Parliamentary Debates
(HANSARD)

FORTIETH PARLIAMENT
FIRST SESSION
2020

LEGISLATIVE COUNCIL

Wednesday, 9 September 2020

Legislative Council

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

MIDLAND WORKSHOPS — RAILWAY HERITAGE MUSEUM

Petition

HON CHARLES SMITH (East Metropolitan) [1.01 pm]: I present a petition containing 626 signatures, couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned call upon the State Government to create a Railway Museum on the grounds of the Midland Railway Workshops site, which should include the reopening of the Railway Interpretive Centre. We are of the view that the current plans surrounding the Midland site are a mere token gesture, which we believe does not truly reflect the historical significance of the Railway Workshops in Western Australia.
>
> We regard the workshops as a highly significant part of the history of this state, with which many West Australians have a direct link.
>
> We therefore ask the Legislative Council to recommend and support the construction/conversion of the Midland Railway Workshops site into a railway heritage museum, and seek the reopening of the Railway Interpretive Centre.
>
> And your petitioners as in duty bound, will ever pray.

[See paper 4177.]

OCEAN REEF MARINA — BUSH FOREVER

Petition

HON ALISON XAMON (North Metropolitan) [1.02 pm]: I present a petition containing 472 signatures, couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned are opposed to the proposed Ocean Reef Marina Development, as outlined in the current DevelopmentWA Preferred Concept Plan. The proposal does not align with community expectations and will cause irreversible damage to this pristine coastal environment.
>
> We propose the abolition of the residential precinct to downsize the development footprint and reflect community sentiment.
>
> We therefore ask the Legislative Council to ensure that the Ocean Reef Marina Improvement Scheme reflects the community's wishes by removing the proposed accommodation and the approximately eight hectares of land (currently shallow water) to be reclaimed for this purpose and ensuring that the development footprint remains within the existing cleared areas.
>
> In addition to the proposed 28.52 hectares of clearing within the development envelope DevelopmentWA has already been granted approval to clear Bush Forever land as part of its proposed extension of Hodges Drive and its current application is requesting permission to clear more land within Bush Forever 325 for its proposed road from Resolute Way to the coast. We request that no incursion into the remaining Bush Forever 325 be permitted.
>
> And your petitioners as in duty bound, will ever pray.

[See paper 4178.]

DEPARTMENT OF PRIMARY INDUSTRIES AND REGIONAL DEVELOPMENT — SOUTH PERTH HEADQUARTERS

Statement by Minister for Agriculture and Food

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Agriculture and Food) [1.04 pm]: For more than a decade, the replacement of the ageing headquarters of the Department of Primary Industries and Regional Development in South Perth has been mooted. However, the condition of the 60-year-old buildings has now reached a stage at which it will no longer be safe to leave staff in some of those buildings for another winter. With the challenge of maintaining ageing asbestos buildings at the department's South Perth office and the potential disruption to services, the state's critical biosecurity, quarantine and trade certification functions are at risk.

The government is taking immediate steps to retire some of the department's 60-year-old South Perth buildings that face ongoing safety and maintenance issues. About 500 office-based staff will move to a modern, fit-for-purpose building near the CBD. Negotiations are underway to secure a suitable lease to enable these staff to move in early 2021. The McGowan government will invest more than $20 million over the next 12 months to ensure functional laboratories and offices are in place while planning is underway to replace the aged facilities in South Perth. The funding will support critical functions that underpin the state's quarantine and biosecurity system, which protects WA from pests and diseases and supports market access for Western Australian agriculture, fisheries and food exports. New laboratories will also support scientific research that underpins the sustainability and productivity of agricultural industries.

In the first stage, the department will renovate existing laboratory facilities and install new modular laboratories on the South Perth site, as well as lease temporary offsite facilities where needed. About 200 dedicated scientific and specialised technical officers are expected to remain at South Perth in buildings that can be maintained to appropriate standards. A full business case for the construction of new permanent fit-for-purpose laboratory and research facilities is being developed as part of a broader redevelopment of the South Perth site. The business case will include the co-location of the Australian Export Grains Innovation Centre, InterGrain and, potentially, Grains Australia with the department's scientific functions.

Previous governments have promised new and modern facilities to support our vital agriculture and food sector, but these promises have never been fulfilled. The dedicated staff at the Department of Primary Industries and Regional Development deserve a fit-for-purpose workplace, and this is the first significant step forward to achieve that.

PAPERS TABLED

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

CITY OF VINCENT PARKING AND PARKING FACILITIES AMENDMENT LOCAL LAW 2020 — DISALLOWANCE

Notice of Motion

Notice of motion given by **Hon Robin Chapple**.

BUSINESS OF THE HOUSE — THURSDAY, 8 OCTOBER

Standing Orders Suspension — Motion

HON SUE ELLERY (South Metropolitan — Leader of the House) [1.08 pm] — without notice: I move —

(1) That the house at its rising on Thursday, 24 September 2020 adjourn until 1.15 pm on Thursday, 8 October 2020.

(2) That so much of the standing orders be suspended as would enable the following variations to the order of business on Thursday, 8 October 2020 —

(a) non-government business, private members' business and orders of the day are dispensed with;

(b) questions without notice shall be taken at the completion of formal business;

(c) at 2.00 pm, any business then before the house is interrupted and stands adjourned and the procedure for the tabling of the 2020–21 budget papers and a motion pursuant to standing order 69(1) shall be taken; and

(d) that members' statements are taken at a time ordered by the house and standing order 5(5) applies.

This is in the terms of the motion that was circulated to members earlier this week. It is most unusual. It is not unusual to have a late budget; that generally happens in a year immediately after an election when a new government is formed. However, of course, this year, governments across Australia, including the commonwealth, have had to push their budgets out; in fact, the commonwealth's budget will now be two days before ours in that same week. The terms of the motion reflect the discussions held last night between all the parties. I appreciate that this is inconvenient for members. I am aware that this has been an onerous and difficult year for the Legislative Council and I thank members for their forbearance.

Question put and passed with an absolute majority.

CORONAVIRUS — PLANNING — THIRD PARTY APPEAL RIGHTS

Motion

HON CHARLES SMITH (East Metropolitan) [1.10 pm]: I move —

That this house —

(a) acknowledges the current deficiency in community consultation and the absence of third party appeal rights in planning and development processes and decisions during the COVID-19 emergency period; and

(b) notes the consequential erosion of Western Australia's democracy.

Honourable members, Western Australia needs a more transparent and democratic planning system. I understand that Western Australia is a unique jurisdiction. We are not afraid of being different. Although other jurisdictions confer their powers to the federal government, we retain those residual powers granted to us by the Constitution. Sometimes we follow national models; other times we go our own way. I would like to think that WA looks more to what actually works, which can be a great benefit to this state. It gives us unique strengths but it also comes with unique challenges. One of the many ways in which WA is unique is the role of third party appeal rights in planning. We are seemingly the only state not to allow this in some capacity under our planning and development legislation. Sadly, more and more, local communities across Perth in particular are increasingly losing trust in our planning system. It is the view of the Western Australia Party that this should change. Although this motion before the house refers to planning changes during the COVID-19 pandemic, the party I represent supports these changes across the board.

The first major piece of town planning legislation was enacted in WA in 1929—the Town Planning and Development Act 1928. This legislation came on the back of various showcases throughout Australia demonstrating the importance and benefits of town planning. This early legislation did not provide third party appeal rights. Since the 1960s, all jurisdictions in Australia, barring WA, have provided for third party appeal rights in planning. Victoria has granted such rights since 1961 in its Town and Country Planning Act, as has New South Wales, since 1970, with an amendment to its Local Government Act. Queensland provided these rights in Brisbane through the City of Brisbane Town Planning Act and the rest by amendment to its Local Government Act; South Australia, since 1972, in its Development Act; and Tasmania, since 1974, via amendment to its Local Government Act. It demonstrates that such rights exist in Australia—in the entire country, for nearly 50 years—except here in WA where we do not have any third party appeal rights. However, we have had a significant number of sometimes controversial changes to the WA system, and I will run through some of them. Since 2009, we have had, for example, the establishment of the Metropolitan Redevelopment Authority, changes to structure planning processes and changes to section 76 of the Planning and Development Act 2005, which empowers the minister to order a local government to devise or adopt amendments through schemes and plans. There was the introduction of the development assessment panels, or DAPs, and the introduction of the deemed provisions for local planning schemes in the Planning and Development (Local Planning Schemes) Regulations.

Even the Western Australian Local Government Association, also known as WALGA, has published its preferred model for third party appeal rights. I understand that until very recently, WALGA supported its own recommendations until something happened—I am not sure—and it no longer supports third party appeal rights, and that is a great, great shame. WALGA's publication is a simple three-page document, which I encourage everyone here to read. It can be found very, very simply on the WALGA website or by a simple google search with the key words "WALGA third party appeal rights". I will run through WALGA's model, which states —

- The model provides a good test for the introduction of Third Party Appeal Rights, which could possibly be expanded later if it proves to be beneficial.
- Local Government would be able to appeal a DAP decision and defend the merits of their policies and defend the enforceability of their conditions.
- Other interested parties and community members would be able to appeal a DAP decision.
- Addresses community concerns that decisions are being made by those 'removed' from the local community, leading to improved community confidence in the system.
- More transparent process in both decision making and condition setting, resulting in more accountable DAP members.
- Would allow for an appeal to be made on the conditions of approval or refusal

  …
- Limits appeal rights to larger, more complex applications and would filter out 'smaller' impact applications which could potentially overburden the system.
- Provides the ability to challenge any new information being presented at the DAP meeting without the responsible authority being able to undertake any assessment of the new information
- Able to appeal the 'Deferral' process being over utilised …
- Can give the Local Government more confidence that the developer will provide a fully complete application and discuss the application with the Local Government first, rather than relying on the DAP to condition the proposal requiring additional critical information.

This model is very limited in scope, but it is heading in the right direction and will be a useful model for the government to examine and take up. It shows that even WALGA had an appetite for change but not so our Premier. Speaking to the Western Australian branch of the Property Council of Australia just a few weeks ago, the Premier labelled local communities that fight over developments as "critics and naysayers".

But back to WALGA. In August 2019, PerthNow reported —

> More than half of WA Local Government Association delegates backed Bayswater Councillor Giorgia Johnson's motion to change WALGA's preferred model for the third party appeals process at their August 7 AGM.
>
> The decision called for closely associated third parties to have the ability to make appeals against decisions by the WA Planning Commission, State Administrative Tribunal and development assessment panels.
>
> Concerns were raised that it could delay planning processes, but 93 members supported the change and 79 voted against it.
>
> WALGA's State council had resolved in May to advocate for the State Government to introduce third party appeal rights and endorsed the preferred model, which would give local governments an avenue to appeal DAP decisions.

Since then, unfortunately, the push has died down. It is still an idea gathering steam in Perth and throughout Western Australia. There is no doubt about that whatsoever, but it seems that successive governments have had no desire to implement such an idea, relying on smaller piecemeal amendments that do not provide these rights.

Although I appreciate that there is undoubtedly a raft of arguments for and against third party appeal rights, it is curious that there seems to have been no serious undertaking in this area, even though the Western Australian Local Government Association, which seemed very supportive, had indicated an interest in such a system. It appears that this is a government without a real and sustainable economic plan. The only plan I can see is the continued reliance on housing construction to "grow the economy". This is, as the Premier well knows, a false economy because, as I have pointed out time and again, it requires the continuous importation of new consumers into the state. This economic model produces only a boom–bust economy, which Western Australia was going into well before COVID-19 hit these shores.

Why are third party appeal rights important now? The coronavirus pandemic has brought new and difficult challenges to not only Western Australia and Australia, but also the whole world. For the most part, we in WA have been very lucky. Across the board, the Western Australia Party has been very cooperative to get emergency bills through. However, members, in our haste there is a significant risk that we have been too permissive. As many have said, "Never let a good crisis go to waste." It seems sometimes that this government's questionable grab for executive power is certainly a prime opportunity seized. In the Planning and Development Amendment Bill 2020, the Minister for Planning was given enormous powers in the approval process, particularly for significant developments. The government has sold us this by saying that it is about cutting red tape and getting people back to work. That is partly true, but it empowers something of an ultimate decision-maker and lessens the checks and balances in place to protect people and to monitor these projects. The new powers in that bill have further stripped local communities of the power to decide on developments. As I stated in my second reading contribution, these new powers allow the Western Australian Planning Commission to give the tick of approval to unmeritorious overdevelopments without any consideration by the local community.

Hon Simon O'Brien: Ghettos of the future!

Hon CHARLES SMITH: Indeed.

This government is stripping away most of the decision-making power from local government and putting it into the hands of yet more bureaucrats such as the Western Australian Planning Commission and the development assessment panels, which are both unelected by the community. They are unaccountable, have zero transparency, and are stuffed full of appointees from the planning and construction industries. Western Australia is currently experiencing a multitude of planning issues. I am reminded of my friends involved in the Save Perth Hills campaign, the Ocean Reef boat harbour campaign, the Scarborough high-rise fiasco and the Elizabeth Quay residential tower.

The Save Perth Hills campaign is a classic example. Despite all the advice that showed what a dangerous and foolish thing it would be to develop around north Stoneville, things pushed ahead anyway. Ultimately, thanks to the strong spirit of the local community, that campaign was successful and commonsense won the day—or has appeared to have won for now. I note that Satterley has lodged an objection, as it demands that people die in fire zones. There is self-interest at every turn, which is endemic throughout the big property sector. Some of our business communities are really showing their sociopathic tendencies. That is a great concern as they chase ever greater profits at literally any price. That is why third party appeal rights are very important. Those people should have had a way of pushing back against the developers, but their cries fell on deaf ears until the risk of community backlash and the loss of local government seats became a reality. It should not have gone on for so long or needed rallies to stop it.

Under the powers in the bill we recently passed, someone could, essentially, wake up tomorrow to find that the government sold the park down the road from their house to one of its property buddies that is planning to build a giant high-rise apartment complex. What could they do about it? Realistically, there is nothing they could do about it. Third party appeal rights are not, as the Premier suggests, just about upper-class nimbys complaining about their

neighbour wanting to put up a shed that might partially obscure a view. It is about community and the rights of people in the community to have a say about what happens in their neighbourhood. The bigger the development, the bigger the reason for such a right. As the Western Australia Party recently stated, third party appeal rights provide the legal framework to link Western Australia's world-class planning framework with good development decisions by the decision-maker. The State Administrative Tribunal is the obvious and most cost-effective legal system to review unmeritorious development applications. Departures from that world-class planning framework and poor development outcomes are rife in Western Australia, especially in the Perth metropolitan area; for example, the planning framework calls for residential mixed-use developments in our town centres, yet in Subiaco four high-rise developments with no residential dwellings were approved by the development assessment panel. The state government forces infill to occur in the western suburbs, yet avoids sanctioning its own appointed panel members when a development has no residential dwellings.

Access to the rule of law is not evenly provided for. Councils and residents are unable to challenge DAPs and other decision-makers without costly appeals to the Supreme Court. That is undemocratic! Equal access to the law is a fundamental tenet of a functional democracy. I fear that Western Australia has been sold a lie. It is developers who are getting back to work in an economy run primarily on importing people to bump up gross domestic product and selling houses to each other in a horribly artificial and inflated market. Giving the okay to build evermore concrete box apartments and homes for evermore people, which is the only economic policy that the state and the federal government have, is the hallmark of a brain-dead policy and a guaranteed recipe for lower living standards. That is the future that we are heading into—a future in which developers command government policy. What great new leviathan have we created, members? We must return real planning powers to local communities through proper community consultation and engagement. Without third party appeals, we will continue to have only poor planning outcomes. In turn, this will lead to only greater community disenfranchisement and will become a danger to democracy as due process is put under threat.

The reason for the erosion of due process is simple. It turns out that the big property lobby is, unsurprisingly, one of the government's many donors. What do the developers get in return? The government churns out policies that will benefit the gluttony of those property developers, who seek to have Western Australian people living on expensive micro-blocks with no backyard, a few centimetres from the neighbouring block. There is nothing that anyone can do about it. If we cram more people into a suburb that is devoid of nature, we will have a high-density cesspit that has filled the pockets of the property lobby, leaving Western Australia looking like a grey concrete jungle with no character. Seemingly, no-one cares. We really are paving paradise in WA and building a parking lot. Members, democracy is about going through due process to reach an equilibrium and finally a decision. Government exists to represent the people, to carry out the people's wishes, but this government does not go like that. It does not believe that the people are smart enough to make decisions for their own betterment, so the government removes people from that equation and goes on its merry way to make way for its big donors. That is what we call corporate governance. Under this government, Western Australia has become a corporation.

