculated if one takes the time to go through each of the Reproductive Technology Council’s annual reports. That issue remains unresolved and I have specifically drawn it to the attention of the parliamentary secretary, seeking advice for the benefit of members on exactly what the demand for surrogacy has been in Western Australia since the act commenced 10 years ago. The information provided in September was that 34 applications had been approved. Members may recall that, at the time, it was stated that 35 applications had been received, one of which had been rejected. Naturally, that would leave 34 approved applications. However, I question whether that is consistent with the other sources to which I referred earlier. Nevertheless, in this email from 18 September 2018, the opposition is informed by the senior policy officer in the minister’s office of some information that has been provided by the director of the reproductive technology unit in the Department of Health.
Members may recall, as I was quoting the email a little earlier, that it included the phrase “below advice in italics.” This is the advice that was provided in italics —

Essentially the information that is being sought is not available.

There are only annual figures for Australia and New Zealand that I refer to in my brief [the brief presentation she provided to MPs] — i.e for 2015 there were 55 surrogacy births — that report does not provide data on relationship status or sexual orientation. The RTC —

Which is, of course, the Reproductive Technology Council —

publish their approval of surrogacy applications as cumulative frequencies and do not report numbers less than five and do not report on the relationship or sexual orientation of applicants.

I pause there to note that it is interesting that the information that has been provided to the opposition by the government states that the RTC published its approval of surrogacy applications as cumulative frequencies and does not report numbers lower than five. It used to report them but that was changed midway through the reporting scheme. I think that needs to be reconsidered, and it might be something that members will contemplate as an amendment in the event that this bill is second read. In Committee of the Whole House, perhaps we ought to look at the reporting regime in this state because it is abundantly unclear what the basis is for hiding information simply because the numbers are lower than five. It does not stack up that it is because if a number lower than five is provided — for example, four — it means that a person can somehow be identified. There is no basis for a statistic in a government report that is tabled in Parliament that states the number four, rather than the number five, means it is easier to discern and identify a person. If I said to members that, for example, there were four applications for surrogacy last year or there were five applications for surrogacy, either way, members cannot identify those Western Australians. Why anyone would want to identify them is beyond me anyway. In order to provide accurate information to Parliament, it makes absolutely no difference whether Parliament is informed that the figure is four, five or six regarding any alleged — manufactured, even — risk of identifying people. The fact that there is some guideline floating around in the system is not a cogent reason to not provide this information on the public record, especially when the Reproductive Technology Council provided that information for a number of years. Otherwise, the implication is that what the Reproductive Technology Council was doing was very wrong. I do not think it was wrong. I think it was just doing its job. It was setting out the information that is provided in the act. Over the upcoming recess, members might want to contemplate that as an amendment as we continue our deliberations on this bill. Maybe this is something that the reviewer has provided in the report that the government is keeping secret. Perhaps this issue of reporting and being higher or lower than five is contained in the advice that has been given to the government at the cost of more than $225,000. We do not know. The parliamentary secretary and the Minister for Health know, but they do not want us to know whether any comment has been made on that. Perhaps, if the government continues to refuse to provide that information before we can consider this matter further, at the very least, it should indicate whether that information is in the review by Associate Professor Sonia Allan.

In the email that was provided on 18 September 2018 by the senior policy officer in the minister’s office, the advice that was provided in italics from the director of the reproductive technology unit continues —

However, there have been no applications for same sex or single persons under the Surrogacy Act 2008.

The Reproductive Technology Council and the government have told us that over a 10-year period, no single person has made an application under the Surrogacy Act and neither has a same-sex couple. Of course, the scheme has been restricted to females only, but the point is that not one application has been made. It is up to the government to discharge its onus of proof and explain to us why it is necessary to increase the categories of individuals who can access surrogacy when the current categories have not even applied for it in the 10 years of the scheme. That information was not provided by me; it was provided by the senior policy officer in the minister’s office on or around 18 September 2018, which is the advice provided in italics from the director of the reproductive technology unit in the Department of Health. I thank them for providing that information. It is exactly the type of transparent information that should be provided to members of Parliament as they are considering law reform. I congratulate those officers for doing so.

The advice provided in the same email also goes on to say —

Victoria has a Patient Review Panel and publish the number of surrogacy applications received each year but not details of relationship or sexual orientation.

A link is then provided in this email by the government’s advisers to indicate where that information comes from in the Victorian regime. The advice continues —

The Victorian regulators would not provide any numbers for same sex male couples, but stated that it would be accurate to say that several applications have been approved in the past few years, as state in my brief.
As I said, maybe something that members want to contemplate over the upcoming break is whether we should be looking at amendments to the legislation before us. Two pieces of legislation are before us that the government seeks to amend. Should we be looking to draft? Should we be looking to craft amendments to improve the quality of the data? I remind members that the opening line of advice by government advisers on this was, and I quote, “Essentially, the information that is being sought is not available.” If, in this instance, the information is genuinely not available, that is a deficiency that ought to be remedied, and is capable of being remedied by the 35 members in this place who will vote on the bill moving amendments. That is certainly something I am happy to explore over the upcoming recess as we continue our consideration of this matter. Once again, I wonder whether that is something that is contained in the report that the government has been keeping secret since 8 January this year.

Having provided some form of overview of my second reading contribution; considered the genesis of the act that is before us, specifically the Surrogacy Act 2008; considered other members’ concerns at that particular point in time; considered what the Standing Committee on Legislation provided in the thirty-seventh Parliament; looked at what information the Reproductive Technology Council has provided to us since the regime first started in 2009; looked at some of the information that I have extracted from governments of both persuasions over the years, through questions on notice and the like; and noted in some detail, I might add, the situation in other jurisdictions, I now want to turn to the issue of criminal record checks.

In my view, criminal record checks are needed. This is not a new position for me. I inform members that on 29 December 2016—members know that that date was during the time of the previous Liberal government—I communicated with the then Minister for Child Protection, who, of course, was the honourable Andrea Mitchell, then member of the Legislative Assembly. I communicated to her by way of a note and I set out for the Minister for Child Protection the issue, background to the information, and some analysis and recommendations. The issue that I brought to the attention of the government in December 2016 was that the Surrogacy Act 2008 and the corresponding Surrogacy Regulations 2009 do not include a requirement for criminal record or child protection order checks to be provided by any of the parties involved in the surrogacy arrangement. Additionally, no law prohibits Western Australians from taking part in international surrogacy arrangements. That was the issue. It was a statement of fact that I provided to the previous government in December of 2016. I then provided some background to the issue by highlighting four significant cases. I will spend some time in a moment detailing those four significant cases. I warn members that those four significant cases are disturbing. I am left in the unenviable position: do I bring to the attention of members disturbing cases of surrogacy? If I am going to persuade members that we should join Victoria and have criminal record checks, members need to be aware of the disturbing cases, because if there are no disturbing cases, there is no basis upon which to have criminal record checks in our surrogacy legislation. I will detail those four significant cases, which, I add, will not be the first time that I have referred to those cases. I brought those four cases to the attention of the previous government in December 2016. In this note I set out some information about those four cases and then I provided my analysis. I looked at the Victorian surrogacy arrangements and then I noted, for the minister at the time, that New South Wales, the Australian Capital Territory and Queensland all prohibit overseas commercial surrogacy arrangements. I concluded with two recommendations that I made to the government at that time, the first of which was that the Minister for Child Protection should write to the Minister for Health recommending that he consider an additional requirement within the Surrogacy Regulations 2009 for all parties in a surrogacy arrangement to provide a criminal record check and consent to a child protection order before approval for surrogacy is granted. Secondly, I recommended that the Minister for Child Protection write to the Minister for Health recommending that he consider amending the Surrogacy Act 2008 to include a ban on overseas surrogacy arrangements, consistent with the approach adopted in New South Wales, the ACT and Queensland.

I draw that to the attention of members now, because I want them to understand that this is an issue that I have pursued for some time. It is not an issue I now raise because the surrogacy bill is before us; it has been my considered opinion for an extensive period that we should join Victoria in having criminal record and child protection order checks when it comes to surrogacy arrangements. I cannot fathom why we would want a lesser standard than that in Victoria. I want to bring to members’ attention four cases, and again, I emphasise, re-emphasise and underscore for the benefit of members that the sole purpose of bringing these cases to the attention of members is to demonstrate that there are some individuals—not to be confused with all individuals—who procure surrogacy arrangements for despicable purposes. That happens and I will highlight four cases in a moment. That is why criminal record and child protection order checks are in order, given that the state is being asked to intervene in this situation. The child is not being created naturally, there is a request for the state to intervene and when the state has been asked to intervene and to assist in the reproduction process, the state has a duty to make sure that we are acting in the best interests of children. I remind members that that is the paramountcy principle in this debate that already exists in the current legislation. If we are going to act in the best interests of children and if the state is being asked to intervene and involve itself in this reproduction process, then step 1 ought to be to ensure that criminal record and child protection order checks are done, as is the case in Victoria. That has been the case in Victoria for a very long time. We should have at least the same level of child protection in our state, not a lesser standard. I know that that will be disturbing to some members; I know that some will manipulate that information to somehow suggest that every person who is applying for a surrogacy
arrangement must have despicable motives. That is not what I have said, and if someone tries to misquote me, I will simply provide them with the Hansard of today’s debate to re-emphasise and underscore the point that that is utterly irrelevant. The main point here is that some people do it, and the state has a duty. We cannot shirk the fact that the state has a duty if it is to intervene into this reproduction process. This scheme has been in place in Victoria for an extensive period of time and I would like the parliamentary secretary to explain to me why we would want to have a lesser standard of child protection in our state than that which exists in Victoria.

I draw members’ attention to a case that can be found, for those who are interested—and, indeed, for the benefit of Hansard, as I am going to be quoting extensively from this article—in The Sydney Morning Herald of 30 June 2013. The article is entitled “Named: the Australian paedophile jailed for 40 years”. The author of the article is the news editor of The Sydney Morning Herald; he was previously the crime and justice editor. The article states —

Standing before an American court convicted of the most heinous of child sex crimes, the double lives of Australian citizen Mark J. Newton and his long-term boyfriend Peter Truong were laid bare.

“Being a father was an honour and a privilege that amounted to the best six years of my life,” the American-born Newton, 42, told the court.

Moments later Newton was sentenced to 40 years in prison for sexually abusing the boy he and Truong, 36 from Queensland, had “adopted” after paying a Russian woman $8000 to be their surrogate in 2005.

Police believe the pair had adopted the boy “for the sole purpose of exploitation”. The abuse began just days after his birth and over six years the couple travelled the world, offering him up for sex with at least eight men, recording the abuse and uploading the footage to an international syndicate known as the Boy Lovers Network.

“Personally … I think this is probably the worst [paedophile] rings … if not the worst ring I’ve ever heard of,” investigator Brian Bone of the US Postal Inspection Service told reporters outside the US federal court room in Indiana.

US District Judge Sarah Evans Barker said the pair deserved a harsher punishment but were tried at district court level to avoid subjecting a jury to the repulsive images that had been produced.

“What can be said? What can be done to erase some of the horror of this?” Judge Barker said in handing down her sentence.

The reporter goes on, later in the article, to say —

Newton and Truong gave an interview to a local ABC reporter in Far North Queensland in 2010 on their battle to have a child as a gay couple. Their search started in 2002 in the US, where they both were working, and when they did not have any success Truong travelled to Russia and found a woman who they “clicked with personality-wise”. She was paid $8000 and, as per their agreement, granted the couple sole custody of the boy, handing him over five days after his birth in 2005.

The family planned to live in Cairns but that was delayed because Australian authorities initially refused to grant the child a visa. That took 2 years and upon their eventual arrival in Australia they said Customs quizzed them for hours. Police were also sent to the family’s house in Cairns to check up on the pair.

In the radio interview, 20 months before their arrest, Newton was asked if he felt the extra attention was because authorities suspected there was “something dodgy ... something paedophlic going on here?”

“Absolutely, absolutely, I’m sure that was completely the concern,” Newton replied.

Evidence before the court revealed the abuse began before the couple returned to Australia. One video is said to show Newton performing a sex act on the boy when he was less than two weeks old.

Judge Barker said the pair brainwashed the child to believe the sexual abuse was normal. Newton was also said to have trained the boy to deny any inappropriate behaviour if he was ever questioned by authorities.

Newton and Truong came to the attention of police in August 2011 after their connections to three men arrested over the possession of child exploitation material came to light. The couple had visited the three men in the US, New Zealand and Germany with their son.

While the couple were visiting family in the US, Queensland police searched their Cairns home and found enough evidence to alert their US counterparts who raided their Los Angeles base and took the boy into custody.