I will conclude by once again quoting retired RMIT University professor Michael Buxton —

> "People have lost control of their city to the development industry and government acting on behalf of vested interests instead of the voter," …
>
> "It's been incredibly disappointing to see how public policy has been subverted toward achieving private gain at the public expense.

As my party likes to say, all the gains are privatised and all the costs are socialised.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [1.30 pm]: I thank the honourable member for raising this motion today. Obviously, it is one that warrants a discussion by this house. I have to say that the member's view of the property and construction industries in Western Australia is very disappointing. He failed to acknowledge the importance of them to our economy in Western Australia. Obviously, he has great disdain for them, given that he used words like "sociopathic tendencies". Let him say what he wants, but I want to acknowledge the property and construction industries in Western Australia and the fine role they play in the state's economy, employing Western Australians and keeping our economy ticking over.

The member talked about community consultation. Community consultation, without a doubt, is an intrinsically important component of Western Australia's planning system. One of the goals of the state government's planning reform agenda is to have a planning system with a greater focus on and awareness of strategic planning—specifically its role and its importance. This direction elevates the need for early engagement with community members at the beginning of the planning process. It provides an opportunity for our communities to help shape the vision for what they would like change to look like in the suburbs where they live, work and recreate. Historically, the focus has been on individual projects rather than on the scheme or planning framework under which projects are delivered. Over the past few months, we have had plenty of conversations and debates in this place about planning reform—more than I anticipated, being a representative minister of the portfolio. Nonetheless, I am learning quite a lot. The reform agenda will ensure that the planning framework, including the local planning strategy and scheme, has been

developed in consultation with the community. To support this approach, a community engagement toolkit is being developed to provide best practice guidance and tools to local government on how and when to undertake engagement and consultation for strategic planning. The toolkit will strongly encourage early preliminary engagement in the preparation of local planning strategies. This principle will also be applied to other documents that make up the planning framework. We will also extend the minimum period of formal public advertising for a local planning strategy from 21 to 35 days, providing more time for people to give their feedback.

Engaging appropriately and meaningfully at the strategic planning stage will not only raise awareness about change and why it may need to occur, but also help to manage expectations of what change will look like. I know that communities out there do not like change for the sake of change. They do not like it and they will not countenance it, so we need to manage expectations of what change will look like to ensure that there are no surprises about the types of development that can occur within our suburbs. More consistent and appropriate requirements for the advertising of development applications are also being proposed through changes to the Planning and Development (Local Planning Schemes) Regulations 2015. Advertising of development applications will need to be appropriate to the type and complexity of the application to ensure that those who are affected are meaningfully consulted and have the opportunity to provide input into the development process. Appropriate engagement and consultation at all stages of the planning process allows the opportunity for stakeholders to have input into the planning process and help shape outcomes. This will involve a more holistic and streamlined approach to ensure participation. Regarding third party appeals more specifically, it will not be a surprise to the honourable member that they are not supported by the government. That would be opposite to the intent of the "Action Plan for Planning Reform" for a more strategically led planning system, adding unnecessary complexity and red tape to the planning framework at a time when the state government is seeking a better, simpler and more consistent system.

I will not rehash the discussions we have had in this place over the past few months, in particular when we debated the Planning and Development Amendment Bill 2020, other than to say that third party appeal rights have never been a feature of the Western Australian planning system. There has been a consistent, historic, bipartisan agreement to oppose third party appeal rights in this state. The former Liberal government's "Planning Makes It Happen: A Blueprint for Planning Reform", launched in September 2009, states that the current provisions for third party inclusion in rights of review before SAT are considered to be appropriate and there is no intention to widen the scope of third party appeal rights. This was also echoed in its phase 2 reform. Although they do feature in some jurisdictions across the country, there is no consistency or uniformity in the way they are applied. Each state has a uniquely different approach to the process, the triggers and how third parties are identified.

It is also noted that third parties can currently make representations to planning decision-makers like local governments, development assessment panels and the Western Australian Planning Commission on local planning issues through consultation processes, which are considered before a final determination is made. These processes will also be modernised and expanded to ensure greater and more meaningful participation at all stages of the planning process. Although only applicants can apply to the State Administrative Tribunal for a review of the merits of an application, third parties can make representations with SAT's permission. The government does not want policy outcomes to be largely driven by legal decisions made in a court or tribunal, rather than based on the principles of good planning policy. We have a very good planning system in Western Australia. I think the member might have said at one stage that it was not a bad planning system. Recent reforms will go a long way to further improving the system to create communities where people want to live.

I will come to the COVID element of the motion. Obviously, the honourable member has been through the debates and through the few months that we have all been through. It has been an unprecedented time. Things have happened that we have never come across before and decisions had to be made to keep the economy open and keep giving us the opportunity to ensure that buildings were constructed or developments were created. We have sought to achieve, through COVID, the appropriate balance between health and economic health. We have been fortunate in Western Australia, but we have still seen a significant impact on the state's economy. As we heard during last night's debate on the COVID-19 Response and Economic Recovery Omnibus Bill and previously through the debate on the Planning and Development Amendment Bill 2020, it is critical that we support the economy and maintain and grow jobs. Now is not the time to increase red tape and uncertainty for industry. We cannot afford that. We have been very lucky in Western Australia. Sometimes I think, "There but for the grace of God, go I", but we have had good policies in place and we have enabled our economy to keep ticking over. We are in a much better position than that of other states. We do not want to turn things on their head and start creating more bureaucracy and red tape, because that does not help anybody.

Finally, I will touch on development assessment panels. We are reforming DAPs through the recent Planning and Development Amendment Bill 2020. It will reduce the number of geographic DAPs to three, with permanent specialist members and full transparency of decision-making. Obviously, that might not help Hon Charles Smith—in fact, it might never make him happy—but can I say: we are happy with where we are at the moment. We do not support third party appeal rights and, therefore, I suppose unsurprisingly, we will not be supporting the honourable member's motion today.

HON RICK MAZZA (Agricultural) [1.39 pm]: I would like to thank Hon Charles Smith for bringing this motion to the house. I think it is very important that we air issues around development and housing, given the fact that shelter is one of our primary needs in the community. I agree with Hon Charles Smith on many things, but this is one issue on which we diverge. I am very concerned that developers are portrayed as being gluttonous, greedy, cigar-smoking capos who only want to work the community over for their own benefit. That is very far from the truth. Developers invest enormous amounts of money in identifying development sites and carrying out feasibility studies that can take years and years. They take significant amounts of risk—they usually work in a profit-and-risk factor—to, at the end of the day, construct shelter for the community. I do not deny that a third party appeal system might be of some benefit. As the Minister for Environment pointed out, third parties have the ability to make submissions to the Department of Planning, Lands and Heritage and other authorities to put their views within the community. There will always be some dissenters when building a new development in any given area.

As Hon Charles Smith pointed out, the Premier spoke to the Property Council of Australia on 28 August. A 31 August WAtoday article on the event was titled "McGowan: We will fight the NIMBYs and density 'critics and naysayers'", which sounds very Churchillian. I am sure the nimby part was a bit of a swipe at the Greens; they can take that up with him if they like! The fact of the matter is that we need development in our community. We need jobs and development. It was reported in the media recently that the state and federal governments have offered incentives to the construction industry. Despite this, many builders have now closed their books and cannot take on any more work because many of the tradies who they employed have moved off to do other things. The major concern now, of course, is that prices will rise as demand for bricklayers and carpenters increases. Currently, only about 17 000 new constructions are in the pipeline. Just to balance that out with population growth, we need about 23 500 new buildings, so we are not anywhere near a boom situation. We certainly need to have new properties constructed.

The minister also spoke about a reduction in red and green tape, and I welcome that because there have been a lot of hurdles over the years in getting developments underway because of red and green tape. We have to bear in mind the sorts of jobs that are created by development. In the very first instance, there is the sale of the land, which provides stamp duty to the government. Then, consultants have to be engaged to get approvals through planning and local authorities. Then there is earthmoving, drainage, roadworks, water and sewerage, power. Then we need the builders and tradies in building companies. I am talking about residential construction here; I will not go into the commercial sphere. On the residential side of things, building companies also employ many people, including supervisors and all sorts of staff. As far as trades are concerned, we need electricians, plumbers, bricklayers, roofers, carpenters, cabinetmakers, concreters, tilers, pavers, plasterers, gyprockers and painters. A huge number of trades are involved in the building industry. Once the house is built, what do we need? We need floor coverings, so all these retail outlets sell carpets and floor coverings. Then there are window trimmings, light fittings and furniture. It is a huge part of the economy. To have an onerous third party appeals process that frustrates developers' ability to get developments on the market will, in many instances, only serve to reduce the number of developments that get underway. On top of that, it will drive up costs, because the longer developers have to hold the land and the development, the more it is going to cost.

What really amazes me about people who oppose developers and developments is that, in the next breath, they will bang on about affordable housing—"We need more affordable housing!" In the meantime, of course, they are putting so much red and green tape and onerous conditions on developers that prices are driven up. They cannot have their cake and eat it. We have to accept that affordable housing will be out of reach if we are going to put other conditions and impediments on developers.

Hon Diane Evers: We don't have those conditions, and affordable housing is still out of reach.

Hon RICK MAZZA: We will never be able to reconcile that, member.

At the of the day, to get the economy up and running post COVID, we need to provide pathways for developers to get their products on to the market and to meet the market.

Hon Charles Smith also went on about concrete jungles and featureless developments into which people are crammed to live in these terrible environments. The fact of the matter is that all the developers and marketing companies I have been involved in meet market niches. They do not create markets; they actually meet market niches. If there is demand out there from the community for a particular product, they will develop that product to meet that market. In many cases, if it is price-sensitive, they will look at all sorts of ways to get the price down to meet that market and still meet their profit-and-loss factor.

Many of these developers are not single owners—the name Satterley gets thrown around from time to time—but public companies. Peet Ltd, based just north of Pinjarra, is a public company that has thousands of shareholders and, of course, at the end of the day, those shareholders are there to get a dividend. Although I am sympathetic to the idea of a third party appeals process, I think there are already mechanisms in place for the community to be able to make submissions to government or planners to put their case forward. It does not matter what we do; there will always be some objections. But we have to be very, very careful that we do not have a third party appeals system that frustrates the process of getting these developments on to the market, resulting in prices going through the roof. Unfortunately, on this occasion, I will not be able to support the motion that has been moved by Hon Charles Smith.

HON TIM CLIFFORD (East Metropolitan) [1.47 pm]: I rise as the planning spokesperson for the Greens today, and we will be supporting this motion. That is no surprise; the Greens have supported third party appeal rights for decades. If members were to look at *Hansard*, they would see how many times we have spoken at length about third party appeal rights, their importance to the community and their importance in ensuring that we have a better planning system, so I thank Hon Charles Smith for bringing this motion to the house.

Members have already gone into a lot of depth around planning and the state of play for planning in Western Australia, particularly in respect of the Planning and Development Amendment Bill 2020, which was assented to recently. In debate on that bill we went into a lot of depth on third party appeals processes and the fact that our planning system has not really served the community in the best way. There is an expectation in the community for a planning system that serves them, not developers, as Hon Charles Smith mentioned earlier. The community expects well-designed developments with adequate public transport and green spaces. These are all the things that the community expects to be developed for them and not for a developer who is only looking to roll out a poorly designed property that is more about maximising profits than ensuring that there are liveable areas in our community for years to come.

The previous speaker, Hon Rick Mazza, who is now on urgent parliamentary business, talked about the role of developers, and I agree that developers have their place in the community; they provide many jobs, as the honourable member pointed out, in many areas, from construction all the way down to flooring. I have quite a few friends in the construction industry, and we have talked about this at length. Although these people work in and benefit from the industry, they have also raised with me issues about poor planning. In Perth, planning is a conversation starter. We only need to look at what went on throughout the boom years and at the endless expanse of suburbs that were created. It literally was the wild west. Developments were being rolled out in new suburbs across the metropolitan region, which stretched our water, electricity and other resources. All we can see is this endless expanse. The comment frequently made to me when people came into my office was that the industry was pretty much out of control, especially considering some of the poor planning—for example, houses not facing the most energy efficient direction. When it comes to heating and cooling, that is a common issue. There has been a huge amount of land clearing without any consideration given to whether to keep the tree canopy within the community. It is galling to know that people are moving into houses and finding that their suburb is hotter than other suburbs.

Hon Rick Mazza mentioned that planning is demand driven and that people buy what they want. But people, obviously, get what they are given. There are given only limited options with a limited scope from a certain number of developers. That is why it is important that government must play a strong role within our planning system to ensure that people can live in communities that they can enjoy living in for quite some time.

Development assessment panels have been mentioned. The DAP system is arbitrary and planning decisions are made by people who do not necessarily live in the community and do not necessarily listen to what the community wants. One of the first things that came to my attention when I got into office was the proposed McDonald's development in Guildford. The only way that that decision was overturned was due to a technicality with a car park. I note again the fact that developers have a right to continually appeal a decision until they eventually get their way. That can leave the community frustrated with a development that they do not want, is out of character with the community and is something that pretty much becomes an eyesore, and leaves people in the future wondering why the thing was put there in the first place.

I was heartened last year when the government put forward planning proposals that looked at broad consultation, more experts and more layers and all these other things to ensure that we have a stronger planning system. But the fact that the government does not support third party rights worries me quite a bit. The fact of the matter is that developers will find a way if people are not given an opportunity to challenge these terrible developments so that they do not go ahead.

The mover of the motion also noted that Western Australia is the only jurisdiction without third party appeal rights. It is quite astonishing that we have failed to establish rights for the communities on which these developments impact the most. I note that Hon Charles Smith mentioned a development at north Stoneville, which is something that I have been involved in and is a legacy of poor planning in the 1990s. A development is being rammed through by a developer who is only really interested in profits over the local community in the hills. That is quite significant, considering that there have been multiple objections to this development from the community. Hundreds of people have been involved in the campaign. People from across the political aisle agree that this development should not go ahead, yet there is still a threat that the north Stoneville development will get the go-ahead because there are no third party appeal rights to ensure that it does not go ahead.

Third party appeal rights also make the decision-makers accountable. The evidence is that the provision of these rights clearly discourages corrupt behaviour between developers and governments. When people know that there is another layer of people who are keeping an eye on what is going on, they think twice about ramming things through. They know that they will be held to account for such developments. The COVID-19 provisions adopted in the recent Planning and Development Amendment Bill 2020 bypass many of WA's current legal provisions in order to stimulate the economy. The Minister for Environment outlined that these are extraordinary times, but there are

already opportunities in the community to keep people employed and to keep sustainable developments going without having the terrible legacy issues that occurred in not only the outer suburbs of Perth but also close to the inner city. We will be dealing with these projects for years to come. That is important. When I spoke on the planning bill that was pushed through a couple of months ago, I noted that every single local government across Perth has a story to tell. I think that that is significant.

There are also stories from local communities that are scarred by the fact that they have had to pull together hundreds of people, go to every council meeting and watch every process like a hawk to try to understand what is going on. That does not seem fair. That is exactly why the Greens have always supported third party appeal rights. A lot of developers rely on the fact that the community is not looking, so before we know it, something is being proposed in council. We know that a lot of people are not involved in the process and a lot of people do not understand it. It is complex, it is layered and it causes a lot of anger and distress in the community. People are left feeling as though the system has been designed to disenfranchise them when developments are proposed because it is about the developer making money and not about a development that will be built for the best interests of the community.

Finally, I support this motion. It is an important to keep planning on the radar. We need to hold developers to account. I note that paragraph (b) of the motion states —

> notes the consequential erosion of Western Australia's democracy.

That seems like a pretty broad statement to make, but that is what we are really talking about. We need more people involved in our community planning processes. We cannot have a situation like the one we currently have. I was at the Midland Town Hall when the McDonald's development in Guildford was being discussed. McDonald's rocked up with 10 lawyers and there were 400 community members sitting in the town hall, hanging on the edge of their seat and wondering which way it would go. The process is so arbitrary that people are disenfranchised by it. It should not get to the point that people who live in the community must face off a whole group of lawyers who know the planning system inside out and know how to check all the boxes. It was only luck that a car park had not been included in the plan and so that development did not go ahead. That is really disappointing. This issue needs to be addressed with a strong planning system that in the future will include third party planning rights. In saying that, this motion is well overdue, considering it follows what we discussed recently with the Planning and Development Amendment Bill. We need to keep talking about third party appeal rights and implement them in WA's planning system.

HON TJORN SIBMA (North Metropolitan) [1.59 pm]: First and foremost, I would like to acknowledge the substantive motion moved by Hon Charles Smith. He has brought to this chamber a very interesting issue for discussion and I have enjoyed listening to the contributions of each and every member up until this point.

It is clear that there are certainly some problems embedded in the planning system in Western Australia in its framework, processes and, to some degree, the prevailing culture. I share some of the sentiments expressed—I think to a lesser degree, to be perfectly honest, but, nevertheless, they are there and they are genuine—by Hon Charles Smith in the motion as it appears in today's business program. However, I do not necessarily concur with the prescription he offers. I certainly understand and empathise with the issues that the member raises on behalf of the community he represents—a community of Western Australians who are, to a greater or lesser degree, frustrated and aggrieved or feel bruised by their interaction with the planning system in Western Australia—but I cannot agree with him that the introduction of third party appeal rights, certainly in an expanded form, is the appropriate prescription. I will explain why.

First, there seems to be an assumption on behalf of the individuals who make the claim that all the ills in the Western Australian planning system can be remedied by the introduction of this right to appeal. There is an assumption that every right to appeal will be upheld and that those appeals will be successful. That is an overly optimistic assessment of the likely outcome. It also speaks to the capacity to resource litigation. It also provides an opportunity for vexatious litigation to be funded by firms who specialise in this kind of case lawfare. There is a misplaced confidence that an expanded right to appeal in the terms that have been expressed by the honourable member are appropriate or will be successful. I think we need to start by disabusing ourselves of that concept.

There are issues across the entire planning system that relate to matters other than legitimate grievances held by communities about inappropriate developments being approved. The planning portfolio is a portfolio that has been, and will continue to be, in a state of almost continual reform and I think, effectively, that sentiment was borne out in the course of the debate on the Planning and Development Amendment Bill prior to the winter recess. There are also problems with the approval pathway for developers, and that needs to be recognised in the course of this debate. Those problems apply at the level of a built-form development application and it applies much further into the recesses of history around land assembly, metropolitan region scheme amendments, traffic corridors and the like. This process, on behalf of a developer or a proponent, is costly, time-consuming, cumbersome and does not provide them with any certainty. Therefore, I would be cautious of that when we talk about reforming the planning system. It has to be a principle-based reform that is to the betterment of every participant in that ecosystem simultaneously.

We will not improve the planning system or its performance or its outcomes if we descend into stereotyping the "other mob". Frankly, this is what I find appalling on both sides of the debate. To categorise developers as all

being sociopaths, driven only by profit, is a nonsense. I also believe that criticising members of a community who are invested in their community and are concerned about the fabric of their community changing unalterably, and categorising those people and dismissing them as nimbys is completely erroneous and unnecessary.

We will not deliver a superior planning system in this jurisdiction if we descend into rock-throwing and name-calling. Frankly, that is just immature and juvenile and, to be perfectly honest, it is beneath the kind of contemplation of the people in this chamber. Each and every one of us here has a responsibility to engage in at least decorous public commentary, a civilised discourse, rather than pick all the low-hanging fruit and then throw it at the person with whom we disagree.

I take Hon Charles Smith to be a very genuine individual—almost a maverick—who is prepared to speak his mind. I actually think that this chamber is better for it, because at least we know where the member stands. But I do take issue with the character assessment that the member gave concerning Mr Satterley —

Hon Charles Smith interjected.

Hon TJORN SIBMA: No; I do not think this is germane to the debate.

Our issue with the planning system is not the individuals involved. North Stoneville has been rejected by the Western Australian Planning Commission on planning grounds and because of the widespread community momentum that was opposed to it. Therein lies a lesson for us all. The commission rejected a subdivision application that many members here found inappropriate, so tell me where the problem is in the planning system that demands the immediate introduction of third party appeal rights. I do not say this to be provocative. I am just asking members to please better define where they think the problem is. If members think the problem is that local government is not being listened to enough or does not have a significant enough role in planning determinations, please allow me to reflect on some of the very poor planning outcomes that have occurred within the City of Joondalup over the last four or five years by virtue of the City of Joondalup's local planning scheme.

Hon Diane Evers: So maybe if we had third party appeal, somebody could've come forward beforehand and said, "Those aren't going to work."

Hon TJORN SIBMA: I respectfully disagree with that assertion and I have the opportunity here to explain why.

The problem is not necessarily a lack of democracy in the planning system; although, depending on the scale of an application that is lodged, invariably there will be different decision-making cohorts. There has to be, just out of sheer pragmatism. Particular applications demand public consultation, whether for the development of an aged-care facility or a church, or for an upgrade or expansion of clubrooms at a sports club in the suburbs, but that conversation cannot be endless. It also cannot be given widespread capacity to derail, dismiss and disrupt otherwise orderly development applications. If we get to that point in this jurisdiction, no-one will be incentivised to build anything. We cannot progress the planning system in this state on the basis that everybody must agree with the proposition. We do not live in that world.

I will talk about the local government dimension. There is an issue with interpretation. Planning is not a hard science; it relies on individuals who operate under the system making interpretations. Sometimes they get it right and sometimes they get it wrong. I will very quickly reflect on an example, but without pointing the finger, because the City of Joondalup is moving amendments to its local planning scheme. That local planning scheme charged headlong into the infill of suburbs that were between 20 and 30 kilometres away from the CBD. Arbitrary infill targets were set. Planners at the local government authority thought only in two dimensions. They thought, "Okay, we have a series of train stations that run up and down Mitchell Freeway. Obviously, then, we should up-zone the residential estates that fall within about a 400-metre radius of those train stations." The problem with that concept was that 200 metres either side of the train stations is sterilised by the freeway. The other problem is that there is not the density of development on top of the train stations to make that plan viable. Another issue is that these concepts do not work well in three dimensions—they do not take into account topography, local amenity and the like. There has been a problem. This process has aggrieved people in the northern suburbs, whether in Kallaroo, Warwick, Woodvale or Kingsley. People in those areas have a legitimate beef, because the local government, I think with the best intention in the world, created a scheme with which developers complied but which delivered substandard outcomes.

But that is very different. Every contentious development has its own story; it has its own benefits and drawbacks. The approach that we need to take to improve the planning system is to make it far more legible, far more transparent and far more predictable. That is what we want. We do not want to overcorrect, which is what I think expanded third party appeal rights, as countenanced by the honourable member's motion, would fundamentally do. There is a problem with the planning system—absolutely. I admit that; I concede that. It frustrates people, and I absolutely 100 per cent empathise with them. However, the response should not be to overcorrect and provide, frankly, an avenue that would benefit one class of people above all others—that is, the lawyers. We do not want to see this kind of creeping expansion. As a conservative member, Hon Charles Smith will understand that the granting of rights leads inexorably to the extension of rights granted. That is what would happen. No matter how circumscribed I think is the model the member has presented for our contemplation, it would be amended and broadened to a class

of applicants to whom it should not apply. If that happened, I think we would end up with the creation of environment and land courts. That is where we would end up. That is where this would lead. I do not think that such an entity is appropriate in a jurisdiction like Western Australia, in which legitimate powers are conferred on ministers and independent statutory decision-makers to make decisions in the public interest. Particularly when powers are centred on a minister, when the minister gets it wrong, they will pay the price. There is every incentive for that individual to get it right. We cannot say that a third party appeal rights system would provide a far more democratic outcome if it effectively led to the creation of a whole new class of courts and level of judicial review by those who would have absolutely no need to give consideration to matters outside the black letter law. I do not think that that would provide people with the democratic avenue that they think is being denied to them at the moment.

I made an issue of the prevailing culture in the planning system in Western Australia. I think 80 per cent to 90 per cent of participants, whether they be landowners, developers, planning consultants, local government people or members of the community, are of goodwill and good intention. Unfortunately, a minority of people can never be trusted. The issue is this: we want to see an improvement in the culture of the overall system. Like the member, I think there is a cultural problem. To the government's credit, it has identified that cultural problem as well. It was identified in the planning green paper, which I think was called "Modernising Western Australia's Planning System" and came out in 2018. Indeed, it was recognised in the Minister for Planning's own action plan, which was released sometime last year. That cultural problem, particularly as it relates to the interaction between decision-making and communities, has been identified. However, it is very disappointing that there has been no real progress on that front. When we were debating the Planning and Development Amendment Bill 2020 before the winter recess, we were told in our briefing and through the course of that debate that it was the first tranche of planning reform in Western Australia. When we asked what would be in the second tranche, we were told that it would be around the improvement of community consultation. My view is that that legislation should be advanced. If the government's sentiments were genuine about not only acknowledging the problem but also fixing it, it would introduce, as a matter of some expediency, legislation to improve the governing act and drive some regulatory change, so that people's trust in the system can be restored.

I concede Hon Charles Smith's point that there probably is a need to develop an avenue by which people with legitimate grievances can seek a review or be provided with an impartial understanding of why a decision was made in a particular way. I think Hon Charles Smith was absolutely right, as were the Greens and just about everybody else who spoke today. On occasion, there is an unfortunate tendency for decisions made by local governments and joint development assessment panels, and, potentially, by this new significant development assessment unit through the Western Australian Planning Commission, to not seem to line with up with similar proposals on which those bodies have made determinations before. There has been inconsistency in the application of decision-making. The more insight into and access to those processes that community members have, the better we shall all be in the long term.

I think I also mentioned that there is an issue with local government. It needs to be understood that local governments do not always want to fight the fight. The majority of members in this chamber have probably not yet seen the Swan Valley Planning Bill 2020 that the Minister for Planning has read into the other place. That bill will effectively write the City of Swan out of the decision-making process for any development application process in the Swan Valley. We were advised that this was being done with the blessing of the City of Swan, which was a claim that I thought I should challenge, at least by way of email correspondence with the mayor and the CEO of the City of Swan. To a degree, and without divulging necessarily the full details of the correspondence, the City of Swan is more or less happy to acquiesce so long as it does not have to pay for the new system. This is the issue. If we had, on occasion, more forthright local government authorities that were actually prepared to do the job, member, perhaps that is where the community could find some comfort. However, if they happily concede decision-making, the introduction of third party appeal rights will not help them.

HON ALISON XAMON (North Metropolitan) [2.20 pm]: I rise, as my colleague Hon Tim Clifford has already indicated, to support the motion that has been moved. There are three key issues in the motion. It is obviously limited to the COVID-19 emergency and refers to third party appeals as a safeguard against the lack of community consultation in our planning processes and refers to the erosion of WA's democracy.

The first thing I would like to note in response to this motion is that the lack of third party right of appeal within Western Australia is a longstanding issue that has been raised many times in this chamber over the years by the Greens; in fact, it goes as far back as the Green's first MLC, Hon Jim Scott. I remember volunteering out of his office in the 1990s on this very issue of third party right of appeal and the need to have that in the system. It is not a new issue and one that the Greens have been absolute stalwarts on.

In WA we have the opportunity for appeal but the only people who can appeal are the first parties. In this case, we are talking about the developers. Developers already have the power to appeal refusals or specific conditions imposed on them. Should a developer have received an approval that should not have been granted, the affected community—in this case, third parties—has nowhere to go. There is no avenue for third parties to ensure that our policies and processes have been followed in the application and decision-making. There is no avenue for seeking a review of

any discretionary decisions that may be without merit or in breach of law and regulation. There is no avenue for ensuring that if any cosy relationships have been formed between developers and decision-makers, they can be reviewed and removed from the decision-making process. For all those reasons, third party appeal rights have been part of the Greens' planning platform for decades.

The Greens are firmly of the view that third party rights of appeal are an essential mechanism to ensure fairness within our planning processes and compliance with policy and strategy. The ongoing lack of these processes within Western Australia has been and continues to be a major concern. It is a major way in which the system, unfortunately, can all too easily skew towards developers at the expense of communities that have to live with those developments. It is patently unfair—I struggle to see how anyone could think otherwise—that developers can seek review of refusals and imposed conditions, but those third parties who will be affected by planning outcomes, potentially every day of their lives, cannot seek a review. That is patently unfair, particularly considering that third party rights of appeal are available in every other state in Australia and have been, in some form, since the early 1970s at the very latest. Somehow, every other state in Australia has managed to deal with the apparently insurmountable issue of third party rights of appeal. I point out the bleeding obvious: we have not seen a reduction in development in other states. The suggestion that somehow allowing people to have a voice in decisions that could potentially affect their lives and homes would prevent development is, frankly, ludicrous. Every other state has managed this and we also should be able to do that.

Third party rights of appeal are often seen as one way of ensuring that the undue influence of donations and personal relationships have some sort of counterbalancing mechanism. They also ensure that when a somewhat dismissive tick-and-flick approach to community consultation has been taken—that does happen a lot; we hear the concerns from the community when that occurs—there is a mechanism to ensure that those valid concerns are properly addressed by a neutral arbiter. Again, it is ridiculous to suggest that people have a full say within those community consultations and therefore that is sufficient. I would bet anything that we all have some evidence of inadequate community consultation around planning decisions in at least one place in our electorate and potentially within this term of Parliament. I have multiple examples of that in the North Metropolitan Region, and it has caused significant disquiet over and again.

I was expecting at least some of this debate to take place as a result of the amendment Hon Charles Smith had originally put to the Planning and Development Amendment Bill 2020 to implement third party appeal rights, so I was disappointed when that amendment was withdrawn. However, I am pleased to see that it is at least getting some dedicated parliamentary time now. I had plenty to say on the amendment at the time and was more than happy to support it. Third party rights of appeal are such a substantial part of a well-functioning and fair planning system that they deserve to have their own time and place in terms of attention in this chamber. We deserve to have them implemented in Western Australia.

Returning to the bill that we previously debated, I remind members that one of the huge concerns going into the debate was that the bill appeared to remove the requirement for community consultation for development applications going through the Western Australian Planning Commission approvals system. However, I once again acknowledge that this was not the intent of the drafters. As a result, community consultation remains a very major concern in every element of the planning process, especially as the planning process remains convoluted. It is complex for projects such as the Ocean Reef marina, which I have been talking about and dealing with since the last state election. I have raised it on multiple occasions during the fortieth Parliament. Talking about the Ocean Reef marina, the process often involves community members attempting to come to grips with what can be hundreds of pages of technical information, often in very short time frames, to provide feedback. When a process has been entered into in good faith, that should not be a problem. However, when good faith is not present, it will definitely be a problem.

Concern over our community consultation mechanism remains, regardless of whether the development application, the scheme amendment, the structure plan or the subdivision application takes place during the COVID provisions of the act or the regulations. Although I acknowledge that this is an older body of work, I note that Judge Trenorden, one of the founding members of the Environment, Resources and Development Court in South Australia, said in 2009 —

> I am not convinced that consultation presently is adequate, nor that the community generally understands or is aware of planning policy.

We know that in Western Australia, even in cases when the community is widely consulted, the discretionary powers of a decision-maker can still lead to outcomes that do not match any reasonable expectation. This is particularly the case with decisions pertaining to the heights of buildings that go far beyond any envisaged in the local planning scheme. The obvious one to point to, which has occurred in recent years, is the proposed 3 Oceans towers in Scarborough, which ended up being approved. That project was wildly out of line with community expectations and any of those planning processes that had been subject to extensive consultation and ownership.

Beyond the community consultation elements, there are some clear benefits to allowing third party rights of appeal. Some of the benefits of the system that have been cited in various papers include a reduction in developer ambit

claims and an increase in transparency and accountability. Some of the work done on third party appeals shows that third party appeals are often quicker to resolve than first party appeals, and the majority of third party appeals are resolved prior to the State Administrative Tribunal process being fully engaged. I think it is very important to note that third party appeals that make it to court are often upheld in some fashion. This is not a matter of appeals being put forward by people who are just nimbys, as everyone is wont to say, or people who are undertaking vexatious claims; many of those appeals are upheld.

To achieve these outcomes, we need to have a coherent planning system at both the state and local levels. Maintaining complexity and conflict across planning regimes opens up the potential for third party appeals to be used to challenge reasonable decisions, so, of course, we have to ensure that our state and local planning schemes are comprehensive, coherent and complementary. I take this opportunity to once again commend the work that has been done by Evan Jones and the Department of Planning, Lands and Heritage on the green paper for planning reform, which identified the complexity and lack of certainty for everyone involved in the planning system.