Newton and Truong claimed they were being targeted because they were homosexual. However after his arrest in February 2011, Truong gave investigators the password to the computer hard drives police had seized. It detailed the years of abuse.

That is the first sickening case, and I once again reiterate that the purpose of bringing that story to members’ attention is to indicate that some individuals will access a surrogacy arrangement for perverted motives—I hasten to add some, not all. It is the “some” that we, as legislators, should be concerned about. We should be concerned
about people who will seek to take advantage of children. I also put it to members that, quite apart from the fact
that the system of child protection orders and criminal record checks has worked perfectly fine in Victoria for
a number of years, if a person wants to access a surrogacy arrangement and says that, as a matter of principle and
privacy, under no circumstances will they subject themselves to a criminal record check, should we not be concerned?

I have been involved in these debates previously, and people will immediately say, “Well, what about two people
who can naturally conceive? We don’t ask them to subject themselves to a child protection order check.” With the greatest of respect to those who have articulated that question over the years, it fails to contemplate that there is no possibility of a government implementing such a regime. How on earth could
a government make a law that required every person in Western Australia to subject themselves to a child
protection order or a criminal record check prior to procreating? It would be an impossibility; it would be
a nonsense. We, the state, ought never to intrude into what people are doing in the privacy of their own home; that
is not a matter for us. However, when people come to the state and ask the state to assist in the reproductive process,
it is an entirely different situation. Natural conception is not taking place and assistance is being requested of the
government of the state, and that triggers a duty of care on the state with regard to the prospective child. The state
can discharge that duty of care in part by ensuring that the commissioning persons and the surrogate mother do
not have ulterior motives.

Of course, child protection order checks and criminal record checks are not foolproof in themselves; they will pick
up only people who have had previous offences and the like. They are not going to capture new offenders. But at
the very least, would we not want to capture those individuals through processes that, I underscore for members,
have been in place in Victoria for many years without any problems? Why would we not want to have at least the
same standard of child protection in our state as has been the case in other states?

I move now to the second case, the case of David Farnell. This case may be more familiar to members than the first
case I referred to. It is sometimes referred to as the “Baby Gammy” case. There were many articles on this case,
but for the benefit of Hansard, I will be quoting from an article that appeared in The Telegraph of 6 August 2014.

This report, from the following year after the previous case that I referred to, is entitled “Surrogacy case: the history
of sex offences of the Australian accused of leaving surrogate baby in Thailand” and is dated 6 August 2014. I note
that the reporter is from Bunbury. I quote —

The Australian man accused of abandoning his surrogate baby in Thailand has a history of child sex offences
against three girls aged five to ten, with one judge saying he had “robbed these girls of their childhood”.

Court documents released by the Supreme Court of Western Australia reveal that David Farnell, the
father of Gammy, assaulted two girls aged seven to ten in 1982 and 1983 at his home and during
“secretive meetings” in his garden shed.

He then committed further offences against a five-year-old girl from 1988 to 1992. The identities of the
three girls were not released but he appeared to know each of them.

In the case of the two girls, Justice Michael O’Sullivan in the district court told him: “Your conduct involved
not only a violation of the innocence of young girls, it involved a breach of trust and confidence.”

Farnell and his wife Wendy are at the centre of an international surrogacy controversy after they paid for
a surrogate mother in Thailand and returned to Australia with a healthy baby girl but did not take her twin
brother Gammy, who has Down’s syndrome. They have not appeared in public since the case emerged
but said via a family friend this week that they had been told Gammy only had a day to live.

Farnell’s convictions have prompted child protection authorities to order a review this week of the couple’s
suitability as parents. The department has twice visited the couple’s home, which appeared empty.

… the 21-year-old surrogate mother, had said she would consider having the baby girl returned to be with
Gammy if rumours about Farnell’s convictions turned out to be true.

The court documents show that Farnell, an electrician now in his mid-50s, pleaded guilty to the first set
of offences against the two girls and was sent to jail for three years in 1997. He denied the later offences
but was found guilty by a jury in 1998 and sent to jail for a further 18 months.

The first crimes occurred when he was in his mid-20s but only came to light more than a decade later
when the girls came forward as adults. Farnell was then married with three children and had no prior
convictions, but he apparently became estranged from his family after the cases emerged.

Justice O’Sullivan told him during sentencing: “You have a stable family life which is an irony, really,
given that you appear to have robbed the complainants of an opportunity to have such a life.”

The offences against the third girl began when she was aged five at a pool—apparently at his parent’s
house—in 1988. Other incidents occurred until she was about nine. He claimed that the only time he
touched the girl and her friend was “when he had to drag them slightly and then kick them out of the
house because they were being a nuisance.”
A jury in that case found Mr Farnell guilty on four charges but not guilty on one.

Justice Ivan Gunning in the district court said Mr Farnell had shown no remorse and had accused the girl of lying.

“She is very immature and this has affected her badly,” he said.

“You have undergone some counselling; perhaps it may have had some effect but I’m a bit cynical with respect to that. That is reinforced by your refusal to accept any guilt and of course there is no remorse.”

That is the second case as reported by *The Telegraph*, and it will be more well known to members. But that case did not stop there. Indeed, I note that some 18 months later the ABC also reported on the latest developments in that case. For the benefit of *Hansard*, I now refer to an ABC article dated 14 April 2016, entitled “Baby Gammy: Surrogacy row family cleared of abandoning child with Down syndrome in Thailand”. I quote —

**A baby with Down syndrome at the centre of an international surrogacy dispute in 2014 was not abandoned in Thailand by his Australian parents, a court has ruled.**

Baby Gammy and his twin sister Pipah were born in Thailand in December 2013 to surrogate mother … using Bunbury man David Farnell’s sperm and donor eggs, after Mr Farnell and his wife Wendy were unable to conceive a baby.

The Farnells returned to Australia with Pipah in February 2014 and —

The surrogate mother —

… sought orders from Western Australia’s Family Court to have Pipah returned to her.

However, in a judgement released today —

That was 4 April 2016 —

Chief Judge Stephen Thackray said he had decided she should continue to live with the Farnells.

The article continues —

… Justice Thackray found the Farnells did not abandon Gammy, and had wanted to keep him.

However, at some time during the pregnancy, “it is clear that —

The surrogate mother —

… had fallen in love with the twins she was carrying and had decided she was going to keep the boy.”

When civil unrest broke out in Bangkok in early February, the Farnells were advised by Australian embassy staff to leave the country.

With … refusing to give up baby Gammy, who was still in hospital, the Farnells left with Pipah and “returned to their home in Bunbury, which they had set up for two babies,” Judge Thackray said.

“Although they were home, they were petrified the authorities might come to retrieve Pipah. They were also traumatised as a result of leaving Gammy behind.”

The report then goes on to say —

After details of the case were made public two years ago, it was revealed that Mr Farnell had been convicted of child sex offences.

But in his decision, Justice Thackray said there was no evidence he had reoffended since his release from jail in 1999.

Justice Thackray said Pipah had “settled into her new home” and was “thriving in the care of a loving network of family and friends, including Mr Farnell’s ex-wife, and their adult children and their families.”

He said Gammy also “appears to be thriving” in Thailand where he has the “love and support of the members of … extended family”.

“I have decided Pipah should not be removed from the only family she has ever known, in order to be placed with people who would be total strangers to her, even though I accept they would love her and would do everything they could to care for all her needs,” he said.

…

Justice Thackray said the case “should also draw attention to the fact that surrogate mothers are not baby-growing machines, or ‘gestational carriers’”.

“They are flesh and blood women who can develop bonds with their unborn children.
I pause there to remind members that I am quoting from Chief Judge Stephen Thackray of the Family Court of Western Australia. The article continues —

“The appalling outcome of Gammy and Pipah being separated has brought commercial surrogacy into the spotlight.

“Quite apart from the separation of the twins, this case serves to highlight the dilemmas that arise when the reproductive capacities of women are turned into saleable commodities, with all the usual fallout when contracts go wrong.”

I again remind members that those are not my words; those are the words of the Chief Judge of the Family Court of Western Australia, His Honour Justice Thackray. I note that Justice Thackray was highly critical of commercial surrogacy, and I encourage members, if they have the opportunity, to look at His Honour’s Family Court judgement. The case was heard from 9 to 13 November 2015, continued on 15 December 2015 and concluded on 30 March 2016. The judgement was delivered on 14 April 2016. Chief Judge Stephen Thackray had a number of things to say, and I want to quote from three paragraphs of his judgement, interestingly placed under a subheading, “Part 14: law reform”. He states this in the paragraphs I quote —

756 The appalling outcome of Gammy and Pipah being separated has brought commercial surrogacy into the spotlight. Quite apart from the separation of the twins, this case serves to highlight the dilemmas that arise when the reproductive capacities of women are turned into saleable commodities, with all the usual fallout when contracts go wrong. The facts also demonstrate the conflicts of interest that arise when middlemen rush to profit from the demand of a market in which the comparatively rich benefit from the preparedness of the poor to provide a service that the rich either cannot or will not perform.

757 This case should also draw attention to the fact that surrogate mothers are not baby-growing machines, or “gestational carriers”. They are flesh and blood women who can develop bonds with their unborn children. It is noteworthy that no evidence was provided about the long-term impact on mothers of giving up children they carried, and there was no evidence of the impact on the children themselves. Nor was there any expert evidence of the impact on the other children of birth mothers who would have seen their mother pregnant, and perhaps felt the baby move in her belly, only to find that the baby never came home from hospital. Did those children wonder who would be the next to be given away? And what of their feelings of grief and loss if they were misled into believing the baby had died?

758 I accept it is for others to decide —

I pause there. When Chief Judge Thackray says, “I accept it is for others to decide”, he is talking about us. He is the Chief Judge of the Family Court of Western Australia. He leaves it to us to make these other decisions. This is why these decisions are so significant and why, quite rightly, members have been granted a conscience vote. The judgement continues —

758 I accept it is for others to decide whether the manifest evils associated with overseas commercial surrogacy can be overcome by importing the problem into Australia, even though such suggestions have been made as a result of what happened to “baby Gammy”. It is also for others to determine whether even a “first world” country can provide a regulatory regime sufficiently robust to protect the interests of surrogate mothers and the children they bear.

I say again that they are not my words; they are the words of Chief Judge Thackray of the Family Court of Western Australia, delivering that judgement on 14 April 2016. I once again urge members to give strong consideration to an amendment along the lines of the Victorian legislation, which has worked very well there, requiring criminal record and child protection order checks to be undertaken.

I foreshadowed that I had four cases to bring to the attention of members, and I now move to the third of those four cases. This case is that of a New South Wales man who was charged with abusing twin daughters. For the benefit of Hansard, on this occasion I will be referring to an ABC news article dated 2 September 2014. I am working chronologically through the four cases. The first was 30 June 2013, the second was 6 August 2014, and now I am moving to 2 September 2014. The article published by the ABC was titled “Australian charged with sexually abusing twins he fathered with Thai surrogate”. The South-East Asia correspondent reports —

An Australian who fathered surrogate twins with a Thai woman has been charged with sexually abusing the children.

The man, who cannot be identified, has been charged with indecent dealings of a sexual nature with the children while they were under 10.

Court documents reveal he has also been charged with possessing child abuse material which was found after a raid on his home.

...
The Thai surrogate mother … also known as Aon, lives in the Petchabun province 400 kilometres north of Bangkok.

Encouraged by a relative and with her husband’s agreement, Aon agreed to act as a surrogate for a couple from Australia who could not conceive on their own.

“They contacted us to be a surrogate,” she said.

“They asked whether we wanted to meet them first or if they should meet us first, so that they could see how I look like and we could see how they looked like, to see if it was fine for us.”

Once the decision was made Aon met the couple, who had travelled to Thailand.

“They said they were just married and they really wanted to have a baby so much,” she said.

“She said her husband wanted to have a baby so much, please help them, please help them.

“She held my hand and said please help them.”

Aon agreed to use her own eggs.

“I thought she really could not [use her own eggs] because I saw she was quite old already,” she said.

“They must be really having problems and really could not find anyone else.”

Aon says she was paid a total of 170,000 Thai baht for her services—about $5,500.

She says there was mention of extra money because she had provided the eggs, while the sperm was supplied by the Australian man, but the extra payment never eventuated.

Aon gave birth to twins several years ago.

“After the birth the babies were not so strong so I was worried,” she said.

“They were checked on many things, they had lung problems.

“When it was time to give them up, I actually did not want to because I was worried.

“They were about four to five months old.

“They were so lovely, I wanted them to stay with me, I did not want to let them go.

“If they asked if they could cancel their payment and we kept the babies, I would definitely have said yes.”