When we debated the Planning and Development Amendment Bill 2020, I moved to delete a wide sweep of the ministerial powers that that bill granted. I remind members that those powers included the minister being able to select and advocate for specific projects and to simply declare things legal that would otherwise not be. The solution that this chamber was willing to countenance was to make the exercise of those powers disallowable. Of course, disallowance relies on a suitably diverse and engaged Parliament. Should Parliament become less diverse, that will simply not be a mechanism that will be respected by the public. As we know, a less diverse Parliament can easily occur. Ultimately, it would be preferable if the rules and conditions set by the scheme were able to be appealed by third parties to a body that does not rely on a politician needing to bring forward a disallowance, or for the chamber to agree to it.

This motion also touches on something that I have been increasingly concerned about—that is, the erosion of democracy under the guise of COVID provisions. I have been speaking out about this more frequently, particularly as more hastily drafted legislation has been presented to this place with huge Henry VIII clauses throughout. One of the fundamental tenets of democracy is that people have the right to participate in decision-making that affects their lives. We need to remember that that cannot simply be limited to once every four years or that people choose their government and, effectively, get what they get. We recognise that that is not a fair way to conduct business that will ultimately affect people's lives. We expect that adequate notice, a fair hearing and a non-biased process be an essential part of any decision-making. That includes, ordinarily, the crafting of legislation that comes before the Parliament for deliberation. One of the ways that we need to ensure that the public gets a say in the laws is for the government to provide sufficient notice so that we, as members of Parliament, can do our jobs effectively—that is, to consult, and, preferably, to consult widely with people who have an interest in or are affected by the legislation before the house.

I recently spoke about the ways in which COVID-related legislation is coming before the house and how unsatisfactory it is for us to make legislation in this fashion in a democracy. Legislation is increasingly coming through with little to zero notice, with wildly insufficient consultation, and no time between introduction and debate for members of Parliament to undertake relevant consultation. The small amount of consultation that has taken place has seen vast improvements to the bills, such as the recent removal of what we understand to be an unreasonable Henry VIII provision in the COVID-19 Response and Economic Recovery Omnibus Bill 2020, which was ultimately passed last night. Probably due to being so undercooked, a lot of the legislation attempts to futureproof itself by deferring large amounts of activity to regulation. There are huge issues when we decide to do that. The process of creating regulations happens outside the sight of Parliament. We have to rely on the consultation done by the government of the day, whatever it may have been, and, at the end of the day, we can only disallow regulations. I have already pointed out concerns with the disallowance process. That will be of even greater concern when Parliament goes into caretaker mode and there will be no capacity for anyone to disallow anything.

The concerns I have about the way this government has engaged with the community started almost immediately, with the debacle of the December 2017 announcement of education cuts. Since then, we have seen a steady reduction in the mechanisms that are designed to ensure that the government is fair and transparent. Questions are routinely being answered poorly or they are not even answered at all. There has been a steady uptick in refused freedom-of-information requests, the State Records Office has been mangled, legislation has been rushed and there has been an overwhelming deferral of powers to regulations. It is deeply concerning that we see this most clearly in the planning and development arena, but we are also seeing it right across the board.

I think this motion is infinitely worth supporting. If anything, I think that the intent of the motion needs to extend beyond the COVID-response time frame. The issues that I have raised about the numerous ways in which this government is undercutting the proper action of democracy need to be addressed. At the very least, the introduction of third party appeal rights to make us consistent with other states around Australia needs to happen to ensure that planning decisions are fair and can be held accountable. It seems like a simple thing to do. Everyone else has managed to do it, and the world has not fallen apart. It defies belief that Western Australia is so special that it cannot even consider it.

HON DIANE EVERS (South West) [2.37 pm]: I appreciate hearing everybody else's comments because it leaves a few new things for me to comment on and add to the discussion. First of all, it seems as though by agreeing that we should not have third party appeal rights, we are saying that the decisions that are made are always correct. As my honourable colleague suggested, sometimes the decisions made have been found to have been incorrect. If we do not have third party appeals, there is no way to find that out until it is too late. Even my colleague Hon Tjorn Sibma said that there are sometimes inconsistencies. It is not quite that they are wrong or bad decisions, but they are inconsistent. I guess that is his way of acknowledging that sometimes wrong decisions are made and that, possibly, there should be an avenue for appeal.

It concerned me that in his comments, Hon Stephen Dawson mentioned that the Labor Party and the Liberal Party agreed in the past that we are not going to have third party appeals—full stop—so it is over and we should go home because there is no point in trying to change it. I find that a lot of people in the community are not happy with that decision. If they knew that that was the agreement, maybe things would change. We have to leave it open for debate, change and opportunities to come forward. We may find that what we have been doing was not the right thing to do.

Hon Stephen Dawson also said that we do not need third party appeals because the government is going forward with a strategically led planning system. That implies that the community would not act strategically. However, the community is the people who live in a place and who plan to live there for a long time—in some cases, hopefully, intergenerationally. A lot of communities think strategically. They seek to maintain green spaces for the health of their community and maintain sunlight falling on their schools, so they may try to oppose a multistorey development next to a school. I have found communities to be very strategic. Although some people will just complain that they do not like somebody building too close to the fence on the neighbours' side, hopefully we have laws and planning decisions in place so those things do not happen. However, that is not always the case. That is why we have to think outside what we have been talking about here and start to look at what the community can do, and engage the community for a greater purpose. Maybe, if we had consultation—that is just a word; engagement, empowerment, whatever—in an honest, truthful, forthright manner and we actually paid attention to them, we would not need third party appeals. At this point, mistakes are still being made and communities are being ignored.

In my area, there is the Greenpatch development in Dalyellup, which the state government is involved in. The community is fighting every way it can to make sure the development goes away. Because it does not have a right to third party appeals, it has to resort to using environmental concerns, maybe due to the toxic waste that has been dumped near the site. Some things are happening but it takes a long time. A developer is waiting to get in there, waiting until the community voice dies down and it can get in without protest, or waiting until the community has appealed so many times that it just gives up. The community cannot walk away from such developments, ever. They can stop a McDonald's from being built next to a school today, but nothing stops the developer from applying again next year or the year after that. The community shows their diligence in trying to keep these developments out.

I worry about us saying, "We need developers because they bring jobs!" I am not going to say that all developers are bad. I could even say that they are not all after profit; some developers out there may operate as a charity, but if they are operating as developers, they are trying to make a return for their shareholders so they are in it to make a profit, so I am not sure why we would be discussing such a thing. Developers will look at a project and do what makes a profit, which is why we do not end up with social housing. Social housing does not return a profit, whereas if developers can build multibillion-dollar apartments with $200 toilet roll holders to up the price of the whole place by another $1 000, that is what they will do, because some people have that sort of money to spend. Developers do not buy into low-cost social housing because there is no profit to be made, or very little profit unless the government intervenes and gives them some incentive. We cannot rely on developers to make decisions in the public interest. They make decisions in the interests of the people who are going to make profits out of developments. If we want something in the public interest, we need to go to the public.

Other developments in my area that people have fought against include the Puma Energy fuel station in Dunsborough. It was approved after a number of appeals and the community was deadset against it. The minister is the only one who has an appeal right. Luckily, she was able to step in and say, "Maybe this was a bad decision; let's have another look at it." The Supreme Court upheld that, saying that the centre of Dunsborough did not need a fifth fuel station. The council had agreed to it and the developer thought it was a great idea because it could see that it would get some of the fuel business. It happened in Albany as well, with another fuel station. I will spend a half-minute on it. We are building a $175 million ring-road in Albany to go around a roundabout where there have been too many accidents. The accidents have not been fatal collisions; they were little bingles at school pick-up time. They were no more than what happens at any other intersection at that time with that amount of traffic, yet we are spending $175 million to go around it. What happened? They wanted a fuel station at one of the intersections to the roundabout. Does it make sense to anyone that we would increase traffic flow and the comings and goings out of driveways within 100 metres of a roundabout, which we have to spend $175 million on? Third party appeals may have made a difference in that case but it is done and dusted. The fuel station is in there and the road is being built. It was a very expensive, bad mistake.

There is also a development on the Nullaki Peninsula. A developer sold prime environmental blocks saying, "It's going to be really beautiful down here", but some years later applied to extract lime from a lime pit in the area. It is in an area where there are seven or eight other possibilities to extract lime within a 10 to 20 kilometre radius. The council said no twice and the developer appealed to the State Administrative Tribunal, which said, "Yes, sure; fine." Because the community has no third party appeal right, the only way the community can get back is to say it is not environmentally sound, then it can go through the Environmental Protection Authority process. However, that means it has to find a way against the lime pit based only on environmental reasons, not on community aspects such as the dust and noise affecting the people who live there, and not because the developer said it was going to be an environmental zone, but then went in there with trucks. It is another big mistake.

I want to come back to consultation. We need better consultation. Many of us have said that is what should happen, but it is not just consultation. I want to draw members' attention to the International Association for Public Participation, also known as IAP2. I refer to the document "IAP2's Public Participation Spectrum". The first step is to inform the public. The public participation goal under "Inform" is —

> To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.

That is it; we are going out to inform people. How many of us have attended community consultation? Basically, it is a bunch of posters and somebody speaking for a while. They may take a question or two and say that they have consulted: "Everybody's here; they're happy." The IAP2's promise to the public is "We will keep you informed." The second step of the spectrum is "Consult", which states —

> To obtain public feedback on analysis, alternatives and/or decisions.

At that point, the promise to the public is defined as —

> We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.

There is a chance here for a little bit of influence from the public. As long as they come along, provide feedback that is realistic, all they are promising is that they might make some changes to what they were going to do. The third step on the International Association for Public Participation's spectrum is to involve. That means —

> To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.

They are going to work with the public in tandem, or go back and forth, to find out some information. The corresponding promise to the public is —

> We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.

That is a great step. That is what I would say is the base of public participation. That is where we start—by involving them, working with them, giving feedback both ways, and making some changes according to what the public wants. Councils sometimes get to that step, but now I am asking for a little bit extra. The fourth step in this program is to collaborate, which means —

> To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.

The public has some representation here. The public is working to come up with the solutions that might be what the community wants. Collaborate with the public to get them working with us; bring back the democracy we were talking about so that people are working with the decision-makers, planners or developers to collaborate on a decision we can all agree with. Every now and again, this seems to get a little tick and we start getting to that point. I really appreciate seeing that. At this point, the promise to the public is described as —

> We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.

That is saying, "We believe that our community can come up with some strategic thinking to bring us forward." Again, some councils try to get to this step. I am unsure whether decisions are changed by public feedback, but some are looking to that and that is what I would like us to aim for—collaboration. As I have said in here, every now and then we see a little bit of collaboration, particularly with issues to do with COVID.

The final step on this public participation spectrum is to empower. Many of us in here would be scared of that because that is what we are here for. We are here representing; we are the ones who are going to make the final decisions. But we want to empower the public so that they feel empowered to speak up and be a part of those decisions. "Empower" is described as —

> To place final decision making in the hands of the public.

At that point, the promise to the public is, "We will implement what you decide". Now, I do not expect us to get to that, but around the world, that is where some places are going—they have these community representative bodies to go alongside their Parliaments to come up with solutions. When we empower the public to be able to do that, they come up with solutions from well-facilitated discussions and deliberations. We get answers and solutions that the public can stand by and say, "Yes, we agreed to that. We decided that that's what we want."

To return to third party appeals: best of luck. We are still holding out for it. It means that people have to go through whatever channels they possibly can to try to fight some of these things, whether it is through protests, petitions and sometimes court challenges over small things like six parking spaces instead of five. That really makes it petty, and I think draws out the process further. We could actually do this more easily if we looked immediately into third party appeals to give the public its voice and to find out who these decisions are being made for.

HON DR STEVE THOMAS (South West) [2.51 pm]: Thank you, Madam Acting President, for the opportunity to make a few comments on the motion before the house. Listening to the debate today, I think we have jumped from one end of the spectrum to the other—from pro-development activity to the old communist utopia, where all people make the decisions all the time. There is a reason the communist utopia does not exist in the world today—that is, it does not work. That is not to say that the capitalist system is perfect, either, but there is a reason why communism has been an abject failure: by having everyone involved in a decision, we ultimately guarantee no decision. This is the horse put together by a committee syndrome, and of course —

Hon Charles Smith interjected.

Hon Dr STEVE THOMAS: We will come back to the alternatives in a bit.

This is a question about whether we have limited or unlimited third party appeal rights. I will briefly talk about the difference. With limited third party appeal rights, it has to be demonstrated that there is some form of impact before a decision can be appealed, particularly in the case of planning decisions, but it could also be any other decision. With unlimited third party appeal rights, anyone anywhere can put in an appeal. That is very attractive to lobby groups—particularly those lobby groups that want to oppose any development, anywhere, anytime. Unlimited third party appeal rights have been part of such groups' manifestoes forever. They are obviously immensely dangerous, but to some degree so also are limited third party appeal rights, because it then has to be decided who is directly impacted, and that becomes the problem. If a development occurs and a third party's view is changed, are they directly impacted?

Having been a shadow planning minister many, many years ago, when Hon Tjorn Sibma was still a very young man, I never saw a situation in which a group of people looked at a planning proposal and thought, "What a great idea; we'll all get behind it." There are a number of reasons why one might think that communities would get behind planning proposals, and usually the first reason is economic. The problem with the communist utopia is that it is predicated on zero population growth. I know that is an issue that Hon Charles Smith is actually quite fond of, but the problem with zero population growth is that we have this enormous industry in Western Australia and across the nation called the construction industry. It is one of the biggest employers in Australia. That is why we currently have programs of money being thrown at it by both state and federal governments to try to keep it going through the COVID-19 crisis. If people do their numbers right, they can get a free handout of between $60 000 and $70 000, in order to effectively support the construction industry. That is not inconsiderable. But if we are going to have a construction industry, we actually have to build stuff, and if we are going to build stuff, we have to put it somewhere. The problem is that if we have to put it somewhere, I have never heard a community say, "Let's construct something here". I would be interested to see how many members of this house have been approached by a community saying, "Let's put some more houses in here; we think that's a really good idea." Occasionally there might be the odd person coming forward, particularly a shopkeeper or someone who might benefit, or someone who wants employment for their children, but it is incredibly rare; I have never seen it. We can almost guarantee that for any proposal that is presented, there will be an opposition group.

There is the old truism that a developer is someone who wants to build a house in a location and a conservationist is someone who built their house in that location last year. Although that might sound a bit facetious, it is actually true. The simple fact is that the economy has to progress a bit, and the government is required to provide services on occasion. I have also been shadow environment minister, as Hon Tjorn Sibma now is—again, probably when he was in high school! Having worked as shadow environment minister over a couple of decades, I have never yet seen any local community embrace a rubbish tip anywhere near their location, yet local governments are forced to put them somewhere; otherwise, we will simply fill up with rubbish and drown in waste. We have to put sewage recycling works somewhere, but I have never yet heard someone say, "I think it's a good idea if you put it near me."

When developments are put forward, I occasionally hear someone say, "Well, I don't really mind", and that is fantastic, particularly in areas upon which there might be some impact, whether it be from a noxious or slightly noxious industry or something as simple as an extractive industry. If there is an existing residence near a quarry of some sort, we can be pretty certain that everyone will be up in arms because there will be more trucks on the road than there were previously in the communist utopia as proposed in this motion and expounded by the Greens.

I absolutely respect the Greens. As in many cases, they are opposed to the mining industry and they are not embarrassed by that. They are very forthright in their position, and I appreciate that. They are supporters of the communist utopia, and they are not ashamed of that one iota, and it is refreshing to see in this house. But at some point, sensible government has to allow for an economy to continue and, just possibly, develop. We cannot do construction, development and expansion with a zero population growth position. I do not hear too many people talking about zero population growth when they are talking about getting jobs for the future, jobs for their children and supporting their local communities.

Most of our debate on the COVID economy is about trying to boost our economy. That is why we have additional money going into boosting a number of sectors, none more so than the construction sector. We have to have a place for construction and we have to have a planning process in place that allows it to proceed. I can guarantee that if we bring in third party appeal rights, we will have no option but to slow the process, because we will simply be allowing those people who do not want to be impinged upon in any way, shape or form an additional avenue to try to prevent that activity from happening.