The Australian couple took the twins back to their home in Australia—and it was then things took a turn for the worse.

Court documents reveal the father became unemployed, allegedly had a violent temper, and the marriage broke down.

The children were having night tremors and had begun to wet the bed.

Last year the authorities charged the father with indecent dealings with the children.

Aon and her husband … were told of the allegations in June 2013.

“I felt terrible, I felt very bad, I don’t know how to describe it,” Aon said.

“I knew only, when they came to talk to us they wanted to have a baby, will love them, will take the best care for them—I felt bad.”

The children are now in the care of the ex-wife of the accused man, and Australian child welfare authorities are now working on longer-term plans for their care.

The author of this article of 2 September 2014 then interviews a representative of Childline Thailand, a child welfare organisation that runs safe houses for children and has been asked to help with the case. In that interview, with Ilya Smirnoff, the following comments are made —

“We have been contacted by the international social service representative from Australia to make an assessment for the possible placement of the children back to Thailand,” Mr Smirnoff said.

That would reunite the children with their surrogate and biological mother, but there are complications.

“They don’t even speak any word of Thai, they don’t know that they are half Thai or have any connection to Thailand,” Mr Smirnoff said.

“They consider themselves to be fully Australian.”

The case is likely to increase the scrutiny on Thailand’s long unregulated surrogacy laws.
After the case of Baby Gammy, the baby boy with Down syndrome left behind by his Australian parents, the ruling Thai military has been working to introduce new laws banning commercial surrogacy.

“A lot of people are also approaching this subject from the rights of the people who seek surrogacy, the rights of the surrogate mother, the rights of the hospitals and clinics,” Mr Smirnoff said.

“But very few people, I think, until this time, were talking about the rights of the child.

“[That] they have to enjoy all their rights and protection is one of the fundamental rights they need to enjoy. ‘It is a state party duty to put those checks in place, to ensure that the child is protected and all violence towards them is being prevented.’”

Mr Smirnoff says it is possible paedophiles are exploiting a loophole in the system.

“It’s not just this system, they (paedophiles) are quite good at abusing any system. Especially this system, because right now it has these big sort of chunks that are missing, so they’ll just abuse it, abuse the opportunity,” he said.

“If you know you are a paedophile and you think, ‘How can I get access to a child reasonably easy and reasonably soon?’, surrogacy is definitely an interesting opportunity for you, especially if you have the money.”

I remind members that those are not my comments. Those are the comments of an individual who runs a child welfare organisation and safe houses for children in Thailand as a result of these types of cases. Once again, it emphasises that the state, if it is going to get involved in the reproduction process, has a responsibility to ensure that criminal record checks and child protection order checks have been undertaken, as has been the case in Victoria for quite some time without difficulty. Why we would not want to have at least that same standard in Western Australia is beyond me. Once again, I urge members to give strong consideration to the amendment that is on the supplementary notice paper. That amendment can be supported by members irrespective of where they sit on the topic as a whole. If, like me, members do not think a case has been made by the government to extend surrogacy to single men and, like me, think that that is not a matter of discrimination, they can vote against the legislation. That is true. But members can also support an amendment to the bill if it passes the second reading stage. It does not have to be an either/or proposition. Whether or not members think that single men should be able to access surrogacy, we should be able to work together to ensure that we have the best child protection system in Western Australia. It should at least be at the Victorian level, since it seems to be the gold standard, as members will recall because I took them through the various jurisdictions.

I will conclude my analysis of the four cases by moving to the fourth case. It is about a regional Victoria man who pleaded guilty to sexually abusing his twin surrogate babies. For the benefit of Hansard, I will quote from an article in The Sydney Morning Herald. The article was first published on 21 April 2016, but it was updated on 22 April 2016. The article states —

A regional Victorian man has pleaded guilty to sexually abusing his infant surrogate twin daughters—and two young nieces from NSW—in a case certain to fuel debate about international surrogacy laws. The man was already abusing his nieces when he spent $44,000 to have the twins conceived overseas using a donor egg with the clear intention of sexually exploiting the children. He began abusing them when they were 27 days old and continued for seven months. The man also produced some of the most depraved exploitation material ever seen, according to the Australian Federal Police. The man was found to have been accessing child pornography for decades.

... The 49-year-old, who cannot be named, will become only the second person in Australian history convicted of the federal offence of child trafficking, it is understood. On Thursday, he pleaded guilty to 37 charges, including the production of almost 17,000 images and videos of child abuse, and upskirt material taken of women on V/Line trains, between 2009 and 2014. Almost 300 images and videos featured the twin girls, who were born in Asia in March, 2014, using a donor egg from the Ukraine. The twins’ country of birth is suppressed, but the centre the man and his wife used boasts that they have helped dozens of Australian couples have children. The man’s wife first suggested surrogacy in 2012 after the couple of 26 years had failed with natural conception and IVF, and were unable to adopt. Federal prosecutor Krista Breckweg said the man asked his wife to have an abortion in the early 90s when she fell pregnant, and appeared to not be interested in parenthood until after he started abusing his nieces in 2009.
The man, who was known on various child abuse forums by the name Candy, had told other members about the impending surrogate births and his intention to abuse the girls.

He also suggested to his wife that one of the twins should be named Candy.

The twins—who are now in the care of the Department of Health and Human Services—were abused while the man was feeding, bathing and changing them. The man’s wife was in no way aware or complicit in the offending, according to the AFP.

On 57 occasions, the man produced images or films which showed writing in felt marker on the twins, which, in some cases, gave the man entry into other online child abuse networks. The twins were abused for seven months.

The man first came to the attention of police when an image of an unidentified victim was sent to the AFP in November 2014.

The victim was found to be one of the man’s nieces. The sisters had been abused from the ages of four and six, after the man rekindled a relationship with his estranged brother in NSW.

He often bought his nieces gifts and took them to Sydney’s Royal Easter Show, and repeatedly requested that they stay with him in Victoria.

The man boasted on online forums ahead of their expected visits, and encouraged those who posted comments on his images. He also shared information about how he had drugged the girls prior to his offending, and subsequent images appeared to show them sleeping.

The man’s regional Victorian property was raided on November 26, and computers, cameras, hard drives and mobile phones were seized. Among the items seized was also a modified gym bag, which the man used, along with his mobile phone, to make five films under the skirts and dresses of women on V/Line trains in October, 2014.

He made full admissions to police about the offences, and said he had been interested in child abuse material since the 1990s, but had repeatedly tried to resist his urges by deleting the material, most recently in 2007.

I have to say that that is probably the most disturbing of the four cases that I have had to read. They are all disturbing, but that was more difficult to read out than the others. Again, I make the point for members that we are talking about ensuring that if the state is involved in the reproduction process, we provide the highest level of child protection—at least the same level that has been in place in Victoria for many years. Why would we want to have a lesser standard of child protection in our state than has been the case in Victoria and has worked effectively there for many years? If members vote for such an amendment, does that mean in any way that they are implying that every person who applies for a surrogacy arrangement is somehow the same as those sick individuals who I have just read out about? No, it does not mean that at all. It absolutely does not imply that. It is patently false and outrageous if somebody tries to draw that conclusion. However, it would send a very strong message that in Western Australia we at least want our child protection system to be at a level equivalent with that in Victoria, given we can learn from that state’s lived experience. If we are going to do anything with this surrogacy bill, in my view the bill should be defeated at the second reading stage, but if that is not the case, at the very least let us make sure that our legislation is at the same level as that in every other jurisdiction in Australia. Let us pick the best parts from those jurisdictions. Let us take the Victorian criminal record check and child protection order provision and use that in our legislation. Let us take the provision for extraterritorial application from Queensland, the ACT and New South Wales and put it in our legislation. At the very least, the outcome of this whole exercise should be improved legislation—that should be the minimum.

Once again, I wonder what the reviewer Sonia Allan had to say about these matters. It is inconceivable that that report would be silent on child protection orders and the like. We cannot have the Chief Justice of the Family Court of Western Australia make highly critical remarks in the four cases, at least, that I referred members to this afternoon, and then have a reviewer who is being paid $225,000 by taxpayers not provide any comment whatsoever. It is inconceivable that that is the case. All I am asking the government to do is unlock that cabinet, open the doors and table the report it has had since 8 January. The government has the report and it has the power to provide it to members. Given the gravity of the four cases I just read to members, it is incumbent on the government to ensure that members have all the information before them. This bill does not warrant a blindfold for members of Parliament, least of all when they are expected to cast a conscience vote.

I note that when this provision was implemented in Victoria, it had a statement of compatibility. On 10 September 2008, former Victorian Attorney General Rob Hulls introduced this provision for criminal record checks and child protection order checks. More than 10 years ago, the Victorians worked out that this was a problem. Remember the remarks I made earlier about individuals who have said that there are gaping holes and it is inappropriate
for there to be gaping holes in a reproductive system that involves the states? I quote the Victorian Legislative Assembly Hansard of Wednesday, 10 September 2008. On the Reproductive Treatment Bill, former Attorney General Rob Hulls said —

The requirements to provide a criminal records check and consent to a child protection order are reasonable given the important purpose of protecting the child to be born from ART. The interference with privacy is proportionate to the purpose, and is not arbitrary or unlawful.

I could not agree more. The Victorians have had that standard of child protection for 10 years. At the very least, we should ensure that at the end of our debate on this bill, if the bill is not defeated, child protection order checks and criminal record checks are made mandatory. Once again, I urge members to contemplate an objection to that. Why would the commissioning persons object to subjecting themselves to a criminal record check—something that we ask people to do every time they apply for a working with children check in this state? Would one of the reasons be that they are like the people in one of those disturbing cases that I referred to? We have the ability to ensure that that does not happen if we pass an amendment to the legislation.

I reiterate to members that this is not the first time I have raised this point; I raised this point with the previous government. I spent some time indicating my communications with Andrea Mitchell when she was the Minister for Child Protection. But, as it happens, it goes back further than that. Indeed, on 6 August 2015, I wrote to the then Minister for Health, Dr Kim Hames, and said —

I was greatly encouraged by the responses provided by both the Minister for Child Protection and your Parliamentary Secretary during Estimates on Wednesday 24 June 2015 …

Members might be interested to know about the responses I received from those members of the government I was supporting at the time. The parliamentary secretary at the time was none other than Hon Alyssa Hayden. In an interchange with the parliamentary secretary on 24 June 2015, I asked —

… Victoria requires that arranged parents and the surrogate mother and partner have criminal record checks and child protection order checks. That is what they have in Victoria at the moment. Is there any good reason why we could not have that in Western Australia?

The then Parliamentary Secretary to the Minister for Health, Hon Alyssa Hayden, said, “There is no good reason.” I then asked —

Parliamentary secretary, might you take that up with the minister after today so that we might seek an amendment to the act?

She replied —

I am sure you and I can both go and meet with the minister, honourable member.

Indeed, we did meet with the minister, as per my letter to Hon Dr Kim Hames on 6 August 2015. Further to that, I had an exchange with the then Minister for Child Protection, Hon Helen Morton, on 24 June 2015. I quote the Standing Committee on Estimates and Financial Operations transcript. I said —

In Victoria, criminal record checks and child protection order checks are required for arranged parents and the surrogate mother and partner. If the checks indicate any conviction for sexual or violent offences or any child protection order, a presumption against treatment will apply. This morning during estimates with the Department of Health, the parliamentary secretary to the Minister for Health advised that there is no good reason why this cannot be implemented in Western Australia and I ask: would you support such a reform?

I went on to ask —

The Victorian provision requires, if there is to be a surrogacy arrangement, that a criminal record check be done on the people involved and a check for any child protection order. It seems like a sensible reform. Given the Department for Child Protection and Family Support was consulted in the statutory review of the Surrogacy Act and, unfortunately, that review did not address this issue, I have pursued it with the parliamentary secretary this morning, and to close the loop, it would be good to get the position of the child protection agency.

The response from Hon Helen Morton was —

Once again, I would say that we would do anything that would enhance safety for children. I understand that we do not check the crim act record or do working with children checks for any parents under that arrangement.

I asked whether that happened in Western Australia. She replied, “No, we do not do it at the moment.” Later I asked the minister whether she might take the question on notice. She said —

Rather than take it on notice, I would just say that I would look at it as a potential amendment to the existing arrangements.
Members can see I have been pursuing this matter since 2005. I have pursued it extensively since then. I wrote to
the then Minister for Health, Hon Dr Kim Hames, on 6 August 2015. I again pursued it with the Minister for
Child Protection in December 2016. Now we have a bill. Since that time, this is the first piece of legislation to
provide the opportunity to have this debate. I urge members to give consideration to that amendment. As members
can see from the responses from government, there is no good reason it cannot be implemented, and indeed that
has been the case in the Victorian system, as I say, for now some 10 years.

Members might be interested to know what the situation is in Western Australia with respect to these issues. What
is the situation in Western Australia when we are considering our regime? Specifically, what oversight process
exists? I can indicate to members that following the briefing that took place in September last year there was yet
another exchange with a senior policy officer from the minister’s office. The senior policy officer from the
minister’s office wrote to the member for Churchlands, the shadow Minister for Health, and me, as his
representative in this place, on 12 September 2018 and said as follows. I quote from the email —

As requested, the Health Department has received the below information from the Family Law Court on the
question of surrogacy applications for parentage orders, specifically whether they are dealt with ex-parte

- Surrogacy applications for parentage orders are dealt by the allocated judge in chambers.
- There are no attendances by parties or their lawyers.
- The matters are not dealt with ex-parte.
- All interested parties have been served or their respective consents provided.
- No hearing date is allocated—the paperwork is filed in court by the parties, checked and forwarded to the judge, who also checks that all the requirements have been met, and then makes the orders.

Then this piece of advice goes on to say —

As discussed in the briefing, the Australian Law Reform Commission is currently looking at a range of
family law reform matters here is a link to the terms of reference:

Those terms of reference the senior policy officer drew to our attention can be found on the Australian Law Reform
Commission’s website. I draw to members’ attention what the senior policy officer from the Minister for Health’s
office was seeking to draw to our attention in these terms of reference she referred to. I have managed to get myself
a copy of that document. For the benefit of Hansard, it is on the Australian Law Reform Commission’s website
and it is titled “Terms of Reference: Review of the family law system”. It says that the terms of reference must
have regard to a number of things. I am not going to read them all for members, that would be too lengthy, but
I want to draw to members’ attention to at least a couple of them anyway. Some of the terms of reference state —

- the fact that, despite profound social changes and changes to the needs of families in Australia over
  the past 40 years, there has not been a comprehensive review of the Family Law Act 1975 (Cth)
  (the Act) since its commencement in 1976;
- the greater diversity of family structures in contemporary Australia;
- the importance of ensuring the Act meets the contemporary needs of families and individuals who
  need to have resort to the family law system;

At the time the Attorney-General was Senator Hon George Brandis, QC. He states on the website —

REFER to the Australian Law Reform Commission (ALRC) for inquiry and report, pursuant to ss 20(1)
of the Australian Law Reform Commission Act 1996 (Cth), a consideration of whether, and if so what,
reforms to the family law system are necessary or desirable, in particular in relation to the following
matters:

He sets out a number of those matters, but the ones I particularly want to highlight are —

- the protection of the best interests of children and their safety;
- the best ways to inform decision-makers about the best interests of children, and the views held by
  children in family disputes;
- collaboration, coordination, and integration between the family law system and other
  Commonwealth, state and territory systems …

Debate interrupted, pursuant to standing orders.

[Continued on page 725.]
QUESTIONS WITHOUT NOTICE
CABINET — CONFLICTS OF INTEREST

105. Hon PETER COLLIER to the Leader of the House representing the Premier:

I refer the Premier to question without notice 712 asked on Tuesday, 31 October 2017, whereby he responded that no member of cabinet had declared a conflict of interest or perceived conflict of interest in Carnegie Clean Energy Ltd, and to question without notice 82 asked on Wednesday, 20 February 2019, whereby he responded that he could not identify whether any minister had declared a conflict of interest or perceived conflict of interest in the western rock lobster industry due to the fact that “declarations remain cabinet-in-confidence.” Why is it the Premier could provide a response to question without notice 712 but could not provide a response to question without notice 82, given that the wording of the two questions is identical?

Hon STEPHEN DAWSON replied:

I thank the Leader of the Opposition for some notice of the question. I provide the following response on behalf of the Leader of the House.

Declarations under the Ministerial Code of Conduct are treated as cabinet-in-confidence in the same way that they were under previous administrations.

METRONET TASKFORCE — MINUTES

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

I refer to the minister’s answer to question without notice 83, which stated that the minister was seeking further advice on tabling the 27 February 2018 Metronet Taskforce minutes.

(1) Given that the Auditor General found that the minutes could have been provided to Parliament with a discrete amount of cabinet-in-confidence information redacted and that the decision not to provide them to Parliament was found to be unreasonable and not appropriate, why will the minister not table these minutes in accordance with the Auditor General’s findings?

(2) As Parliament seeks independent assurance from the Auditor General under section 24 of the Auditor General Act 2006, from whom is the minister seeking further advice given that the Auditor General’s role is to audit the finances and activities of Western Australian state and local government entities and report their findings to Parliament?

Hon STEPHEN DAWSON replied:

I thank the Leader of the Opposition for some notice of the question.

(1)–(2) The minister is seeking advice on the tabling of the minutes, noting that the Auditor General did not find that it would have been reasonable and appropriate to table the minutes un-redacted. That process of seeking advice involves a number of agencies, including the State Solicitor’s Office and those involved in the production and consideration of the minutes and involved in the issues dealt with by the minutes.

MULTIPLE MURDERERS — PAROLE

107. Hon MICHAEL MISCHIN to the Leader of the House representing the Attorney General:

I refer to the Attorney General’s answers to my questions regarding the operation of the Sentence Administration Amendment (Multiple Murderers) Act 2018.

(1) To enable the house to understand his answers to questions, what does the Attorney General mean by a “formal submission” when he claims that he has not received any “formal submissions of this nature”?

(2) On what date did the Attorney General begin to consider each of the cases of Douglas John Edward Crabbe, David Masters and James Alexander Tilbury?

(3) Which of the three cases did the Attorney General begin to consider before, and which were on or after 14 February 2019?

(4) What material has the Attorney General requested in order to be able to consider each of these cases, when did he request it and from whom?

(5) What considerations additional to those stated in the act will the Attorney General apply in deciding whether to suspend their parole?

(6) Has the Attorney General received submissions—formal, informal or otherwise—urging him to suspend parole in any of these cases, or not to suspend parole; if so, when, from whom and for which case; and what has been his response?
Hon SAMANTHA ROWE replied:
I thank the member for some notice of the question. I provide the following response on behalf of the Leader of the House; the answer has been provided by the Attorney General’s office.

1. The Attorney General was differentiating between submissions and letters received from members of the public.
2. Shortly following passage of the bill.
3. All of them.
4. The most recent statutory reports, requested from the Prisoners Review Board on 5 December 2019.
5. The gravity and seriousness of the prisoners’ offending and the likely traumatisation of the family of the victims, were the operation of sections 12A(2) and 13(4) and (5) of the act not suspended in accordance with this direction.
6. No.

MACHINERY PRESERVATION CLUB OF WA

108. Hon DONNA FARAGHER to the minister representing the Minister for Planning:
I refer to the Machinery Preservation Club of WA that currently operates from block 3 at the former Midland railway workshops site.

1. Can the minister confirm the club is required to vacate block 3 by 30 June 2019; and, if not, when is it required to vacate the site?
2. If yes to (1), is there an opportunity for the club to relocate to the workshops’ powerhouse building; and, if yes, can the minister advise when the relocation can occur and what security of tenure would apply?
3. If no to (2), is the Metropolitan Redevelopment Authority considering any alternative locations for the club within the workshops site; and, if so, what are those alternative locations?
4. If alternative locations are being considered by the MRA, when will a final decision be made, including tenure arrangements, and when will this be communicated to the club?

Hon STEPHEN DAWSON replied:
I thank the honourable member for some notice of the question.

1–4 The Machine Preservation Club’s existing licence to occupy expires on 30 June 2019. The existing licence to occupy requires three months’ notice to be given, and the Metropolitan Redevelopment Authority will continue to engage with the MPC and the City of Swan to explore options.

SYNERGY — PREMIER COAL SUPPLY AGREEMENT

109. Hon NICK GOIRAN to the minister representing the Minister for Energy:
I am asking this question on behalf of Hon Peter Collier who is away on urgent parliamentary business. I refer to Synergy’s coal contract with Premier Coal.

2. How much coal has Synergy taken in the current financial year?
3. What is the forecast tonnage of coal that Synergy expects to take from Premier Coal for each of the years 2019–20, 2020–21 and 2021–22?

Hon STEPHEN DAWSON replied:
I thank the honourable member for some notice of the question. The following information has been provided to me by the Minister for Energy.

1–3 Synergy has advised that the information sought is commercially sensitive information that Synergy is required to keep confidential under the provisions of its coal supply agreement with Premier Coal. However, Synergy has previously provided information to the member for Bateman that, in large part, addresses the questions asked. I refer the member to supplementary information A24 provided to the member for Bateman following the Legislative Assembly estimates hearing of 23 May 2018. It was inadvertently not attached to this document; however, my office has sourced that information and I will table it now.

[See paper 2431.]
WESTERN ROCK LOBSTER FISHERY — MINISTERIAL EXEMPTION

110. **Hon MARTIN ALDRIDGE** to the minister representing the Minister for Fisheries:

I refer to reports of 900 kilograms of western rock lobster authorised by exemption by the minister over the last two years to allow Kailis Bros to exceed its quota for the purpose of making a charitable donation to Mission Australia.

1. How was Mission Australia identified and chosen to be the recipient of the charitable donation?

2. Did the minister seek advice on whether it is lawful to make such an exemption under section 7(2)(d) of the Fish Resources Management Act 1994; and, if so, from whom and what was the advice?

3. How does a charitable donation for the purposes of a Christmas lunch fall within the statutory definition of “public health” in section 7(2)(d)?

4. What was the estimated value of the lobster at the time of each donation?

5. Can the minister please table the application for exemption in each instance and the approval, including any related conditions issued by the minister?

**Hon ALANNAH MacTIERNAN** replied:

I thank the member for the question. The Minister for Fisheries has provided the following information.

1. Mission Australia was identified and chosen because it delivers a unique annual Christmas Lunch in the Park for Perth’s most vulnerable people, including those experiencing homelessness.

2. The Department of Primary Industries and Regional Development advised that the purpose was consistent with this exemption provision.

3. Exemptions under section 7(2)(d) relate to public health. This covers the purpose of improving the health and wellbeing of Perth’s homeless community generated from this event. Importantly, this exemption provision was used to support other charities in 2015 and 2016 by the previous Liberal–National government.

4. An exemption was granted to Kailis Bros to catch lobster for the lunch. Kailis Bros generously caught, processed, cooked and delivered the lobster to the event. I am unable to provide a figure as to the value of this donation.

5. Formal applications were not required in relation to these exemptions, as they are not for a range of other types of exemption. The condition on both exemptions was that all other fishing activities conducted under this exemption must be done in accordance with the “West Coast Rock Lobster Managed Fishery Management Plan 2012”.

PROHIBITION ON FISHING (GREENS POOL) ORDER 2018

111. **Hon RICK MAZZA** to the minister representing the Minister for Fisheries:

I refer to the minister’s answer to part (1) of my question without notice 69 on Tuesday, 19 February, about the closure of fishing at Greens Pool, in which the minister advised that consultation was undertaken with Recfishwest, the Western Australian Fishing Industry Council, the Shire of Denmark and the Department of Biodiversity, Conservation and Attractions.

Of the organisations that the minister claims were consulted, can he advise the detail of the consultative process that took place with each, including —

(a) whether each stakeholder was provided with a detailed copy of the proposal to ban fishing at Greens Pool, and what other organisations were provided with a copy of the same;

(b) the position of the person contacted within the organisation;

(c) the dates of the consultation process;

(d) the outcome of each consultation; and

(e) can the minister table the minutes of these consultations?

**Hon ALANNAH MacTIERNAN** replied:

I thank the member for the question. The Minister for Fisheries has provided the following information.

(a) The proposal was discussed in detail with the following organisations: Recfishwest, the Western Australian Fishing Industry Council, the Shire of Denmark, and the Department of Biodiversity, Conservation and Attractions.

(b)–(e) I table the attached information.

[See paper 2432.]
DECLARED PEST RATE

112. Hon AARON STONEHOUSE to the Minister for Agriculture and Food:
I refer the minister to her public consultation around the expansion of the declared pest rate to include properties in the Perth hills and the south west.

(1) What correspondence, if any, has the minister or her department received from members of the public on this issue since the proposed expansion was first floated?

(2) What portion of that correspondence has argued against this new tax?

(3) What action, if any, will the minister take to address the concerns of home owners in the affected areas?

Hon ALANNAH MacTIERNAN replied:
I thank the member for the question.