I accept that that is potentially the Greens' position. I suspect that the Greens would be happy with zero growth and no more development, only replacement. That may well be the case, and I honestly think they would promote that, but it would mean slashing jobs in the construction sector. There would be no more apprenticeships for brickies, carpenters and other trades. We will not need as many electricians and plumbers. The Minister for Education and Training's TAFE budget would be right down and she would be back in profit, doing very well, because she would not have too many people through. That might be good from the communist utopia position of the Greens. I heard the previous speaker talk about some agreement between the Labor Party and the Liberal Party on some of these economic principles. Unfortunately, I was out of the house on urgent parliamentary business when the minister gave the official government reply, but, I imagine, being a sensible minister, he would have said that the government of the day has to take a pragmatic approach to economic development. I am sure that Hon Tjorn Sibma in his official response on behalf of the opposition would have said exactly the same thing. That is exactly what we need to do. We need to provide a pragmatic approach. If we applied third party appeal rights, we would significantly impact our capacity to deliver that.

Of course, the next step from third party appeal rights is generally a whole new litigation procedure. Those people who are generally in favour of third party appeal rights are often also in favour of an additional court. There is a Greens bill on the notice paper that will probably never be debated. Debate on that bill will probably quietly precede the debate on ending the forest industry and providing human rights for ecological entities, none of which will see the light of day in this Parliament or I suspect in any Parliament going forward. But it is close to election time, Madam Acting President, so these things tend to arise. The next step would be an environment court in which anybody who is aggrieved by a decision of government could tie up any proposal for any particular number of years. This comes back to that significantly problematic issue of who is impacted. If an environment court existed, the environment would become paramount and perhaps be given its own legal standing and, in fact, its own human entity, and that would mean that any proposal, anywhere, would suddenly come under its purview. That would be just one way of hamstringing development.

I am not a believer in infinite economic growth or infinite population growth. Infinite unyielding economic growth is a furphy; it will inevitably come back and there will inevitably be a correction. Australia has had an enormously interesting and fantastic run of economic growth for nearly 30 years. That is to the credit of a number of Prime Ministers and both sides of politics, from the Hawke and Keating era—a pseudo-Liberal government—to the Howard era, perhaps the ultimate Liberal government, and then its current iteration. But the economic growth experienced, and all those people—giants of their time and in their field—set up an economy to deliver a fantastic economic outcome for Australia. But it will not and it cannot last forever. At some point it will correct. We cannot have unlimited economic growth forever. There must be a correction. There must be stabilisation. Long-term economic growth forever means minuscule economic growth, so it has to be averaged out over a long time. We are human beings; we are not so sensible that we would simply consume and develop at a sensible standardised, long-term rate. No system of government, communist or capitalist, has been able to manage that outcome, so it is not going to occur. In our lives, our planning system will always be in a boom-and-bust industry—the industry of human beings. But it is absolutely the case that we must allow planning to occur and government to govern.

I must say that I find it a little tiresome when people with experience in Parliament suggest that we could try to prevent government from governing. We have to govern. We go to an election every four years and someone wins and someone loses; someone has to take responsibility. The ultimate aim of these sorts of debates and this sort of legislation is to take responsibility away from the government of the day. I think that that is an immensely dangerous position to take on behalf of the Parliament of Western Australia. I would rather come in here and hold the government to account, as I think the opposition does frequently in this house, and, ultimately, take that position to an election every four years so that the people have the option to agree with the government or agree with the opposition.

I will never support hamstringing government to the point of immobility, on the basis that it hits a populist response and gains a few votes leading into an election. I hope members of the house take the same position.

HON CHARLES SMITH (East Metropolitan) [3.05 pm] — in reply: I want to quickly make a brief point about the comments of the last speaker, Hon Dr Steve Thomas. He seems to be confused about how communists plan their cities. There are no third party appeals in communist Russia or communist China. There are appeals only in liberal democracies.

It has been very interesting to hear the points of view from the major political parties in particular. It is good to know that they put people last and the corporate sector first. That is where the battlelines are increasingly being drawn in the community. We need to understand that that is what is happening at the grassroots level. If members do not understand that, they are woefully out of touch. Let us get one thing straight: I am not opposed to development or developers. I support sustainable development. What I do oppose is the population Ponzi scheme, which is the only policy that this country and this state are pursuing, whereby we build cities and stuff them with new migrants. That is all we do. That is unsustainable and leads to boom and bust. If members support that, they are on the wrong track.

I would like to thank all those who made a contribution. It has been enlightening to hear what people have had to say.

Division

Question put and a division taken, the Acting President (Hon Adele Farina) casting her vote with the noes, with the following result —

Ayes (6)

Hon Robin Chapple	Hon Diane Evers	Hon Alison Xamon
Hon Tim Clifford	Hon Aaron Stonehouse	Hon Charles Smith *(Teller)*

Noes (24)

Hon Martin Aldridge	Hon Stephen Dawson	Hon Colin Holt	Hon Robin Scott
Hon Ken Baston	Hon Colin de Grussa	Hon Alannah MacTiernan	Hon Tjorn Sibma
Hon Jacqui Boydell	Hon Sue Ellery	Hon Rick Mazza	Hon Matthew Swinbourn
Hon Jim Chown	Hon Donna Faragher	Hon Simon O'Brien	Hon Dr Steve Thomas
Hon Alanna Clohesy	Hon Adele Farina	Hon Martin Pritchard	Hon Darren West
Hon Peter Collier	Hon Laurie Graham	Hon Samantha Rowe	Hon Pierre Yang *(Teller)*

Question thus negatived.

COMMITTEE REPORTS — CONSIDERATION

Committee

The Deputy Chair of Committees (Hon Adele Farina) in the chair.

Standing Committee on Estimates and Financial Operations — Seventy-eighth Report — "2019–20 Budget Cycle — Part 1: Estimates Hearings and Related Matters" — Motion

Resumed from 19 August on the following motion moved by Hon Stephen Dawson (Minister for Environment) —

That the report be noted.

Hon SAMANTHA ROWE: I know this debate has only six minutes or so to go but I will make some brief comments on the seventy-eighth report by the Standing Committee on Estimates and Financial Operations.

Hon Simon O'Brien: Good! We are looking forward to hearing it!

Hon SAMANTHA ROWE: That is good! Estimates is very important, member. It is about the accountability and transparency of the government.

Hon Simon O'Brien: Ah, a new concept for your colleagues, is it?

Hon SAMANTHA ROWE: No! We are very proud of our record on accountability and transparency. Like other members in this place who are free to stand and talk on any committee report they wish, I am going to say some words on the seventy-eighth report.

Several members interjected.

The DEPUTY CHAIR: Order, members!

Hon Simon O'Brien: How do you get on the roster?

Hon SAMANTHA ROWE: The member can stand and speak on whatever he likes and I am sure he will, but I intend to make some comments —

Several members interjected.

The DEPUTY CHAIR: Order, members!

Hon SAMANTHA ROWE: Thank you, Madam Deputy Chair.

I intend to make some comments about the importance of estimates. Everyone here would agree that the Standing Committee on Estimates and Financial Operations is one of the most important committees that we have and that is primarily because it holds the government to account and makes sure that the government is transparent in the way that it uses the funds to run the state.

Accountability and transparency are fundamental to good government and they are two of the most cornerstone values of an open, democratic society. We know that the major function of the Legislative Council, the house of review, is the scrutiny of the estimates of expenditure and the financial operations of government. It is one of the important roles that ensures that current governments in every state are kept accountable in the financial administration of the state.

The seventy-eighth report concludes the committee's consideration of the estimates of expenditure that were laid before the Council on 9 May last year. As part of its consideration, the committee heard from 11 agencies and the responsible minister or the minister representing in the Legislative Council. A list of those agencies that came before the estimates hearings are in appendix 1 of the report, as are the topics raised during that process.

In this report the committee also investigated the special purpose accounts as a key theme and it made a number of findings and recommendations. The committee, as it quite rightly should be able to do, has the ability to initiate investigations in past, current or future aspects of financial administration of the state. Therefore, for this report, one of those key themes was the special purpose accounts. The report found that most departments are reconciling the special purpose accounts at least monthly, and the purpose of auditing the SPAs is to ensure that the governance agreements or the controls, if you like, are fit for purpose and the financial data is accurate.

The committee members found that this estimates process was sound. They were happy with how estimates ran, and that is really important. We want to make sure that members of Parliament and the estimates committee are able to scrutinise government ministers, government departments and ask the questions they need to ask to make sure we get the level of detail required to make sure governments are accountable and transparent. It is good to read in this report that the committee found it was able to do that. That makes me feel confident in the estimates process.

Sometimes we forget to thank the members of this committee for the valuable work that they do on estimates. I know that it is a huge amount of work but they are chaired by my good friend Hon Alanna Clohesy and they have a good cross-section of members on that committee, including the deputy chair, Hon Tjorn Sibma, and others. The committee members have done an outstanding job with the seventy-eighth report. The committee members play an important role in making sure that we hold our estimates hearings each year; we hold the government to account; and we make sure there is adequate transparency. I certainly look forward to estimates this year.

Hon PIERRE YANG: I also just want to make a very short —

The CHAIR: Indeed, the member has! Unfortunately, members, our consideration of that matter must now be interrupted by temporary order 4.

Consideration of report postponed, pursuant to standing orders.

Standing Committee on Estimates and Financial Operations — Eightieth Report — "2018–19 Budget Cycle — Part 2: Annual Report Hearings" — Motion

Resumed from 19 August on the following motion moved by Hon Alanna Clohesy (Parliamentary Secretary) —

That the report be noted.

Hon ALANNA CLOHESY: This is a nice segue from my colleague's previous contribution on the seventy-eighth report of the Standing Committee on Estimates and Financial Operations in which the committee investigated special purpose accounts as they related to agencies. In the eightieth report that I am speaking on, the committee investigated special purpose accounts as they are established as Treasurers' special purpose accounts. Before I launch into that, let me say that both are very good reports and I might recommend to members that the eighty-second report is an excellent report as well.

Hon Colin Tincknell interjected.

Hon ALANNA CLOHESY: I am glad the member endorsed that comment.

The CHAIR: Order! The honourable member knows that he should not interject at any time, but certainly not when he is out of his place.

Hon ALANNA CLOHESY: As part of the annual report hearings last year, the committee took its own theme to investigate special purpose accounts. The committee can establish its own theme and investigations as part of the ordinary hearings of the budget cycle—that is, the budget estimates or the annual report hearings. The committee took a decision to investigate special purpose accounts overall. In the budget estimates hearings, the committee investigated agency special purpose accounts, and in the annual report hearings, it investigated the Treasurer's special purpose accounts. Many members might think that that is a pretty dry argument and ask why on earth the committee would investigate special purpose accounts.

The CHAIR: The question is that the report be noted.

Hon AARON STONEHOUSE: Mr Chair.

Hon ALANNA CLOHESY: Mr Chair.

The CHAIR: If other members seek the call, I must of course give them the call, but I note that Hon Alanna Clohesy wishes to speak again. I give the call to Hon Aaron Stonehouse.

Consideration Postponed

Hon AARON STONEHOUSE: Thank you, Mr Chair. I move —

That further consideration of the report be postponed until the next sitting of the house.

Point of Order

Hon SUE ELLERY: I just seek your guidance, Mr Chair. If someone has indicated that they want to speak, how do the standing orders assist us? I can understand the member moving that motion if nobody else wanted to speak or if he knew that someone who is not here wanted to speak, but if someone who is in the chamber wants to speak, do the standing orders assist us in any way?

The CHAIR: This does arise from time and time and people are disappointed if members move in a way contrary to what they would like to see happen. The remedy is for members who wish to continue on this item to vote accordingly. Whether their view or the mover's view prevails, of course, is a matter for the Committee of the Whole.

Committee Resumed

Question put and passed.

Select Committee on Personal Choice and Community Safety — Final Report — "Community Safety: For the Greater Good, but at What Cost?"

Resumed from 12 May.

Motion

Hon AARON STONEHOUSE: I move —

That the report be noted.

I am delighted to have an opportunity to speak on the select committee report. I have been eagerly awaiting this opportunity. I have been watching the notice paper as committee reports slowly fell away, anticipating when I would have an opportunity to actually speak on this report. In fact, I was a little concerned that we might not have a chance to consider this committee report during this Parliament, which would have been a travesty, because the members of the select committee worked very hard for more than a year to produce this report. A lot of thought and effort went into it.

Hon Alison Xamon interjected.

Hon AARON STONEHOUSE: It is worth noting, of course, that the Parliament did vote for and request that this committee be established and that this inquiry be undertaken and this report produced.

I am quite proud of some of the recommendations and the findings that came out of this report. From the outset, I know that some people will perhaps think that some of the topics covered in this report are trivial and do not warrant a parliamentary report, but I would like to draw members' attention to the last two chapters, which I think took a rather mature, measured and balanced approach to questions around legislative and regulatory scrutiny, and the balance between overbearing paternalism and personal responsibility. The report really tries to get to the heart of questions around when it is appropriate for the government to step into somebody's personal life and make decisions on their behalf or to coerce them or restrict their choices for their own good and their own safety. I refer members to chapters 6 and 7, where some very useful findings and recommendations were made. I point members of the Committee of the Whole House to paragraph 6.34, which deals with the Nuffield Council on Bioethics' view of stewardship. The committee looked at the Nuffield ladder of intervention, which is a tool used primarily for health policy, but I think it is possible to apply it to other areas of regulation. That is what the committee did in this case—it looked at the ladder of escalation of intervention when it comes to regulation.

I refer members to the ladder of intervention detailed on page 99 of the report, which outlines the various options available to agencies and regulators when it comes to changing people's behaviour. It starts at the bottom of the ladder with —

Do nothing or simply monitor the current situation.

That is kind of a radical idea. When we think about the problems in society and the silly mistakes that people tend to make, quite often there is an impulse to have the government step in and solve the problem. It is interesting that there might actually be a possibility that the government can do nothing in some cases—that it might be most appropriate for a government to do nothing. The ladder goes up. The next recommended option is —

Provide information. Inform and educate the public, for example as part of campaigns to encourage people to walk more or eat five portions of fruit and vegetables per day.

Again, that is a rather radical suggestion for some agencies, whose initial impulse is to control, coerce, prohibit, fine or ban. The idea that we might provide members of the public with information and the ability to make their own decisions is rather radical today. In fact, it is rather relevant to a bill that we will perhaps debate in coming weeks—the Ticket Scalping Bill. The government had various options available to it, starting, of course, with doing nothing. The evidence that I have seen around ticket scalping suggests that there is not really a problem. There are fraudulent sales from time to time, but there is nothing to really warrant the government inserting itself into that area. The government had multiple options available to it. The preferred option of the commonwealth Treasury department was to provide consumers with information—to equip consumers with the tools they need to make informed decisions about buying second-hand tickets or tickets from third party sources. The state government could have gone down that route or down the route of banning and putting in place price caps, fines and penalties. Of course, it went down the route of applying fines and penalties. It seems that rather than trying to inform the public about the risks associated with buying tickets from third party sources, the government has gone a few steps ahead of itself and adopted a policy of fines, penalties and coercion.

The ladder of intervention goes up through various options of varying degrees of paternalism, until it arrives at the final rung of the ladder, which is the elimination of choice. It states —

> Regulate in such a way as to entirely eliminate choice, for example through compulsory isolation of patients with infectious diseases.

That is the final rung on the ladder; that is the most severe intervention that the government can take. The ladder of intervention is interesting. Recommendation 12 of the committee report is —

> Government agencies have regard to the Nuffield Council on Bioethics' intervention ladder when developing policies and regulation.

That is a very sound recommendation, if I do say so myself. The government provided a response to recommendation 12, which was that it noted it, and —

> Government agencies as a matter of course apply principles of proportionality in developing policies and regulation as they relate to public health.