(1)–(2) In 2018, five recognised biosecurity groups sought funding for the first time through the declared pest rate mechanism for the 2018–19 financial year. These were Blackwood Biosecurity Inc, Central Wheatbelt Biosecurity Association, Peel Harvey Biosecurity Group, Esperance Biosecurity Association and Southern Biosecurity Group. In relation to these five groups, more than 12,500 consultation letters were sent to landowners during the official consultation period. The department received 265 letters in response to these consultation letters. Of the landowners who were sent letters, a total of 1.6 per cent opposed the rate determination.

(3) Comments received from landowners by my office and the department are used by the department and the RBGs to improve planning and address landholder needs. The department will continue to work with RBGs to engage with landowners on the benefits the groups and the rate provide to local communities and landowners to reduce declared pest impacts on land productivity and environmental outcomes. It is important that landowners do understand that they have a legal obligation to control declared pests on their property, and the declared pest rate mechanism is a cost-effective way of helping satisfy that obligation.

SPEED CAMERAS — LOCATION

113. Hon CHARLES SMITH to the minister representing the Minister for Police:
I refer to the PerthNow news article titled, “Police Minister’s push for secret speed camera locations”.

(1) Why are speed cameras and radars often placed behind obstacles so that motorists cannot see them on approach?

(2) Is there any substantive evidence which shows hidden speed cameras reduce accidents?

Hon STEPHEN DAWSON replied:
I thank the honourable member for some notice of the question. The following information has been provided to me by the Minister for Police, who had the information provided to her by the Western Australia Police Force.

(1) The WA Police Force advises that speed cameras must have at least 70 metres of clear space for vehicle detections, and that mobile speed cameras are deployed in a manner that is safe and secure for both the camera operator and equipment. Speed cameras are placed in locations based on various information, such as traffic volume, speeding motorists, complaints from the public, antisocial driver behaviour and known black spots for serious crashes. All traffic enforcement efforts are targeted to reduce road trauma and to detect priority traffic offences, such as speeding.

(2) The WA Police Force advises that contemporary research and review has identified that the use of mobile speed cameras in unexpected locations would likely have a direct link to modifying driver behaviour and reducing road trauma. A report by the New South Wales Auditor General from 18 October 2018 identified that an effective general network deterrence is created by a perception that speeding can be enforced anywhere, at any time. The NSW Auditor General concluded that warning signs at MSC locations reduced the likelihood of achieving a general network deterrence. The awareness of speed camera sites reduces the perceived risk of detection, thereby limiting the ability of MSCs to moderate driver behaviour at other locations. The Curtin Monash Accident Research Centre in September 2006 assessed that the use of covert MSCs would enhance the existing WA Police Force speed camera program.

CLIMATE CHANGE — AGRICULTURAL GREENHOUSE GAS EMISSIONS

114. Hon TIM CLIFFORD to the Leader of the House representing the Premier:
I refer to the member for Maylands’ recent statement that red meat production generates higher levels of greenhouse gas emissions than plant-based alternatives, and the Premier’s response, reported in The West Australian, that he did not share Ms Baker’s views about the sustainability of meat.

(1) Does the Premier believe that, contrary to peer-reviewed science, emissions from agriculture are not a significant contributor to climate change?

(2) Could the Premier please table any reports or advice he has received that has led him to form this opinion?
Hon STEPHEN DAWSON replied:

On behalf of the Leader of the House, I thank the honourable member for some notice of the question.
I am unable to answer this question under standing order 105(b).

SANDALWOOD HARVEST

115. Hon DIANE EVERS to the Minister for Environment:
I refer to the harvesting of wild sandalwood in Western Australia.

(1) How has the annual harvest quota allocation of 10 per cent by private owners and 90 per cent by the Forest Products Commission been determined, and how often is it reviewed?

(2) The Department of Biodiversity, Conservation and Attractions’ flora licensing information sheet provides that native title determined areas, including crown land, are considered private property and included in the annual 10 per cent quota. Has the government considered increasing the percentage of wild sandalwood allocation for Indigenous owners by allowing them to participate in the 90 per cent crown land allocation, acknowledging their resource rights, to provide income and employment opportunities for remote communities?

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

(4) If yes to (2), why has the native title allocation amount not increased?

(5) Is the government aware that the DBCA consideration of applying native title under the private land 10 per cent allocation is restricting Indigenous owners’ rights to this resource, thereby implying that Indigenous owners have less right to the resource than the FPC?

Hon STEPHEN DAWSON replied:

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

(1) The annual harvest quota was set through the Sandalwood (Limitation of Removal of Sandalwood) Order 1996, which applies to 30 June 2026. This was last reviewed in 2015. The allocation and the quota were informed through the sandalwood working group recommendations in 2015.

(2)–(5) The government is currently exploring options to facilitate the participation of Aboriginal native title holders in the sandalwood industry. Information has been sent to current licence holders, potential licence applicants and some Aboriginal groups, to enable the issuing of licences for sandalwood harvest in 2019–20.

BIOMASS ENERGY PLANT — COLLIE

116. Hon Dr STEVE THOMAS to the Minister for Regional Development:
I refer to my question without notice 1295, asked on 4 December 2018, on the 2017 Labor election commitment to a biomass plant in Collie.

(1) Has the prefeasibility study identified by the minister in question without notice 1295 been completed?

(2) If yes to (1), will the minister table it; and, if not, why not?

(3) Given that the member for Collie–Preston has this week admitted that no private companies have been interested in building it and that it is not a government initiative as such, will the government now scrap this proposal and invest the money in something that might actually benefit or stimulate the economy in Collie?

(4) Will the minister give a commitment that the funding will not be returned to the general royalties for regions budget for redistribution elsewhere?

(5) Will the government build a business case for whatever replacement project or program it develops, to ensure that it is not just another dud Labor Party election thought bubble?

The PRESIDENT: Minister for Regional Development, I am just thinking that there might be a couple of parts of that question that you might not be able to answer because they are outside the purview of the minister.

Hon ALANNAH MacTIERNAN replied:

Thank you, Madam President. I will certainly take that on board, but I am happy to answer parts (1) to (4).

(1) Yes.

(2) Not at this time. The results of the study are still under consideration by government.

(3) The matter is yet to be considered.
(4) Any possible reconsideration of funding would be subject to—I think that probably means any possible repurposing of the funding—a recommendation of the Expenditure Review Committee and a decision by cabinet.

KUNUNURRA YOUTH BAIL HOUSE — RELOCATION

117. Hon KEN BASTON to the minister representing the Minister for Corrective Services:
I refer to the relocation of the Kununurra youth bail house. Can the minister confirm whether the Kununurra youth bail house, to be run by Hope Community Services, has been granted approval from the Shire of Wyndham–East Kimberley to carry out this activity?

Hon STEPHEN DAWSON replied:
I thank the honourable member for some notice of the question.

Hope Community Services submitted a development approval to the Shire of Wyndham–East Kimberley on 29 January 2019. This is yet to be approved by the shire.

SHARKS — HAZARD MITIGATION — DRUM LINE TRIAL

118. Hon JIM CHOWN to the minister representing the Minister for Fisheries:
(1) What are the names of the two volunteer observers appointed to the Shark-Management-Alert-in-Real-Time drum line trial?
(2) Which organisations or interest groups do the volunteer observers named in (1) represent?
(3) How were the two volunteer observers selected for this role?
(4) Were any other individuals, organisations or interest groups contacted and offered this role or asked for an expression of interest in this role?
(5) Was the initiative to have volunteer observers suggested by any interest group, organisation, the minister or his office or the Department of Primary Industries and Regional Development; and, if yes, by whom?

Hon ALANNAH MacTIERNAN replied:
I thank the member for the question. The Minister for Fisheries has provided the following information.

(1) No volunteer observers have been appointed.
(2)–(3) Not applicable.
(4) Any organisation represented on the SMART drum line trial ministerial reference group can nominate an observer.
(5) The SMART drum line trial ministerial reference group was informed that the minister’s intention was for the SMART drum line trial to be as open and transparent as possible. The SMART drum line trial ministerial reference group discussed and agreed that there should be independent observers of the trial.

BANNED DRINKERS REGISTER TRIAL — PILBARA

119. Hon COLIN HOLT to the minister representing the Minister for Racing and Gaming:
I refer to the proposed trial of a banned drinkers register in the Pilbara.

(1) Does the trial require legislative change; and, if so, when will that legislation be presented to Parliament?
(2) If no to (1), does it require only a change to regulations; and, if so, when will those regulations be gazetted?
(3) If legislation or regulation is not required, how will the trial be enforced?

Hon ALANNAH MacTIERNAN replied:
I thank the member for some notice of this question. The Minister for Racing and Gaming has provided the following information.

(1)–(2) No.
(3) The current provisions relating to barring notices under section 115AA of the Liquor Control Act 1988 and prohibition orders under part 5A of the Liquor Control Act 1988 will be used as the mechanism to identify banned drinkers. Although licensees’ participation in the trial will be voluntary, it is an offence for a licensee to knowingly permit a person issued with a barring notice or a prohibition order to enter or remain on licensed premises. It is also an offence for a person who has been issued with a barring notice or prohibition order to enter or remain on licensed premises. Future legislative amendments may be considered if necessary and if the trial is deemed effective through its evaluation.
LIVE EXPORT — ANIMALS’ ANGELS — FREMANTLE PORT AUTHORITY ACCESS

120. Hon COLIN de GRUSSA to the Minister for Ports:
I refer to a previous decision by the Minister for Transport in 2018 in her former capacity as the minister responsible for ports to allow the German-based animal activist group Animals’ Angels access to Fremantle port to observe live export shipments.

(1) Does Animal’s Angels continue to have access to Fremantle port?
(2) Regarding question without notice 485 asked by Hon Rick Mazza on 14 June 2018, what permit condition has the minister placed on Animals’ Angels?
(3) Is the minister aware of any incidents when Animals’ Angels have been part of activist behaviour requiring police involvement?

Hon ALANNAH MacTIERNAN replied:
I thank the member for the question.

(1) The Fremantle Port Authority offered Animals’ Angels access to a specified area of the port to observe the loading of livestock, subject to an access agreement. To date, Animals’ Angels has not agreed to the deed and has not been granted access.
(2) Nil. The proposed deed is between FPA and Animals’ Angels.
(3) Although I am broadly aware that there have been some incidents at Fremantle port in the past, I am not aware of any specific incidents involving representatives of Animals’ Angels.

MEDITERRANEAN FRUIT FLY

121. Hon ROBIN SCOTT to the Minister for Agriculture and Food:
I refer to question without notice 51.

(1) Will the minister confirm that on 11 December 2015, the Carnarvon Growers Association met at the Dalmacija Club in Carnarvon to discuss the fruit fly program?
(2) Will the minister confirm that an uncertified copy of the minutes of that meeting contains the statement: “Once the fly number have been reduced to a maintenance level then the cost of running the surveillance and spot spraying program should be minimal”?
(3) Has the fly number been reduced to a maintenance level?
(4) If the fly number has not been reduced to a maintenance level after more than three years, what reason or reasons would growers have for accepting a levy to continue the program?
(5) Has the fruit fly eradication program been discontinued or suspended; and, if not, why not?

Hon ALANNAH MacTIERNAN replied:
I thank the member for the question.

(1) I understand that the meeting held on 11 December 2015 was the Carnarvon Growers Association’s special general meeting.
(2) The department has sourced a copy of the minutes of that meeting. In those minutes, Luke Skender from the CGA states —

> Once the fly number have been reduced to a maintenance level then the cost of running the surveillance and spot spraying program should be minimal.

(3) The Mediterranean fruit fly eradication project aims to eradicate medfly from Carnarvon and has made progress. The daily trap rates have declined from seven flies per trap in 2015 to 0.5 flies per trap in January 2019.
(4) Medfly causes production losses for host produce at Carnarvon. Trading partners require evidence of the absence of pests of quarantine concern. Medfly is a leading pest of quarantine concern in WA. There is strategic value in the eradication of medfly from Carnarvon. To date, the state government has invested $3.8 million and industry has invested $1.42 million—a significant investment—into the control of medfly in Carnarvon. An economic benefits assessment indicates that the eradication of medfly from Carnarvon will realise an estimated benefit of $3.40 for every dollar spent as a result of fewer spray applications and greater access to premium markets.
(5) The program has not been discontinued. During the meeting with Carnarvon growers that I held on 12 December 2018, about two-thirds of the growers in the room supported the continuation of the program. We will consult with growers again before extending the program beyond June 2019.
TELLUS HOLDINGS — SANDY RIDGE PROJECT

122. Hon ROBIN CHAPPLE to the parliamentary secretary representing the Minister for Health:
I refer to question without notice 52 that I asked of the Minister for Health on Thursday, 14 February 2019, about the Tellus Holdings Ltd’s Sandy Ridge project.

(1) As construction has now commenced at the site without the detailed safety review, as the minister mentioned in his reply, can the minister assure the Western Australian public that the project is absolutely safe, that all radiation baseline monitoring has been undertaken and that there will be absolutely no radioactivity leaks of any kind in the near, intermediate or distant—10 000 years’ time—future?

(2) If yes to (1), can the minister provide all technical grounds and justifications for his opinion, especially modelling of the behaviour of all radionuclides to be disposed at the facility for the next 10 000 to 100 000 years?

(3) If no to (2), why has a project that has not been determined to be safe been allowed to proceed?

Hon ALANNA CLOHESY replied:
I thank the honourable member for some notice of the question. I am advised as follows.

(1) The project is being approved in a staged process and the works occurring now at the site are those for which approvals have been assessed and granted.

(2)–(3) The plan is for the site to be in receipt of low-level radioactive waste only, and it is a requirement of approval that containment and shielding be provided until radioactive decay has significantly reduced the hazard due to radioactivity. Most of the radioactive isotopes that will be considered for approval at the site will have half-lives that will ensure that the material is not radioactive after 300 years.

POLICE — INJURED OFFICERS — COMPENSATION

123. Hon ALISON XAMON to the Leader of the House representing the Attorney General:
I refer to the ability of police officers to use the Criminal Injuries Compensation Act 2003 to recover losses not covered under the Western Australia Police Industrial Agreement.

(1) Will the government amend section 42(3) of the act so that compensation for the purpose of that section does not include sick leave and medical expenses paid by the WA Police Force to injured police officers?

(2) If yes to (1), when?

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

Hon SAMANTHA ROWE replied:
I thank the member for some notice of the question, which I answer on behalf of the Leader of the House. This information has been provided by the Attorney General.

(1) The Attorney General has received correspondence regarding police officers and the criminal injuries compensation scheme and is currently considering the issues raised.

(2)–(3) Not applicable.

ELECTORAL REFORM

124. Hon SIMON O’BRIEN to the Minister for Electoral Affairs:
I think my question without notice to the Minister for Electoral Affairs will be breaking the duck. I congratulate the minister on his appointment to that role, some time ago.

Does the McGowan open, transparent and accountable government have any agenda for electoral reform; if so, what is it; and, if not, why not?

Hon STEPHEN DAWSON replied:
I thank the honourable member for the question. He is correct that it is, indeed, my first question as the minister with this portfolio.

We went to the last election with commitments to reform around electoral donations. We intend to bring legislation to the Parliament this year on that issue. Otherwise, I am very happy to hear from other members in this place if they think there should be other types of electoral reform, and perhaps we might consider those.

PREMIER — INTERSTATE TRAVEL — NOVEMBER 2018

125. Hon TJORN SIBMA to the Leader of the House representing the Premier:
I note that very little formal government business was conducted during the Premier’s Labor Party fundraising visit to Sydney for the dates 22–24 November 2018.

(1) Will the Premier reimburse Western Australian taxpayers the $12 000 bill?

(2) If not, why not?
Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question, which I answer on behalf of the Leader of the House. This answer was provided by the Premier.

(1) No.

(2) I refer the member to the Premier’s remarks in the other place during the suspension debate earlier today, which I am happy to provide to the member once the uncorrected Hansard is available.

PERTH CHILDREN’S HOSPITAL — PRACTICAL COMPLETION — DEFECTS

126. Hon PETER COLLIER to the parliamentary secretary representing the Minister for Health:

I refer to Perth Children’s Hospital.

(1) Will the minister provide a list, by defect, of the amount the state has spent fixing the 23 defects identified when the state accepted practical completion of the hospital on 23 April 2017?

(2) Have any other defects been identified since practical completion; and, if so, will the minister provide a list of those defects together with a cost of fixing those defects?

(3) What is the cost incurred by the state following practical completion of the hospital?

Hon ALANNA CLOHESY replied:

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

(1)–(2) I am advised that these questions should be directed to the Minister for Finance.

(3) The total project costs incurred for Perth Children’s Hospital from April 2017, after practical completion, to January 2019 on an accrual basis were $35 741 073 for PCH information and communications technology, $38 865 299 for PCH organisation change and redevelopment, and $68 801 707 for PCH development.

The total expenditure of $143.4 million relates to total project costs from April 2017 to January 2019. It is not intended to represent the cost of defects.

KANGAROOS — BALDIVIS

Question without Notice 97 — Answer Advice

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.05 pm]: Yesterday in question time, Hon Alison Xamon asked question without notice 97 in relation to Baldivis. At the time I indicated that I thought there was an error in the answer, so I did not provide it; however, I undertook to provide an answer today. I seek leave to have it incorporated into Hansard.

Leave granted.

The following material was incorporated —

(1)–(2) I understand the Fauna Management Plan has not been revoked. This would be a matter for the Department of Planning, Lands and Heritage and the City of Rockingham as the plan relates to a condition of planning approval placed on the Paramount Estate. The Department of Biodiversity, Conservation and Attractions (DBCA) understands the developer, Spatial Property Group, is currently revising the Fauna Management Plan to incorporate relocation of the western grey kangaroos from the property, as the management of native fauna is the responsibility of the land owner or manager. DBCA is assisting the developer in this process.

(3) (a)–(b) DBCA understands the developer is intending to submit an amended Fauna Management Plan in the coming weeks. It would be expected that any plan would address the welfare of the kangaroos.

(4)–(5) I am advised that DBCA is not aware of any problems with the condition of the kangaroos. Advice from DBCA is that there is sufficient natural food available to support the kangaroos, without the need to provide supplementary food. I am further advised that kangaroos need little water to survive and can naturally obtain water through their food. Provision of any supplementary water for the kangaroos would be a matter for the developer.

CORRECTIVE SERVICES — JUVENILE OFFENDERS

Question without Notice 45 — Answer Advice

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.05 pm]: Along the same vein, last week Hon Michael Mischin asked a question of the Minister for Environment representing the Minister for Corrective Services. The member was asked to place the question on notice; however, I did undertake to see whether I could get an earlier response. That was question without notice 45. I seek leave to have that answer incorporated into Hansard.

Leave granted.
The following material was incorporated —

- Table 1 contains the number of receptions into custody for juveniles aged 10 to 18 years, by calendar year and custody type, from 1 January 2014 to 13 February 2019.
- Table 2 attached contains the length of stay for receptions into custody for juveniles aged 10 to 18 years, by calendar year and custody type, where the discharge from custody occurred between 1 January 2014 to 13 February 2019.
- Table 3 attached contains the number of receptions into custody for juveniles aged 10 to 18 years, by offence type, from 1 January 2014 to 13 February 2019.

**Table 1: Number of receptions of juveniles into custody, by year of reception, age at reception, and by custody type**

Note:

- A reception is the receipt of a prisoner or detainee into custody. This is not a count of people, and a juvenile may have more than one reception in a given year.
- A sentenced reception is one where either the person was sentenced at time of reception, or became sentenced during their stay.
- An un-sentenced reception is one where the person was not sentenced at reception, and has not subsequently become sentenced during their stay in custody.

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<tr>
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</tr>
</thead>
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</table>
Table 2: Length of custody for juveniles by year of discharge, age at reception, and by custody type

Note:
- As this is a calculation of stay length, this is based on the completed stays (discharges) in a given calendar year.
- A discharge is the release of a prisoner or detainee from custody. A young person can have multiple discharges in a given period of time.
- Discharges cannot be directly compared to the number of receptions over the same time period, which count entry into custody, rather than exit.
- A sentenced discharge is one where either the person was sentenced at time of reception, or became sentenced during their stay.
- An un-sentenced discharge is one where the person was not sentenced at reception, and did not subsequently become sentenced during their stay in custody.

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Table 3: Number of receptions of juveniles into custody, by age at reception, and by offence type

Note:
- A reception is the receipt of a prisoner or detainee into custody. This is not a count of people, and a juvenile may have more than one reception in a given year.
- The number of receptions below is for the entire period from 1 January 2014 to 13 February 2019. This is not further categorised by year due to the small number of persons involved in certain types of offences (which could lead to their identification), and the sensitivity of the data.
- Receptions are categorised by the most serious offence for which the juvenile was in custody.
- Offences are grouped by the Australian and New Zealand Standard Offence Classification developed by the Australian Bureau of Statistics.

<table>
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<th>Age</th>
<th>Most Serious Offence or Charge by ANZSOC Division</th>
<th>10</th>
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<th>13</th>
<th>14</th>
<th>15</th>
<th>16</th>
<th>17</th>
<th>18</th>
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<td>86</td>
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<td>287</td>
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<td>Robbery, Extortion and Related Offences</td>
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<td>22</td>
<td>72</td>
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<td>Offences Against Justice Procedures, Government Security and Government Operations</td>
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DEPARTMENT OF FIRE AND EMERGENCY SERVICES — COMMUNICATIONS CENTRE

Question without Notice 50 — Answer Advice

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.06 pm]: I would like to provide an answer to Hon Rick Mazza’s question without notice 50, asked last week on 14 February. Again, it required an extensive answer, which I was unable to provide on the day. I asked the member to place the question on notice, but undertook to see whether I could provide an answer sooner than that. I have that here. I seek leave to have the response incorporated into Hansard.

Leave granted.

The following material was incorporated —

(a) All fire incidents received by DFES COMCEN via 000 on State Land over the last five years:

Table 1 - All fires on all State Land reported to DFES via 000. Includes All Government Departments. Includes Bushfire, Structure Fire, Rubbish and Vehicle Fire.

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Number of Fires Started on State Land</th>
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<tr>
<td>2013/14</td>
<td>1,273</td>
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<td>2014/15</td>
<td>1,377</td>
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<td>2016/17</td>
<td>1,270</td>
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<tr>
<td>2017/18</td>
<td>1,117</td>
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</tbody>
</table>
Table 2 - All fires on all land managed by Parks and Wildlife reported to DFES via 000. Includes Bushfire, Structure Fire, Rubbish and Vehicle Fire.

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Number of Fires Started on Parks and Wildlife Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013/14</td>
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<td>2014/15</td>
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<td>2016/17</td>
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<td>2017/18</td>
<td>200</td>
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</tbody>
</table>

(b) Breakdown of how many of these incidents were tasked to the Department of Biodiversity, Conservation and Attractions, formerly the Department of Parks and Wildlife over the last five years:

Table 3 - All fires on all land managed by Parks and Wildlife where Parks and Wildlife attended and notified DFES. Reported to DFES via 000. Includes Bushfire, Structure Fire, Rubbish and Vehicle Fire.

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Number of Fires attended by Parks and Wildlife in Parks and Wildlife Land</th>
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<tbody>
<tr>
<td>2013/14</td>
<td>48</td>
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<tr>
<td>2014/15</td>
<td>87</td>
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<td>2016/17</td>
<td>164</td>
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<tr>
<td>2017/18</td>
<td>138</td>
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</tbody>
</table>

NB: The above table lists only where these attendances were reported to DFES.

(c) Breakdown of how many of these incidents were attended by the Department of Fire and Emergency Services over the last five years:

Table 4 - All fires on all land managed by Parks and Wildlife where DFES attended. Reported to DFES via 000. Includes Bushfire, Structure Fire, Rubbish and Vehicle Fire.

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Number of Fires attended by DFES in Parks and Wildlife Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013/14</td>
<td>73</td>
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<td>2014/15</td>
<td>151</td>
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<td>2015/16</td>
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<td>2016/17</td>
<td>92</td>
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<tr>
<td>2017/18</td>
<td>99</td>
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</tbody>
</table>

NB: The above table includes attendances by any of the following:
- Career Fire and Rescue Service
- Volunteer Fire and Rescue Service
- Volunteer Fire and Emergency Service

(d) No. There has been no policy change and the State Hazard Plan Fire (interim) clearly articulates mobilising arrangements across the State.
DFES has automatic turnout arrangements across the State where all three agencies are mobilised to an incident regardless of tenure (for example, Zone 2 - Darling Scarp and adjacent Swan Coastal Plain / Capes Zone Response / Gnangara Pine Plantation). These are generally developed for high risk areas.
Also, where DBCA are stretched due to operational response or prescribed burning commitments, they may speak to the affected Local Governments (LG) to request a particular LG to respond to DBCA fires as primary turnout – this is initiated through Section 45 of the Bush Fires Act 1954. DFES is aware this situation occurred during May 2018 where some incidents were left with LG resources to manage as DBCA were overwhelmed.

QUESTION ON NOTICE 1801

Paper Tabled

A paper relating to an answer to question on notice 1801 was tabled by Hon Alanna Clohesy (Parliamentary Secretary).