I remain a little sceptical about that. I am not so sure that agencies do because I have not found anywhere that such principles are articulated. That was something that the committee noted. The committee spent some time looking at the regulatory principles that New Zealand applies, and New South Wales has some similar regulatory principles. The New Zealand principles are referred to as New Zealand's Regulatory Stewardship, which exist under the State Sector Act 1988, which requires a government department to exercise stewardship of the legislation it administers. There is a list of expectations that New Zealand applies and the New Zealand government believes —

> … that durable outcomes of real value to New Zealanders are more likely when a regulatory system:
>
> - has clear objectives
> - seeks to achieve those objectives in a least cost way, and with the least adverse impact on market competition, property rights, and individual autonomy and responsibility
> - is flexible enough to allow regulators to adapt their regulatory approach to the attitudes and needs of different regulated parties, and to allow those parties to adopt efficient or innovative approaches to meeting their regulatory obligations
> - has processes that produce predictable and consistent outcomes for regulated parties across time and place
> - is proportionate, fair and equitable in the way it treats regulated parties
> - is consistent with relevant international standards and practices to maximise the benefits from trade and from cross border flows of people, capital and ideas …
> - is well-aligned with existing requirements in related or supporting regulatory systems through minimising unintended gaps or overlaps and inconsistent or duplicative requirements
> - conforms to established legal and constitutional principles and supports compliance with New Zealand's international and Treaty of Waitangi obligations
> - sets out legal obligations and regulator expectations and practices in ways that are easy to find, easy to navigate, and clear and easy to understand, and
> - has scope to evolve in response to changing circumstances or new information on the regulatory system's performance.

Those are rather sensible regulatory principles. In fact, I draw members' attention to the point that the regulatory systems should be proportionate, fair and equitable in the way regulated parties are treated. It is interesting to note that although New Zealand has those principles, Western Australia does not. It does not have a statutory set of regulatory principles or even as a policy document a set of regulatory principles.

Hon PIERRE YANG: It is a great pleasure to make a few remarks on this report. As members know, Hon Aaron Stonehouse and I were elected in the same election in 2017 and we have the privilege of representing the good people of the South Metropolitan Region. Obviously, Hon Aaron Stonehouse is the leader of the Liberal Democrats in this place and is well known for his firm, staunch beliefs in libertarian ideals. When I have previously talked about them, I have commended him for standing up for his beliefs.

In 2018, I was made aware that Hon Aaron Stonehouse was going to move a motion to establish a select committee to look into a range of issues that may affect the freedom and liberty of the people of Western Australia. I was immediately interested in finding out more. Later, as we know, I was able to participate as a member of the Select Committee on Personal Choice and Community Safety. I have to say that that was the first select committee that I participated in. At the time, a number of new members were appointed as members of select committees. I was very interested in finding out what the processes involved in a select committee were like and how different they were —

A member interjected.

Hon PIERRE YANG: Honourable member, this is a very serious issue. He is a funny man, and I really love his humour, but this is a very important issue.

I am sorry, Mr Chair, I was on the topic of my interest in participating in this select committee. I was very lucky to be appointed by the Parliament to participate in this committee.

The committee was formed on a motion of Hon Aaron Stonehouse with Hon Dr Sally Talbot as deputy chair, who is away on urgent parliamentary business, now; Hon Dr Steve Thomas; Hon Rick Mazza, who is also on urgent parliamentary business with Hon Dr Steve Thomas; and me. The committee was ably supported by advisory officers Ms Denise Wong and Ms Irina Lobeto-Ortega and David Graham as the committee clerk. We worked together over the next 20 months during numerous hearings and deliberated and produced this report.

I refer to the back of the report and the terms of reference for the work of this important committee. The committee was appointed by this house on 29 August 2018. The terms of reference state —

> The Select Committee is to inquire into and report on the economic and social impact of measures introduced in Western Australia to restrict personal choice 'for the individual's own good', with particular reference to —
>
> (1) risk-reduction products such as e-cigarettes, e-liquids and heat-not-burn tobacco products, including any impact on the wellbeing, enjoyment and finances of users and non-users;
>
> (2) outdoor recreation such as cycling and aquatic leisure, including any impact on the wellbeing, enjoyment and finances of users and non-users; and
>
> (3) any other measures introduced to restrict personal choice for individuals as a means of preventing harm to themselves.
>
> The Select Committee is to report by no later than 12 months after the Committee has been established.

The last part on the back page of the report states —

> By order of the Legislative Council on Wednesday 29 August 2018, membership of the Select Committee on Personal Choice and Community Safety shall be:
>
> – Hon Aaron Stonehouse (Chair)
> – Hon Dr Sally Talbot (Deputy Chair)
> – Hon Dr Steve Thomas
> – Hon Rick Mazza
> – Hon Pierre Yang.

I think it was the first time there were two members of a select committee with the title of doctor. As we know, doctors can bring unique insight to a committee's inquiry.

Several members interjected.

The DEPUTY CHAIR (Hon Matthew Swinbourn): Members!

A member interjected.

The DEPUTY CHAIR: Order, member! I am speaking and I would appreciate you respecting the Chair. Members, you may not appreciate the contribution of Hon Pierre Yang, but he has every right to give it and it should be given in silence, apart from the honourable member who has the call.

Hon PIERRE YANG: Thank you, Mr Deputy Chair. I must say that I could not hear the conversation across the floor.

The DEPUTY CHAIR: Just ignore it, honourable member, and continue your contribution.

Hon PIERRE YANG: I shall. Even if I wanted to hear it, I sometimes find it hard. I spent 10 years in the Australian Army Reserve and on many weekends throughout the year we had military exercises in which I fired

ammunition—blank ammunition, obviously. Sometimes, I find it is pretty difficult to hear background noise. I think Hon Peter Collier is having another conversation, but that is okay. I shall move on to my contribution on the report and the aspects we looked into.

The committee looked at a number of issues, which Hon Aaron Stonehouse touched on. I will say that I think they were all important issues for the committee to look at. Not for one second was I of the view that any of them were trivial; none of them were. They were selected based on community feedback. We advertised that the committee was seeking public submissions and the issues contained in the report were based on the community's submissions and views. The first was mandatory bicycle helmet laws; the second was e-cigarettes; the third was vehicle modification in Western Australia; the fourth was safety in water; and the other issue was the assessment and scrutiny of regulatory reform, which was touched on by Hon Aaron Stonehouse during his contribution today.

The committee made a total of 26 findings and 14 recommendations. I am very much looking forward to having another opportunity either today or on Wednesday next week to continue my contribution because, as I said, this is the first time that I have been involved in a select committee. In the remaining 34 seconds that I have for my contribution, I want to give a shout-out to Hon Aaron Stonehouse. The way he chaired the committee was very impressive to me. As members would have seen, the way he conducted the public hearings was very fair and very efficient. I will continue on this because I have only two seconds left. Thank you very much.

Hon Nick Goiran interjected.

The DEPUTY CHAIR: Hon Nick Goiran, once again, I am speaking and you should not be. I am going to give the call to Hon Martin Pritchard, who I noted stood to seek the call at the same time as Hon Pierre Yang and Hon Aaron Stonehouse. Hon Aaron Stonehouse, I note that you have stood again. I will give you the call the next time.

Hon MARTIN PRITCHARD: I will just make some brief statements. I want to talk on this report in more detail, but today I will make some brief statements because I know that many people want to speak. I enjoy going to citizenship ceremonies. The part of the citizenship ceremony I enjoy the most is when people talk about not only their rights, but also their obligations. I want to talk a little about cycling helmets because I think that too often people are too interested in what their rights are—even if they are not rights—and not interested enough in the obligations that they have, both moral and legal.

Going back a few years to when I was growing up, most cars did not have seatbelts, so people would jump in a car and drive it. Today, people would think that that was ridiculous. It was only through bringing in regulations that the public's perception of wearing seatbelts was changed. I think this is exactly the same. Adults need to lead the way in setting an example for the young. People who are younger than myself would not even think about driving a car without putting on a seatbelt, unless they were a hoon. That is because generation after generation has realised the importance of the safety that provides to people. It might be all well and good to say to a hoon that they can drive without a seatbelt but, of course, the consequences of doing that can be quite catastrophic, not only for themselves, but also for their families and first responders. Wearing a bicycle helmet is similar. It adds to the safety of riding a bike and means that people are less likely to suffer injuries—particularly head injuries. It might be well and good for someone to say that they do not mind whether they hurt their head, that they are happy to ride a bicycle and that if they hurt themselves, that is their fault. If they are a father, that might impact upon their families and their children. There will also be an impact on first responders who have to attend an accident. It is all well and good for people to say that they have rights. In recent times, I have heard some ridiculous statements about what rights people have, such as that they have a right not to wear a mask even if they put other people at risk. If people live in a society, they have obligations. As a father, I see that one of those obligations is to make sure that my kids and I wear cycling helmets to contribute to an orderly and good society rather than worrying about my right to hurt myself if I wish to.

I am very pleased that the committee understood through its hearings that having to wear bicycle helmets is not the main reason that people do not ride bikes. I understand the committee's concern about trying to encourage an active community, which is a great objective, but that can happen in other ways, particularly through the improvement of cycling paths, which I believe this government is doing. I am glad that the government responded to the recommendation to have a trial on a place like Rottnest Island in the way it did, by saying that it was ridiculous to have a trial of that nature because it would prove nothing. I am very pleased with the government's response to that. People who wish to ride, particularly adults, should set an example. They should wear their helmets, do the right thing by their kids, and stop this nonsense of saying that they have a right to ride without a cycling helmet.

Hon AARON STONEHOUSE: When I first spoke on this report, I outlined New Zealand's regulatory principles. I was about to get to New South Wales' regulatory principles, which are a little simpler and shorter. I will read them out now. These are regulatory principles that New South Wales puts in place for any change to legislation, regulation or policy that will have a substantive effect on its population. The seven principles of better regulations, as they are called, are —

- Principle 1—The need for government action should be established. Government action should only occur where it is in the public interest, that is, where the benefits outweigh the costs.

That implies a cost–benefit analysis of any action the government takes —

- Principle 2—The objective of government action should be clear.

I think this is very important. Here in Western Australia we have acts of Parliament that have no stated objectives. It is important that government objectives are clear according to the better regulation principles of New South Wales. The next principle states —

- Principle 3—The impact of government action should be properly understood by considering the costs and benefits (using all available data) of a range of options, including non-regulatory options.

That comes back to the ladder of intervention that I mentioned earlier. The first option is, of course, to do nothing. They continue —

- Principle 4—Government action should be effective and proportional.
- Principle 5—Consultation with business and the community should inform regulatory development.

I know that a lot of us will say that that principle is applied by government, but it is certainly not the case in practice. Quite often, this Parliament deals with pieces of legislation and regulations on which no consultation has been undertaken. They are election promises or something that was agreed to at a party conference. Legislation is rushed in without any consultation. The next principles state —

- Principle 6—The simplification, repeal, reform, modernisation or consolidation of existing regulation should be considered.
- Principle 7—Regulation should be periodically reviewed, and if necessary reformed, to ensure its continued efficiency and effectiveness.

I am quite proud to be part of the fortieth Parliament in which we have insisted, as a Parliament, time and again, on review clauses—statutory reviews of pieces of legislation that pass this house of Parliament. It is very important that regulation is regularly reviewed, and that is a principle enshrined in New South Wales' "Better Regulation Principles".

It is worth noting that when the committee had public servants from Treasury in for hearings, Treasury advised the committee that it was looking closely at the operation of regulatory principles in other jurisdictions in order to inform the development of similar principles here in Western Australia. The committee was told by Treasury that Treasury was in the process of developing its own regulatory principles. That is fantastic. In fact, to somewhat aid Treasury's work, the committee made recommendation 13. It states —

> The Government develop regulatory principles which:
>
> (a) are based on international best practice
>
> (b) require the consideration of the potential adverse impact of regulation on personal choice and responsibility.

The committee was looking for regulatory principles based on best practice, and it gave the examples of New Zealand and New South Wales, but also regulatory principles that do not deal with just the economic impact of regulation, but also the impact on people's ability to live their lives freely outside an economic context—the ability of people to make their own choices. Recommendation 13 was based somewhat on the advice the committee received from Treasury that it was already in the process of developing some regulatory principles. That is very strange, because the government's response to recommendation 13 was out of step with the advice that the committee received from Treasury. The government's response to recommendation 13 was supported, which might sound good, but the explanation it gave was —

> When scrutinising legislation, fundamental legislative principles are always applied to ensure consideration is given to the potential adverse impact of the regulation on personal choice, whilst also balancing an agency's responsibility for community safety.

I do not think so; that is clearly not true. They are not. Time and again, we get pieces of legislation in this chamber in which no consideration is given to the impact on personal choice. No regulatory impact assessment has been gone through, or at least, if it has, the result of that regulatory impact assessment has not been made publicly available. Reference is made to fundamental legislative principles. If the government's response—perhaps someone from the government could clarify this for me—is that fundamental legislative principles are always applied by the Standing Committee on Legislation, that is not the case. Of course, the Standing Committee on Legislation really only conducts an inquiry into a piece of legislation when it is referred by the Legislative Council. The principles are not always applied. It may be internal policy for some agencies to apply fundamental legislative principles, but it is not codified. It is not enshrined anywhere. There is no statutory requirement. There is no cabinet requirement that proposals brought to government are subject to the application of fundamental legislative principles.

The committee looked into the matter of fundamental legislative principles. They are not in the standing orders of the Standing Committee on Legislation, as I am sure most members would be aware. The fundamental legislative principles are borrowed from the Queensland Parliament. They were developed by the Queensland Parliament and, through convention and tradition, they have been inherited by the Standing Committee on Legislation. They are fairly good principles, but not quite as comprehensive as the principles of New Zealand, and they do not touch on all the issues that the principles of New South Wales cover. However, they do cover some important things such as the requirement that the committee consider bills that make rights, liberties or obligations dependent on

administrative power only if the power is sufficiently defined and subject to appropriate review; that they are consistent with the principles of natural justice; and things such as they do not adversely affect rights and liberties or impose obligations retrospectively, among a slew of other principles that deal with the scrutiny of legislation. Those are helpful, but they are not enshrined in the standing orders and they are not statutory principles. They are very far away from anything resembling a bill of rights or a statement of rights, and that is good. I think that recognises, appropriately so, the parliamentary sovereignty that the Parliament of Western Australia enjoys. Ultimately, these principles may guide the scrutiny of legislation. They may be principles that agencies apply in the development of legislation, but, ultimately, the Parliament is sovereign and it can legislate within the powers granted to it under the Constitution, of course. The principles are not written down anywhere, so it is my view, and I think members reading the committee report may form the opinion that it was the opinion of the committee to some extent, that these fundamental legislative principles ought to be enshrined somewhere. It is not so much for the Parliament—Parliament does an adequate job of reviewing and scrutinising legislation through its various standing committees—but it is for agencies to have some kind of principles.

When it comes to parliamentary review, the committee made a couple of findings. Finding 25 states —

> When scrutinising legislation, fundamental legislative principles provide a point of reference that may aid in the consideration of matters of personal choice and community safety.

That gets right to the heart of the terms of reference of the inquiry. The committee went on to make finding 26, which states —

> Fundamental legislative principles are a useful tool for legislators when scrutinising legislation. However:
>
> (a) they are absent from the terms of reference of the Standing Committee on Legislation and the Standing Committee on Uniform Legislation and Statutes Review
>
> (b) only a selection of the principles are captured in the terms of reference of the Joint Standing Committee on Delegated Legislation.

The inquiry into personal choice and community safety made recommendation 14, which states —

> The Standing Committee on Procedure and Privileges inquire into amending the *Standing Orders of the Legislative Council* to include fundamental legislative principles in the terms of reference for the Standing Committee on Legislation, the Standing Committee on Uniform Legislation and Statutes Review and, where appropriate, the Joint Standing Committee on Delegated Legislation.

I think that is a rather sensible recommendation.

HON MARTIN PRITCHARD: There should be plenty of time. I want to make only a quick reference to e-cigarettes. Going through the issue of people's rights, I like to think back to when cigarettes were first invented and whether we would have believed that people had a right to smoke in public. If we knew then the devastation it would cause many people—not just the people who smoke, but also innocent bystanders—would we have made more regulations for smoking? The reason I compare the two is that e-cigarettes, as I understand it, are relatively new and unknown. I think the committee touched on that. I am an ex-smoker but I have never tried e-cigarettes. I am not speaking to the government response; I am just talking to my own concerns with regard to e-cigarettes. It would seem to me that any move to further deregulate and provide people with the ability to smoke e-cigarettes, such as making the actual pipes legal for sale in Western Australia, would only condone and encourage further use of e-cigarettes. I believe the committee debunked the myth that e-cigarettes may prove to be a less harmful alternative to tobacco cigarettes and that people may be able to lever off smoking by moving to e-cigarettes. I do not believe that. The hardest thing I ever did in my life was give up smoking, and I think that if people smoke e-cigarettes, they will not provide a substitute for tobacco cigarettes.