HUMAN REPRODUCTIVE TECHNOLOGY AND SURROGACY LEGISLATION AMENDMENT BILL 2018

Second Reading

Resumed from an earlier stage of the sitting.

HON NICK GOIRAN (South Metropolitan) [5.07 pm]: Just when we thought the reprehensible conduct of the government could not get any worse, this afternoon, during the very time I was speaking on the Human Reproductive Technology and Surrogacy Legislation Amendment Bill 2018, comments attributed to the Minister for Health, Hon Roger Cook, were put on the public record outlining that the government will not release the review. This is staggering! The debate on and management of this bill by the government started as appalling and, for reasons
I articulated earlier this afternoon, have escalated to reprehensible. Where do we go from reprehensible? What is the next level? The key issue before us at the moment is whether the government will provide this report so that we can cast our conscience vote without a blindfold on. I remind members of what the parliamentary secretary said on 16 October 2018 when I asked about the report. My question was a six-part question. Part (5) asked —

Will the minister table the final report?

The words from Hon Alanna Clohesy were —

Yes, once the report is completed.

The report was completed on 8 January this year. Until moments ago, the government said that it would eventually release the report. Now, according to comments attributed to Hon Roger Cook, he will not release the review because he says that it is not related to the amendments currently before Parliament. What is this government hiding? Why can we not have a proper debate in this place on this bill? Why is this government so obsessed with secrecy that we cannot have all the information that is available to the government? Why should the Minister for Health and the parliamentary secretary get special treatment in the casting of their conscience votes, while other members in this place are treated like second-class citizens?

The management of this bill appalled me long before now, and I was further appalled when I found out in question time yesterday that the government has had the information since 8 January and the parliamentary secretary had misled this chamber last week—a matter for which she still has not given a personal explanation, such is the arrogance of this government. Despite all that, when we think things could not get worse, this government’s chief, the Minister for Health, says that he will not provide the review. Words escape me for what we could use to describe that type of contempt for the proceedings of Parliament. How are we supposed to make a decision on the second reading of this bill before us when the government has, over time, shifted its position from saying that it will provide the report in due course to saying that it will not do it at all? It is the height of arrogance that this government thinks that members of Parliament can cast their conscience vote on this bill without that information.

I note that in that same article published this afternoon, Hon Roger Cook, Minister for Health, is quoted as saying —

“I emphasise this is just about making us compliant with the Commonwealth Sex Discrimination Act.”

If that were true, why would the members opposite have a conscience vote? If the matter were as simple as that, there would not be a conscience vote on it. Obviously, it is far more complicated than that and this minister continues to try to deceive the members of the public in Western Australia and is trying to obstruct the processes of this house in providing proper scrutiny. I call on members over the next two weeks to contemplate the mechanisms that are available to us in this chamber to force the government to take off the blindfold. A number of mechanisms to do that are at our disposal, and I encourage members to think about that as we go into the recess for the next couple of weeks.

Earlier this afternoon—before this outrageous, despicable performance by the Minister for Health, who now says that he will absolutely keep the report under lock and key—I was considering the Australian Law Reform Commission’s “Review of the Family Law System: Issues Paper” and, in particular, the terms of reference. The minister’s senior policy officer had drawn to the attention of the opposition that particular paper and terms of reference after a briefing that we attended in September last year. I drew to members’ attention the different provisions in the terms of reference. I now continue by drawing to members’ attention what the then commonwealth Attorney-General Senator George Brandis, QC, said when he provided the terms of reference to the Australian Law Reform Commission. Towards the end of the document, he states —

I further request that the ALRC consider what changes, if any, should be made to the family law system; in particular, by amendments to the Family Law Act and other related legislation.

Scope of the reference

The ALRC should have regard to existing reports relevant to:

- the family law system, including on surrogacy …

One of those reports is obviously the one that the government continues to keep under lock and key, chained away, and now outrageously today disclosed will never see the light of day! What a disgraceful performance by a government that tries to profess that it holds itself to a gold standard of transparency. This government has to have the worst transparency on record by a country mile. In this document, Hon George Brandis QC, the then Attorney-General of Australia, required the Australian Law Reform Commission to do consultation. It states —

The ALRC should consult widely with family law, family relationship and social support services, health and other stakeholders with expertise and experience in the family law and family dispute resolution sector. The ALRC should produce consultation documents to ensure experts, stakeholders and the community have the opportunity to contribute to the review.

Timeframe for reporting

The ALRC should provide its report to the Attorney-General by 31 March 2019.
I find it staggering that the Minister for Health’s senior policy adviser refers the opposition to a document that, when one takes the time to look at it, makes it clear that the report to the federal Attorney-General will be provided only by 31 March 2019. Once again, I ask the question: Why are we having the debate now? Why is the government bringing on the debate now when it is hiding information that it has commissioned at a cost to taxpayers of $225,000? It has referred the opposition to terms of reference by the commonwealth Attorney-General, knowing full well that the commonwealth Attorney-General will not receive the report until 31 March 2019.

The shiftiness that has occurred by this government over an extended period knows no bounds. It has now taken it to another level altogether by consistently hiding information from Parliament and asking members to go down these little rabbit warrens rather than just being open and transparent. I ask the government to stop fiddling with the report and table it at its next available opportunity and that members otherwise consider other mechanisms available to us.

I have spent some time looking at the issue of criminal record checks and why they are needed, in accordance with the Victorian system, which has been in place for some 10 years without any trouble. My plea to members is that we at least ensure that our level of child protection is at the level of the Victorians and not lower. It would be worthwhile for members to familiarise themselves with what Sonia Allan had to say in her 2017 report on the South Australian system. The government previously explained its delay in finalising the report by saying that it was waiting for the South Australian review to be undertaken. That was an answer that Hon Alanna Clohesy provided to Parliament at an earlier stage—that is, that the government was waiting for that. As it so happens, Sonia Allan did a report on the South Australian system in 2017, which is publicly available for members. I encourage members to take a look at it over the recess. I intend to draw members’ attention to various sections of the report, specifically those on the issue of criminal record checks and child protection order checks—consistent with the amendment I have on the supplementary notice paper that asks members to consider whether we should lift our standard to the standard that exists in Victoria. Sonia Allan’s report is entitled, “Report on the review of the Assisted Reproductive Treatment Act 1988 (SA)”. Dr Allan prepared that review document in January 2017. I think that it would be well worth members’ whiles to familiarise themselves with the document so we can have a constructive dialogue and debate when this matter resumes in due course. Members, in particular the parliamentary secretary, should get access to that document and have it at their disposal. It is a document that is publicly available and not one that is being kept under lock and key like the documents this secrecy-obsessed government likes to hide. I urge the parliamentary secretary to get a copy and to familiarise herself with it so that we can make efficient progress with this bill when we next resume, rather than having to take an unnecessarily long time simply because the parliamentary secretary is not familiar with the documents to which I will be referring.

If the parliamentary secretary could get herself a copy of that document, that would be helpful. On the next occasion, I will take members through that document. In particular, I ask members to familiarise themselves with the various pages in chapter 3, “Welfare of the Child”, starting from page 69, and I imagine I will probably continue up to page 91 of that report. They are the key pages that members need to be familiar with. I would certainly ask the parliamentary secretary to be familiar with chapter 3 of that report.

Debate interrupted, pursuant to standing orders.

CONTAINER DEPOSIT SCHEME

Statement

HON DR STEVE THOMAS (South West) [5.20 pm]: Madam President, on occasion it behoves me to assist the running of the chamber, and yourself, by taking a standing role in the Chair, as it were, for a brief time, which unfortunately prevents me from making a contribution to some of the debates. I was very keen to contribute today to the debate in private members’ business on the motion moved by Hon Dr Sally Talbot on a container deposit scheme, not so much on the substance of the debate, but because of my concern about the standard of debate. When I was a member of the place that shall not be named at the other end of this building, we often, let us say, were less than respectful of the operations of the Legislative Council. I have to say that in this particular example, we may have earned that criticism. It occurs to me that in the debate on that motion, we had a debate on a bill that passed the other place today. No doubt that debate will be repeated in a couple of weeks when that bill comes into this chamber. Therefore, if the Minister for Environment is so inclined, he could stand this afternoon and first and second-read into this chamber the debate on the bill that Hon Dr Sally Talbot was congratulating the government for, and which this house will debate in the not-too-distant future. Today, Hon Dr Sally Talbot had 15 minutes in which to make her presentation, and other members had 10 minutes each, in a debate that is restricted to one hour. When we get to the substantive motion and debate the bill, the Minister for Environment will have an unlimited time, as will the leaders of each opposition party, and every other member, including Hon Dr Sally Talbot, will have 45 minutes in which to discuss the bill. I would have thought that would be an appropriate time to discuss the container deposit legislation when it comes forward.

I will make this comment to the backbench members of the Labor Party: I would rather see us go back to the motions moved by Hon Pierre Yang, which at least have a little substance to them and do not relate to bills that
will come before this house imminently. In the motion moved today by Hon Dr Sally Talbot, we were wasting the processes of the house, because we will have exactly the same conversation, only much longer, when that bill comes into the house. So, come on, members of the Labor Party! It would certainly be a better use of the time of the Legislative Council if members of the Labor Party could find something that they are passionate about, perhaps even within their electorates, that they would like to debate.

**SOUTH WEST BUSHFIRE**

*Statement*

**HON DIANE EVERS (South West)** [5.23 pm]: I rise briefly to acknowledge the fire that is burning in the south west between Balingup and Nannup and to draw members’ attention to how much effort people are putting in to try to contain that fire. I understand that because of the favourable weather conditions today, the fire is contained at the moment. We are hoping the weather stays good so that the fire does not get worse. I want to thank the volunteer firefighters, the paid staff, the support crews, the water-bomber pilots and all the other people who are working to fight that fire. It is very important that we put out fires quickly before they cause damage.

I also want to show my support for and encouragement of this government to continue to work on what we do about fire—how we manage our forests, how we manage the oncoming onslaught of climate change, how we can best avoid bushfires in the future, and how we can put fires out as quickly as possible to avoid continual damage. I support any activities that work to manage those forests so they are not as flammable and that work to make them safe as possible for those communities around them. Focusing on asset protection, as other states have done, we need to work out a plan, because these fires will become more and more frequent, and more and more devastating, and I would hate to see that happen.

Here is to those people in the south west, who have gone without much sleep for the last couple of days, fighting so hard to contain that fire. We all hope that the weather conditions stay favourable.

Members: Hear, hear!

**McGOWAN GOVERNMENT — PERFORMANCE**

*Statement*

**HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition)** [5.25 pm]: I rise to speak once again on the subject that has exercised the minds of those on the non-government benches in this place over the last two years—that is, this government’s accountability and its sneakiness.

Before I go into any detail, and why I am prompted to speak on this particular occasion about a particular minister, I should say that I do not tar with the same brush all ministers of this McGowan–Wyatt Labor government. Hon Stephen Dawson—I hope that my imprimatur does not destroy his career and his reputation in caucus—acts as a gentleman and as a parliamentarian in this place. Witness, for example, the question I asked last week. He asked me to put it on notice. He said that he would endeavour to get me an answer before the period prescribed by the standing orders and, true to his word, he did. I congratulate him and I appreciate that.

Yesterday, I asked the Leader of the House a simple question without notice. She wanted me to put it on notice. We will see how long it takes her to get around to looking at her diary and asking people in her office about whether she is going to open Doubleview Primary School in an official capacity. We will be able to contrast that into the surrogacy legislation. Hon Alanna Clohesy sat on the other side of the chamber saying, “It’s not secret. You’re just being mischievous.” She interrupted repeatedly some days ago when he was talking about that report. I should say that I do not tar with the same brush all ministers of this McGowan–Wyatt Labor government.

I want to turn my attention to the Attorney General. I asked the Attorney General, or what passes for a first legal officer in this state under a McGowan–Wyatt Labor government, about his Sentence Administration Amendment (Multiple Murderers) Act to try to tease out how he deals with these matters. Members will recall that on 13 February, amongst a number of questions on this legislation, I asked —

Has the Attorney General received submissions to extend the operation of this act to other murderers so as to provide their secondary victims the comfort offered to the few who benefit from this legislation; if so, how many, when and from whom; and what has been his response?
The Attorney General’s response was “No.” In order words, he has not received any submissions. But then come the sneaky weasel words —

The Attorney General has not received any formal submissions of this nature.

He hoped that that would get by us. What is a “formal submission” exactly? I tried to find out on 19 February. I asked —

In part (5) of the Attorney General’s answer to my question about whether he had received submissions to extend the operation of the Sentence Administration Amendment (Multiple Murderers) Act 2018 to other murderers, in which he claims he has not received any “formal submissions of this nature”, what does he mean by “formal submissions”?

It took two questions but I thought that was clear. What was the answer? He lumped that in with another answer and he waffled accordingly. The answer reads —

Although the Attorney General has not received any formal submissions —

So he does not answer the question —

or proposals seeking to expand the operation of the … Act … he receives a volume of correspondence from victims of crime, including secondary and related victims. The Attorney General’s office responds to each letter received from a victim of crime and addresses in its responses the matters raised. To go through the office’s correspondence system to determine whether the Sentence Administration Amendment (Multiple Murderers) Act 2018 has been raised would be an unreasonable diversion of resources.

Any minister knows that there is a system called TRIM that operates in the ministerial offices. They can look up all sorts of stuff. Apparently, he has received such a flood of correspondence on this issue that he cannot devote the resources to finding out. The answer continues —

A search of the office’s correspondence system for “parole” since the bill was introduced into Parliament revealed that one person wrote to the Attorney General on 21 October 2018 seeking to convince him that “all murderers should stay in jail for the rest of their natural lives”.

I will get to that one in a minute and see how dismissive he has been of something that he regards as not a formal submission. Then I had to ask again what he meant by a formal submission so we can understand in future when he uses weasel words what weight we are to put on an answer. I asked again what he meant by formal submissions. He delivered the answer that he gave today, which is —

The Attorney General was differentiating between submissions —

That was my question in the first place. I asked how many submissions he received but he chose to differentiate between submissions and “letters received from members of the public”. We are back to the good old Burkie days. Members would remember what happened under that government when ministers would read questions literally and answer them literally in order to avoid full and frank disclosure. We had another incident a few days ago when Hon Peter Collier asked a question about conflict of interest or perceived conflict of “industry”. Obviously, that was a typo. Instead of answering the question, the Premier came back and said gormlessly, “I don’t understand what a conflict of industry is.” They are the sort of weasel words and weasel thinking we have to deal with. That is a transparent McGowan–Wyatt government for you!

Then we get to the content of the answers. One of the questions I asked the Attorney General today was about three specific cases. I asked which of the three cases did he begin to consider before, on or after 14 February — a specific date. What was his answer? — “All of them.” I did not ask how many; I asked him which case he considered. Did he consider them before 14 February, after 14 February or on 14 February? Has he read and understood this or is it again another little weasel antic? Let us look further down his answers. I asked —

What material has the Attorney General requested in order to be able to consider each of these cases, when did he request it and from whom?

The answer stated —

The most recent statutory reports, requested from the Prisoners Review Board on 5 December 2019.

That is not 2018 or 2017 but 2019. It has not even happened yet. This is not the first time we have had this sort of incompetence, if that is what it is, or is it a deliberate attempt to waste people’s parliamentary time asking the same simple question on more than one occasion? Remember the Courts Jurisdiction Legislation Amendment Bill last year when I asked him questions about the number of magistrates who had commenced terms and he gave as a date of expiry a date that was before the date of appointment, and I had to get up and ask him to clarify that? A monkey could be trained to put his signature on something; he obviously does not read it. Frankly, a trained monkey would be a better use of public money. When is this government going to lift its game? We have not had one question time yet that I recall without someone getting up and saying that they want to correct an answer. Some of those answers have been in the offing for about six months or so and have to be corrected when finally someone gets around to the point. If that is not incompetence or deliberate mismanagement for some ulterior purpose, I would like an explanation of what it is.
The introduction of the Waste Avoidance and Resource Recovery Amendment (Container Deposit) Bill 2018 marks a significant milestone towards delivering the McGowan government’s election commitment to implement a container deposit scheme. The scheme will help address the scourge of litter and encourage a recycling culture. The scheme will promote better environmental outcomes, create employment and provide business opportunities for social enterprises, and enable charities and community organisations to raise money to fund their important community work. Amending the Waste Avoidance and Resource Recovery Act 2007, referred to as the WARR act, will provide the necessary legislative head powers to deliver that commitment.

The container deposit scheme will reduce beverage container litter, maximise recycling rates for these materials, and provide for the costs of collecting and recycling beverage containers to be incorporated into the costs of producing beverage products. The 10¢ refund provides an incentive for consumers to return containers. The container deposit scheme supports the waste hierarchy and principles of waste minimisation and the move towards a waste-free society as set out in the objects of the WARR act and the draft waste strategy. The design of the container deposit scheme strikes a balance between an accessible and extensive collection network, making returns convenient for consumers, and keeping the collection and administration costs of the container deposit scheme as low as possible. The container deposit scheme is also designed to minimise the impact on the viability of existing kerbside recycling programs. When eligible containers are disposed of in kerbside recycling bins, the material recovery facility and local government operating the kerbside recycling service will share the refund amount. When eligible containers are given to donation points, the refund amount will be paid to the community group operating the donation point when the group takes the bottles to a refund point. In some situations, donation points may also operate as refund points.

The participants in the container deposit scheme have commercial interests, some of which may align with the government’s objectives for the container deposit scheme, although others may conflict. The container deposit scheme has been designed to minimise or manage conflicts between participants’ commercial interests and the objectives of the scheme. This will be achieved through the establishment of governance arrangements for the scheme coordinator and associated performance targets. The container deposit scheme will largely be operated by the scheme coordinator, a not-for-profit company. The conditions of appointment of the scheme coordinator will provide that the company appointed as coordinator must not carry on any other business but the role of coordinator. The government administers the scheme to ensure that there is a high level of accountability, transparency and capacity for government intervention to ensure that the scheme coordinator performs as expected.

The container deposit scheme also aligns to the greatest possible extent with schemes in other jurisdictions. This will make it easier for beverage suppliers to comply with their obligations in multiple jurisdictions and to make the consumer experience as consistent as possible across jurisdictions with a container deposit scheme in place. The container deposit scheme has been designed to provide the community with confidence that the government has appropriate oversight and can direct key aspects of the scheme. The selection of the scheme coordinator will be a decision of the minister. The chair of the board of the scheme coordinator must be approved by the minister, as must be a director on the board that represents the interests of the community.

Regulations will set targets for accessibility of refund points and overall return rates to be achieved by the scheme coordinator to ensure that the government’s policy objectives are met. The minister will approve the container deposit scheme strategic plan. Regulations will require the scheme coordinator to regularly report on scheme performance and that report must be tabled in Parliament. There will also be a capacity to sanction the scheme coordinator in response to performance concerns. The minister can also give directions to the scheme coordinator on any aspect of the scheme. Failure to comply with a direction is an offence and grounds for amendment or cancellation of appointment.

To design the container deposit scheme, the Department of Water and Environmental Regulation has carried out public consultation via a discussion paper, an advisory group, technical working groups, an interagency working group and representatives of other jurisdictions with container refund schemes in place. The container deposit scheme will provide for a 10¢ refund to be paid to any person who returns an eligible beverage container to a refund point. The returned containers must be recycled or re-used. The container deposit scheme will apply to eligible beverage containers. The scope of eligible beverage containers will be identical to that of New South Wales and Queensland. Most aluminium, glass, polyethylene terephthalate, high-density polyethylene, steel and paperboard drink containers between 150 millilitres and three litres in size will be eligible. Any person who wishes to supply a beverage product
in a beverage container in Western Australia must apply for approval of the container by the chief executive officer of the department administering the legislation, or a delegate. Beverage suppliers fund the container deposit scheme by covering the costs of refund amounts and other costs in delivering the scheme to the scheme coordinator. It is anticipated that suppliers will seek to recover these costs through an increase in beverage prices.

Details of the payment obligations and of how the amount is calculated and invoiced will be set in contracts between the scheme coordinator and each beverage supplier. The required content of supply agreements will be prescribed. The scheme coordinator will manage a network of refund points, pay refund point operators for refunds paid to persons returning beverages and other costs incurred. The scheme coordinator will contract for the collection of containers from refund points, transport, processing, verification and recycling of the containers. The scheme coordinator will ensure that the costs of the scheme are passed on to beverage suppliers through agreement with them. The scheme coordinator will manage the scheme’s finances, establish verification mechanisms for refunds claimed, report against requirements and performance targets, and maintain consumer awareness of the scheme. The collection network will be designed in a way that allows a range of different types of operators to participate to generate revenue, either through a single refund point or a network of points. The government is seeking an open collection network that allows community groups, social enterprises and small businesses to participate rather than a network operated by one or two large companies. It is for this reason that the objects of the container deposit scheme directly provide for social enterprise participation.

The scheme coordinator will be required to ensure that containers collected from refund points are recycled or re-used and are not disposed of as landfill. It will be a condition of payment of a claim by the scheme coordinator and material recovery facilities that all beverage containers for which a claim or payment is made are sent for recycling or re-use and are not disposed of as landfill. Payment claims will require a declaration to this effect and it will be an offence to make a false declaration. It will also be an offence for the scheme coordinator or material recovery facility operators to cause or allow containers in respect of which a payment claim has been or will be made to be disposed of as landfill, or buried or dumped.

Section 46(7) of the Constitution Acts Amendment Act 1899 requires that a bill imposing taxation deal only with the imposition of taxation. For this reason, the elements of the scheme that could be characterised as a tax—the provision of a refund amount and the requirement on beverage suppliers to pay the scheme coordinator in respect of this—are the subject of a separate bill.

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

[See paper 2434.]

Debate adjourned, pursuant to standing orders.

WASTE AVOIDANCE AND RESOURCE RECOVERY AMENDMENT (CONTAINER DEPOSIT) BILL (NO. 2) 2018

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Stephen Dawson (Minister for Environment), read a first time.

Second Reading

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.44 pm]: I move —

That the bill be now read a second time.

The Waste Avoidance and Resource Recovery Amendment (Container Deposit) Bill (No. 2) 2018 is a technical bill that complements the Waste Avoidance and Resource Recovery Amendment (Container Deposit) Bill 2018 and supports the introduction of a container deposit scheme. Under section 46(7) of the Constitution Acts Amendment Act 1899, bills imposing taxation shall deal only with the imposition of taxation. The state’s position is that payments to be made under the container deposit scheme are not taxes. However, this bill ensures that if a court reaches a different view on this question, there will be no breach of section 46(7).

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

[See paper 2435.]

Debate adjourned, pursuant to standing orders.

House adjourned at 5.44 pm
QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

DEPARTMENT OF JOBS, TOURISM, SCIENCE AND INNOVATION — FOSSIL FUELS

1779. Hon Robin Chapple to the minister representing the Minister for Innovation and ICT:

(1) What is the department’s total amount of spend on fossil fuels research?
(2) What is the department’s total amount of spend on fossil fuels exploration?
(3) What is the department’s total amount of spend on fossil fuels subsidies?

Hon Alannah MacTiernan replied:

Department of Jobs, Tourism, Science and Innovation

Please refer to Legislative Council Question on Notice 1772.

Office of Digital Government

(1)–(3) Nil.

WA COUNTRY HEALTH SERVICE — CRITICAL INCIDENTS

1801. Hon Martin Aldridge to the parliamentary secretary representing the Minister for Health:

For each WA Country Health Service hospital, nursing post or site please identify:

(a) the number of critical incidents notified at each site for the last three years including year to date;
(b) of those identified in (a), for each incident please identify the severity assessment code (SAC) which was assigned;
(c) of those identified in (a), for each incident please identify the classification as a near miss, adverse event or sentinel incident;
(d) of those identified in (a), how many incidents were confirmed at each site; and
(e) of those identified in (a), how many patient deaths occurred where the clinical incident contributed to the death?

Hon Alanna Clohesy replied:

(a)–(e) [See tabled paper no 2433.]

WA LABOR PARTY LOGO — ADVERTISEMENT

1802. Hon Martin Aldridge to the Leader of the House representing the Premier; Minister for Public Sector Management; Federal-State Relations:

I refer to Legislative Council question without notice No. 1253, asked by me on 28 November 2018, in relation to a WA Labor Party advertisement directing online users to a Department of the Premier and Cabinet (DPC) website, and I ask:

(a) will the Minister please provide a copy of the DPC advertisement that was referenced in the above mentioned question;
(b) was the departmental artwork created by a DPC officer or an external provider;
(c) what is the name of the DPC officer or external provider who created the artwork;
(d) at what cost was the departmental artwork created;
(e) who requested that the departmental artwork be created;
(f) for what purpose was the departmental artwork created;
(g) where was the departmental advertisement placed and at what cost to the department; and
(h) was the artwork supplied to the WA Labor Party and, by whom?

Hon Sue Ellery replied:

As per standing orders, the Premier is not able to answer the question as it does not relate to actions or decisions made in his capacity as a Minister of the Crown.

If the Member has further questions relating to WA Labor Party advertising I suggest he directs them to the WA Labor Party.