I am concerned about the situation in which people believe they have a right to smoke e-cigarettes. I have seen them in the streets, with the big plume of vapour coming off; it is obviously not smoke. I again think of the fact that when a person does that to their own body, they are taking a risk, but it is proven that the risk of smoking means that the community will pay the cost. If a person becomes ill, it will not be at their own cost, in many cases, but at the cost of the community. If e-cigarettes prove to have exactly the same sort of negative impacts on both the people who say that it is their right to smoke them and on the broader community, they will be banned from usage in the same public places and buildings as tobacco cigarettes are.

We need to move down this path very cautiously indeed. We should not take any steps to try to facilitate the smoking of e-cigarettes. Indeed, it would be wise at this juncture to again think of the community and people's obligations rather than their rights. Any steps the government can take to reduce the potential harm of e-cigarettes, particularly when it is relatively unknown how harmful they are to individuals and the community, would, I think, do the community a great favour.

It has taken a lot of money and work to reduce the trend of people smoking tobacco and young people taking up the smoking of tobacco, and that has only been through the responsible lead of governments and, indeed, people in the community giving it up and setting a good example for the younger generation. The committee has not made

too many recommendations with regard to the legalisation of e-cigarettes, although there is some encouragement down that path. Personally, I think it is a disgusting habit, as is smoking, and I think if people want to have those rights, they should not live in a community; they should go and live on an island somewhere.

Hon AARON STONEHOUSE: I was just talking about recommendation 14, which is that the Standing Committee on Procedure and Privileges inquire into the possibility of adopting fundamental legislative principles into the standing orders of the standing committees for legislation. I think that is rather a commonsense approach, and it would merely codify what it already does but also ensure some continuity and ensure that some of those fundamental legislative principles are somewhat set in stone and are applied by future committees. A lot of parliamentarians who come into this role are sensitive to concerns about people's rights and liberties. However, that is not always the case, so codifying certain principles in institutions like the Parliament and the standing committees would go a long way towards ensuring that parliamentarians who perhaps are not sensitive to concerns about rights and liberties can be somewhat guided in that direction. That is all I will say on that for the moment; I might resume comments on the scrutiny of legislation and regulation when we get an opportunity to consider this report later.

I would now like to touch on some of the recommendations on electronic nicotine delivery systems—vapes, or e-cigarettes, as they are commonly referred to—because some comments were made on that topic just now by Hon Martin Pritchard and it would be remiss of me if I did not touch on it somewhat in the time remaining. The honourable member was right: the committee did not go as far as to endorse electronic cigarettes as a substitute for smoking, but it made some rather balanced, moderate yet nevertheless important recommendations. I do not have time to go through all the findings now, but to summarise, the committee found that there are serious risks involved in the procurement of liquid nicotine through what is effectively a grey market. The committee heard that people who currently use e-cigarettes rely on an online grey market. They import this stuff from overseas; sometimes from China, sometimes from New Zealand. However, the quality of the product and the likelihood of it being free from contaminants depends upon where they import it from. The committee therefore recommended that the government look into putting in place some commonsense regulations to reduce the risk to consumers, particularly children. The committee heard evidence of cases in other jurisdictions in which children have got their hands on a bottle of liquid nicotine, which, in small doses, is relatively harmless, but in large doses, can be incredibly toxic. There have been cases of children getting hold of these containers, opening them and drinking the contents, not realising that it is dangerous, and there have actually been fatalities. That is in part because these containers of liquid nicotine are not subject to regulations providing that they should have child-safe locks and warning labels about the poisoning risk.

The committee recommended that the government consider adopting some commonsense and proportional regulations around the packaging of liquid nicotine. Recommendation 6 states —

> The relevant Acts be reviewed to examine the regulation of e-liquids, particularly those containing nicotine, including the imposition of child-safe packaging and labelling requirements.

The government's response to recommendation 6 was that it did not support it. Child-safe packaging and labelling requirements for a potentially dangerous substance was not supported. In its response, the government stated —

> At the Federal level appropriate infrastructure and a regulatory framework currently exist to carry out a range of assessment and monitoring activities to ensure that goods which make therapeutic claims are of an acceptable standard and that their use is well-supported by sound scientific evidence. The Government adopts the packaging and labelling requirements of the national Poisons Standard by reference. The Australian Government is well-positioned to regulate nicotine and e-liquids, including the most appropriate child-safety and labelling requirements.
>
> The WA Government will continue to monitor closely the determinations of Federal agencies.

That was rather disappointing to see. Clearly, the federal government is not doing its job in this space, evidenced by the fact that poisonings are happening. Because liquid nicotine is not imported as a therapeutic good, any regulation of it as a therapeutic good does not apply; it is completely pointless in this case.

The committee also made some recommendations on how people access this substance. Part of the problem is that they access it through a grey market, as I said; they are importing it from overseas. If a person has a prescription from a doctor, they can, through the personal importation scheme, import liquid nicotine. However, of course, the Australian Border Force may intercept that package. If a person can prove that they have a prescription, Border Force will let it come through, but if they cannot, it will typically confiscate and destroy it. However, not a lot of people realise that they are supposed to have a prescription; a lot of people just import it illegally. Therefore, the committee's recommendation was that the government consider informing consumers that if they want to import liquid nicotine, they need to get a prescription. They can legally import it, but people cannot be protected if they do it illegally. That was the committee's recommendation to the government. Recommendation 5 states —

> The Government investigate the safety and harm-reduction benefits of increasing awareness about the legal requirement to obtain a medical prescription before importing e-liquid or e-cigarettes containing nicotine under the Personal Importation Scheme.

The government's response was —

> **Not Supported**
>
> The Personal Importation Scheme is overseen by the Australian Therapeutic Goods Administration … and the Australian Border Force … At the Federal level, appropriate infrastructure and a regulatory framework currently exist to carry out a range of assessment and monitoring activities to ensure that goods which make therapeutic claims are of an acceptable standard and that their use is well-supported by sound scientific evidence.

Here is the real kicker —

> Awareness of the legal requirements of the Personal Importation Scheme, including the requirement to obtain a medical prescription, are matters for applicants, the TGA and the ABF.

People are exposing themselves to risk—the risk of poisoning, faulty devices and contamination. The committee asked the government to make sure that people know about the risks and that they are told about their legal obligation to obtain a prescription before they import liquid nicotine. The government's response was no, that is a problem for the TGA, for applicants and for the ABF. That is incredibly sad. We are talking about rights and responsibilities. The Western Australian government has a responsibility to ensure at least some level of safety for its residents. This is a problem that the Western Australian government and the Department of Health could address, but they have said, "No. That's the TGA's problem."

The DEPUTY CHAIR (Hon Matthew Swinbourn): The time for debate on committee reports has expired.

Consideration of report adjourned, pursuant to standing orders.

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

Sitting suspended from 4.13 to 4.30 pm

QUESTIONS WITHOUT NOTICE

KWINANA SMART FREEWAY — SAFETY CAMERAS

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

I have my two questions and another four today.

I refer to WA tender MRWA015519 for the installation of safety cameras on the smart freeway.

(1) When is it expected that the cameras will be installed?

(2) What is the expected cost of the contract?

(3) Will they remain in place on the smart freeway after the 12-month trial?

(4) Will they specifically be used to issue fines to motorists not complying with the speed and lane conditions after the trial is finished?

Hon STEPHEN DAWSON replied:

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

(1) The cameras will be installed late 2020–early 2021.

(2) It is $1 million.

(3)–(4) A review of the trial data will determine whether the cameras remain in place after the 12 months and their application.

NORTHLINK WA — VEHICLE DAMAGE

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

I refer to the minister's answer to question without notice 433 regarding the NorthLink WA project.

(1) Since 12 May 2020 has Main Roads or its contractors received any claims for compensation as a result of damage to vehicles in relation to the NorthLink project?

(2) If yes to (1), how many claims for compensation have been received and what was the reason for each claim?

(3) Have any claims been settled; and, if yes, how many claims have been settled, what is the total value of payments made and for what reason was each claim settled?

Hon STEPHEN DAWSON replied:

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

(1) Yes.

(2) There were 842 claims received on or after 12 May 2020. The reasons for claims included cracked windscreens, damaged lights and panel and paint damage resulting from loose aggregate—stone chips.

(3) Main Roads has settled 396 claims totalling $281 141 for reasons outlined in part (2). The cost of compensation is being carried by the lead contractor, CPB Contracting. There will be no cost to the taxpayer.

MINERALOGY ARBITRATION — STATE SOLICITOR'S ADVICE — BRIEFING NOTE

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

This question is asked on behalf of Hon Michael Mischin, who is on urgent parliamentary business.

I refer to the Premier's answers of 18 and 20 August 2020 responding to my questions about his informing the Legislative Assembly that the then responsible minister had been given advice to appeal the 2014 arbitration award in Mineralogy Pty Ltd and another versus the state of Western Australia.

(1) Having learnt of the legal advice and having it confirmed in a briefing note to him, marked by the State Solicitor "Privileged and Confidential", why did the Premier breach the convention "by which advice and documents provided to previous governments is not disclosed to incoming or future governments without the consent of the Leader of the Opposition" by —

  (a) volunteering in answer to a question from one of his backbenchers that legal advice had been given to a previous government to appeal; and

  (b) tabling the briefing note disclosing that legal advice had been given to a previous government to appeal?

(2) Why did the Premier breach the convention by not seeking or confirming the consent of the Leader of the Opposition before —

  (a) seeking the briefing note disclosing that advice;

  (b) volunteering the advice to his backbencher; and

  (c) tabling the briefing note disclosing that advice?

(3) If the Premier claims that by his stating what legal advice had been given to a previous government is not a breach of the convention, for the benefit of future Parliaments, governments and oppositions, explain in detail why not?

Hon SUE ELLERY replied:

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

(1)–(3) The Premier simply repeated information that was raised and interrogated by Hon Nick Goiran at a briefing, as outlined in his previous answers. If the honourable member or the Leader of the Opposition have an issue with this information being released, I suggest they take it up with Hon Nick Goiran.

PLANT AND ANIMAL PESTS — AUDITOR GENERAL'S REPORT

866. Hon PETER COLLIER to the Minister for Agriculture and Food:

This question is asked on behalf of Hon Dr Steve Thomas, who is on urgent parliamentary business.

I refer to the Auditor General's follow-up report entitled "Managing the Impact of Plant and Animal Pests: Follow-Up" of 31 August 2020, which identified that there are currently 56 declared pest species of plants and 30 declared pest species of animals.

(1) How many species of plants and animals were on the equivalent list of pest species when the government was elected in 2017?

(2) How many species of plants and animals have been removed from the equivalent list since the government was elected in 2017?

(3) Given that the minister's response to my question yesterday indicated her focus on exotic pests and diseases and apparent dismissal of the impact of endemic pests, has the minister and the government abandoned any real attempt to control existing pest species on Western Australian lands and waters?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

(1) A review of the declared pests was undertaken in 2016 with a focus on ensuring that species declared under the former act qualified for listing under the new Biosecurity and Agriculture Management Act. Any changes as a result of this review were implemented in late 2016–early 2017.

(2) Since the implementation of the 2016 declared pest review, the department has not delisted any pest under the BAM act. Several species have, however, been assessed for listing since 2017. These were either unlisted or their listing required review in light of new information. Since 2017, the department has declared at least 16 species to section 12, "Prohibited organisms", and at least 11 species to section 22(2) of the BAM act as declared pests. This has included feral cats and Amazon frogbit, highlighting the importance of these invasive species to the state in supporting government, industry and community action.

(3) The assumption of this question is without foundation. Although the member will be disappointed to hear that we will not be forming a hit squad to march on landowners in search of arum lilies, we have considerably increased our funding to the recognised biosecurity groups across the state to work with landowners to deal with these pests. We have also allocated $28.6 million towards wild dog control.

I will repeat: government resources are focused on protecting the state from the entry and establishment of new and establishing pests where the resources are more effectively and efficiently used. The control and management of widespread and established pests is the responsibility of landowners and is best controlled through a community-coordinated approach.

COVID-19 RESPONSE AND ECONOMIC RECOVERY OMNIBUS BILL 2020

867. Hon PETER COLLIER to the minister representing the Minister for Planning:

My question is asked on behalf of Hon Tjorn Sibma.

I seek some clarification on the government's intentions regarding the original part 7 of the COVID-19 Response and Economic Recovery Omnibus Bill 2020.

Does the minister stand by her position, quoted in *The West Australian* today, that "There are no current plans for the State Government to introduce this clause in a separate Bill"?

I note that this was asked on Tuesday, 18 August.

Hon STEPHEN DAWSON replied:

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

Yes.

WORK AND WANDER OUT YONDER CAMPAIGN

868. Hon PETER COLLIER to the Minister for Agriculture and Food:

My question without notice of which some notice is given is asked on behalf of Hon Jim Chown, who is on urgent parliamentary business.

(1) Were any focus groups used or modelling undertaken by the minister or the adverting agency prior to the launch of the Work and Wander Out Yonder advertising campaign?

(2) If yes to (1), what was the employment success rate indicated by the modelling?

(3) If focus groups were utilised prior to the campaign launch, what indication was received in regard to the campaign being successful?

(4) What is the cost of the campaign?

(5) What advertising agency is responsible for executing the campaign?

(6) How long is the campaign intended to run for?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

(1)–(3) The Work and Wander Out Yonder campaign was built on the success of the Wander Out Yonder campaign in Tourism. The independent analysis into the Wander Out Yonder campaign found it recorded the highest awareness and highest levels of people attributing taking action as a result of having seen that campaign of any domestic campaign done by Tourism WA since it began tracking three to four years ago. Based on these results and the natural fit for the young target audience, it was decided that the regional recruitment campaign would leverage on the success of the tourism campaign. Of course, timeliness was important to mobilise a workforce in time for harvest.

(4) The total budget for the Work and Wander Out Yonder campaign is $1.66 million.

(5) The Brand Agency.

(6) The campaign will run in three phases that will align with seasonal job opportunities between now and March 2021. It will be complemented, of course, by today's announcement of our accommodation and transport assistance package for agricultural businesses.

EXPLORATION INCENTIVE SCHEME

869. Hon JACQUI BOYDELL to the minister representing the Minister for Mines and Petroleum:

I refer to the co-funded drilling component of the exploration incentive scheme.

(1) For funding rounds from 2018 onwards, can the minister please list the split of funding available based on the scale and size of drilling operations?

(2) Within those category splits, how much funding was expended in each across the same funding rounds?

(3) Should funds in any category of co-funded drilling go unexpended, where in the Department of Mines, Industry Regulation and Safety budget are they allocated?

(4) On what date did the EIS commence being funded through mining tenement rent collected by DMIRS?

(5) Since that date, what is the total amount of mining tenement rent that DMIRS has collected from industry in WA?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. The following information has been provided by the Minister for Mines and Petroleum.

(1) Of the $10 million annual budget, $5 million is allocated to the co-funded drilling program. The scale and size of the drilling operations is determined solely by the exploration companies. However, co-funding is capped for a multi-hole drilling project at $150 000 and for a single deep hole at $200 000, for 50 per cent of direct drilling costs. Prospector applications are capped at $30 000.

(2) The aforementioned category splits have not changed since the inception of the EIS co-funding.

(3) If there is any underspend in co-funding, it is reallocated to other projects in the EIS, such as pre-competitive data acquisition.

(4) Mining tenement rents contribute to the funding of a range of services across government, including the EIS. However, when the former government was in office, it chose to fund the EIS through the royalties for regions program.

(5) The total was $247.9 million as at 7 September 2020.

CORONAVIRUS — SHEARING

870. Hon RICK MAZZA to the Minister for Agriculture and Food:

With COVID-19 restrictions putting a halt on skilled labour coming to Western Australia from interstate and overseas, Western Australia is facing a shortage of contract shearers for the imminent spring shearing season.

(1) Does the state government consider shearing to be an essential service?

(2) Is the minister aware that in addition to the financial impact for farming, the impacts on animal husbandry programs will create a looming animal welfare risk from sheep carrying wool during the flystrike season?

(3) What initiatives does the government have in place to ensure that a sufficient workforce is available for this season's wool clip?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

(1) Yes, the government does understand the importance of shearers to the wool industry. A letter from the director of livestock research and industry innovation at the Department of Primary Industries and Regional Development to the WA Shearing Industry Association has been widely circulated by industry for use in obtaining commonwealth approval for incoming shearers.

(2) I am aware of the consequences that a delay in shearing might have to the routine practices of operating a farm. I understand the grass seed and flystrike risks associated with late shearing. In the event that there is a delay in shearing, growers are encouraged to implement appropriate animal husbandry and farm management practices to reduce the risk of flystrike.

(3) The WA Shearing Industry Association has advised that the industry has banded together to communicate and manage the workforce as efficiently as possible to get through this shearing season. Some factors have reduced the shearing task this year, including an additional one million sheep crossing over into the eastern states, a falling wool price and water supply issues that may lead to a reduction of the sheep flock. In some areas, fleece weights are also lighter this season, making for easier shearing.

Of course, this is another example of the need to develop our own local skills. In the months prior to the COVID-19 pandemic, the government had run shearing programs with Australian Wool Innovation for Aboriginal people in Northampton and Brookton. I believe that quite a number of those people are now working successfully in shearing teams. We recently held a second Northampton program, and a further course will start in Wellstead next week. We are not suggesting that this will solve the problem immediately, but it shows us the need to try harder to skill our own people rather than relying on imported labour.

ANIMAL WELFARE — GREYHOUND RACING INDUSTRY

871. Hon ALISON XAMON to the minister representing the Minister for Racing and Gaming:

I refer to the answer to my question on notice 2886 on the distribution of TAB funds for animal welfare, and specifically greyhound welfare, and to the response that this will be handled through the minister's approval of Racing and Wagering Western Australia's strategic development plan. Can the minister please advise the criteria that will be used to approve or recommend changes to the strategic plan?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question. I note that this answer was provided on 8 September 2020, so it was current as of that date. The following information was provided on that date by the Minister for Racing and Gaming.

As the member is aware, given the uncertainty surrounding the impacts of COVID-19, all parties have agreed to re-engage in the TAB sale process at a later date, when the focus of government and the industry is not so heavily weighted towards the COVID-19 response. Therefore, RWWA is unable to incorporate any allocation of the sale funds in its upcoming strategic development plan. Furthermore, the allocation of funding for the industry is the responsibility of Racing and Wagering Western Australia and the board, as an independent statutory authority with the responsibility to foster the development of all three codes of racing.

The McGowan government has given higher priority to animal welfare across all codes of racing than any government in the state's history. Furthermore, RWWA, with the McGowan government's support, recently pursued several welfare initiatives across the three codes, including the greyhound welfare working group, the "Western Australian Racehorse Welfare Plan" and a further investment in the Greyhounds as Pets program. I expect that RWWA and the WA racing industry will continue to invest in and support these and other welfare initiatives in the future, as welfare is an important priority for the longevity of the industry and the wellbeing of animals participating in it.

CORONAVIRUS — ROAD MAP

872. Hon COLIN TINCKNELL to the Leader of the House representing the Premier:

Further to the answer to question without notice 850 asked yesterday, can the Premier please advise the following.

(1) What lockdowns, restrictions and/or curfews has the Chief Medical Officer advised should be implemented if Western Australia records a statewide daily average of five new COVID-19 cases over 14 days?

(2) If the CMO has not provided specific advice as to what would cause WA to go into lockdown, will the Premier seek it?

(3) Does the Premier think that this advice should be sought from the CMO in advance of a potential COVID-19 outbreak?

(4) If no to (3), at what point would the Premier think it is suitable to seek such advice?

(5) Is the Premier waiting to test the political wind at the time of a potential COVID-19 outbreak before revealing what advice the Chief Medical Officer has given?

The PRESIDENT: Minister, I think that last part of the question might have been seeking an opinion.

Hon Sue Ellery: Parts (3) and (4) are seeking an opinion.

The PRESIDENT: I made reference to that yesterday and told members to take note of that before putting in questions today.

Hon SUE ELLERY replied:

Thank you, Madam President. I thank the honourable member for some notice of the question.

(1) The Chief Health Officer has not provided specific advice on a suggested course of action based on the parameters outlined in the question.

(2) It is unclear what the honourable member means by the term "lockdown". This term has been used in other jurisdictions to mean different things. It is not a term that has been used in Western Australia.

(3)–(4) Under standing order 105(1)(b), questions in this place may not seek an opinion.

(5) The Premier rejects the premise of the question.

ROAD TRAFFIC AMENDMENT
(IMMOBILISATION, TOWING AND DETENTION OF VEHICLES) BILL 2020

873. Hon AARON STONEHOUSE to the minister representing the Minister for Transport:

I refer the minister to the regulatory impact assessment process, which I presume was undertaken in advance of the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020 being introduced.

(1) Was a decision regulatory impact statement completed in relation to this legislation?

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

(3) If yes to (1), will the minister please table the DRIS?

Hon STEPHEN DAWSON replied:

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

The Department of Transport has consulted with the Western Australian Local Government Association; specific local governments, such as the City of Stirling; security companies undertaking wheel-clamping activities; strata companies; the Western Australia Police Force; the Department of Local Government, Sport and Cultural Industries; the Department of Mines, Industry Regulation and Safety; and the Road Safety Commission.

The statement of intent "Vehicle Immobilisation and Vehicle Removal and Detention" was placed on the Department of Transport website on 25 May 2020 and circulated to relevant parties.

(1) No.

(2) The Department of Treasury's Better Regulation Unit advised that the initiative was excluded from regulatory impact assessment under "Exclusion Category 5: The Administration of Justice".

(3) Not applicable.

JOONDALUP DRIVE–WANNEROO ROAD INTERSECTION

874. Hon CHARLES SMITH to the minister representing the Minister for Planning:

I refer to the Joondalup Drive–Wanneroo Road flyover project.

(1) Was this project a "high-priority initiative" as classified by Infrastructure Australia?

(2) What was the justification for this project?

(3) Can the minister table the "projected levels of congestion" that she referred to in her June 2018 statement?

(4) Was any local business or community consultation performed?

(5) When was this project put out for public tender or were specific companies invited to tender?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. The following was provided to me by the Minister for Transport.

(1) No.

(2) The project was required to address increasing levels of congestion at a busy intersection and to improve access across our northern suburbs. It was highlighted as a priority project from the City of Wanneroo prior to the election and it was also an election commitment.

(3) Yes. I table the attached information.

[See paper 4179.]

(4) Yes.

(5) An expression of interest from industry was called in September 2017.

AGRICULTURE — PRIMED PROJECT

875. Hon DONNA FARAGHER to the Minister for Agriculture and Food:

I refer to the PRIMED project announced last year by the government.

(1) Has the government's investment of $5 million, or part thereof, been allocated to initiatives associated with the project; and, if so, will the minister provide a breakdown?

(2) Will the minister list the industry groups and/or organisations that have partnered with the government to support the delivery of the project?

(3) What level of investment has been received from the organisations referred to in (2)?

(4) Will the minister list the initiatives that have been delivered since May last year?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

(1) The $5.28 million comprises $2.32 million for full-time equivalent positions at the Department of Primary Industries and Regional Development to provide project management support and industry and technical advice for the project; education $1.41 million for FTEs to support curriculum teacher professional development, plus $640 000 for lead teacher professional learning program and resource development; training and workforce development, $794 000 for FTEs from the Muresk Institute to support the project steering committee and provide industry feedback and advice to inform the development of resources; $115 000 for agency operational expenses.

(2)–(3) The PRIMED initiative has looked to partner with industry to take this innovative project forward. Although discussions have been held with a number of industry organisations, mechanisms by which to provide financial support for the project are still being considering. In the meantime, significant elements of the project have been progressed.

(4) Initiatives that have been delivered since May last year include an MOU signed with the Primary Industries Education Foundation Australia to ensure that the development of new WA curriculum aligns with national initiatives; the development of steering and advisory committees representing industry, teachers and universities; a baseline study to assess the knowledge and understanding of primary industries by WA students; delivery of presentations and information at school career days across the state; provision of agriculture

and fisheries–related online curriculum resources; delivery of new primary industries curriculum to be available for years 7 to 8 teachers in 2021; and a collaborative pilot program with high schools and TAFE at DPIRD's Carnarvon Research Facility, expanding to similar collaborations with the local high schools, TAFEs and DPIRD's Dryland Research Institute at Merredin; and DPIRD'S Great Southern Agricultural Research Institute in Katanning.

BANKSIA ROAD WASTE FACILITY

876. Hon DIANE EVERS to the Minister for Environment:

I refer to the Cleanaway waste Banksia Road landfill site in Dardanup.

(1) Has the Department of Water and Environmental Regulation undertaken an audit or investigation of waste acceptance as part of its compliance and enforcement program in the last five years?

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

(3) Will the minister please table the report findings?

(4) Has DWER completed its investigation into two recent landfill fires at the site; and —

(a) if yes, will the minister please table the results; and

(b) if no, when is it likely to be completed?

Hon STEPHEN DAWSON replied:

I thank the member for some notice of the question.

(1) Yes.

(2) Not applicable.

(3) The Department of Water and Environmental Regulation is currently investigating waste acceptance at the Cleanaway waste facility in Dardanup. The investigation is ongoing.

(4) DWER's investigations into the landfill fires on 12 January 2020 and from 27 to 28 January have been completed. The cause of both fires was unable to be determined and no offences relating to the fires were established under environmental legislation.

KALGOORLIE QUARANTINE AND DECONTAMINATION FACILITY

877. Hon COLIN de GRUSSA to the Minister for Agriculture and Food:

I refer to the Kalgoorlie quarantine and decontamination facility.

(1) What food, ablution and ancillary services are provided by the state government at the facility to accommodate male and female truck drivers on site?

(2) If there are no facilities, therefore meaning truck drivers are required to seek alternative accommodation, would the Department of Primary Industries and Regional Development take legal responsibility for the welfare of the livestock in transit?

(3) Is the minister satisfied that staff employed at the facility have the suitable stock-handling accreditation and experience to undertake quarantine and decontamination activities, as well as manage the safety and welfare of livestock in their custody?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

(1) Male and female ablution services are available to truck drivers at the South Boulder quarantine yard. But, not surprisingly, there are no accommodation or food services at the facility, as the provision for accommodation and food for truck drivers is not part of departmental responsibility. However, DPIRD management has recently become aware that some truck drivers have been sleeping in the DPIRD staff administration block in the yards. Although we understand that that may have been an unofficial arrangement with local DPIRD employees, the department's management considers this is a health risk, especially during the COVID-19 pandemic. Therefore, that arrangement is no longer in place.

Many long-haul vehicles have built-in cab accommodation and the facility is close to the Boulder town site where other accommodation is available.

(2) The transporter is responsible for the welfare of livestock that they are transporting. Transporters should be arriving at the facilities during business hours when the livestock can be unloaded, inspected and reloaded after the truck has completed a wash down.

(3) I am advised that the acting senior quarantine inspector is an authorised officer under the Biosecurity and Agriculture Management Act 2007 and has undertaken training for handling stock animals.

DERBY SENIOR HIGH SCHOOL — CAPITAL WORKS

878. Hon ROBIN SCOTT to the Minister for Education and Training:

According to an ABC report two weeks ago, 63 schools across WA welcomed millions of dollars of capital works funding, yet Derby Senior High School missed out, while at the same time suffering from asbestos walls wobbling out of their frames and female students "holding on" because the toilet facilities are so poor.

(1) Would the minister accept these conditions if the school was in Perth?

(2) If not, why did Derby Senior High School miss out?

Hon SUE ELLERY replied:

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

(1)–(2) I note that he was referring to a media report. If he had followed up on subsequent media reports, including a radio interview I did with Broome ABC radio last week, he would have heard my response. Indeed, I think I responded to some comments in the Broome newspaper as well. I advised then, and I am happy to advise the member now, that on 29 June, a Department of Education officer and an architect went to Derby to scope out the upgrades that need to happen to that school. I gave a commitment that I would visit Derby, and I will visit Derby to see for myself what needs to be done in terms of infrastructure, I think the week after next. We will work our way through that issue.

WA FORCED MARRIAGE NETWORK

879. Hon NICK GOIRAN to the Leader of the House representing the Minister for Prevention of Family and Domestic Violence:

I refer to the report in *The West Australian* of Saturday, 5 September entitled "These are the kids being forced to wed".

(1) Is the minister aware of the WA Forced Marriage Network?

(2) If yes to (1), is the Department of Communities working together with this network to ensure that forced marriages are identified by frontline workers?

(3) What mandatory requirements are currently in place to report suspicions of forced marriages?

Hon SUE ELLERY replied:

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

(1) Yes.

(2) As reported in *The West Australian*, the Department of Communities is a member of the WA Forced Marriage Network. Those subject to the provisions of the Children and Communities Services Act 2004 have a mandatory requirement to report if there is a belief that sexual harm has occurred, including in the context of the forced marriage.

(3) There is no mandatory requirement for a forced marriage report to be made to the Department of Communities. Any suspicions of forced marriage should be made to the Australian Federal Police.

BROOME SCHOOLS — VIOLENT INCIDENTS

880. Hon KEN BASTON to the Minister for Education and Training:

I refer to the minister's commitment as broadcast on the ABC Kimberley on Monday, 7 September 2020 to meet with Broome school principals in mid-September to discuss the violent incidents occurring on and off school grounds. Will the minister also commit, during that visit to Broome, to meet with concerned parents and carers of children who have experienced those episodes of violence?

Hon SUE ELLERY replied:

I thank the honourable member.

I did not hear the first bit. I certainly will be visiting Broome as part of community cabinet. I was in Broome and attended an education forum at Broome Senior High School that included parents on parents and citizens associations and boards maybe two weeks ago. That issue, I have to say, was not raised there. I have seen something on Facebook that says, I think, that parents are going to send me emails to request a meeting. I will happily receive those emails and, if I am able to meet with them, I certainly will.

I will make this point, though, about the services for students who have been victims of those incidents of crime. The Department of Education has increased the number of resources available to the school to assist the victims, including by increasing the hours of the school psychologist. The Western Australia Police Force and the Department of Education are looking at appointing a third youth policing officer in Broome. That third officer is to specifically deal with any issues arising from that cohort of students. As I think that people need to understand it, I make the point that some of the perpetrators, if you like—one is a year 6 student, which is pretty shocking—are not students at Broome Senior High School. They are from outside Broome, and from other areas of the Kimberley. They should

be attending school wherever they are. I think people need to understand that it is a broader picture than a cohort of students at Broome Senior High School. This will require all agencies, families and support groups to work together. I also note that on Friday, police laid charges against five young girls who were caught up in the incident that happened on Reid Road in the middle of August. It is a work in progress.

In terms of support for students who have been a victim, I am comfortable so far with what I have been told about the support that the school is offering, but I would be interested to hear from parents whether they think that those extra resources are satisfactory. I am focusing the attention of the department and working with other agencies, particularly police, to stop it from happening in the first place.

WA COUNTRY HEALTH SERVICE — HOSPITAL EMERGENCY CODES

881. Hon COLIN HOLT to the parliamentary secretary representing the Minister for Health:

I refer to Legislative Council question on notice 2872 regarding code blacks in regional hospitals.

(1) What is the reason for the significant increase of 89 code blacks at Albany Health Campus from September 2019 to March 2020 compared with zero in the six months prior?

(2) What allocation of the "increased funding to stop hospital violence and aggression" was allocated to Albany Health Campus for security full-time equivalents and capital investment?

(3) What is the current security FTE at Albany Health Campus?

Hon ALANNA CLOHESY replied:

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

I am advised the WA Country Health Service is not able to provide the requested information in the time required and I therefore ask the honourable member to place this question on notice.

ABORIGINAL CULTURAL MATERIAL COMMITTEE — LAKE WELLS POTASH PROJECT

882. Hon ROBIN CHAPPLE to the minister representing the Minister for Aboriginal Affairs:

I refer to Environmental Protection Authority report 1688, which states that the Aboriginal Cultural Material Committee did not consider three sites that intersected the development of the Lake Wells potash project as being sites.

(1) On what date was this determination made by the ACMC?

(2) Were the knowledge holders who provided the information on these sites to the ACMC advised that they were not sites by the Department of Planning, Lands and Heritage; and, if so, on what date?

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

(4) Will the minister table the determination made by the ACMC about the three sites submitted for registration?

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

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. The following answer is provided on behalf of the Minister for Aboriginal Affairs.

(1) The ACMC considered the heritage places at its meeting on 9 May 2020 and determined that section 5 of the Aboriginal Heritage Act 1972 did not apply.

(2)–(3) The Department of Planning, Lands and Heritage has not formally written to the knowledge holders, but has advised the Central Desert Native Title Services verbally.

(4) Yes. I table the attached information.

[See paper 4180.]

(5) Not applicable.

CONTAINERS FOR CHANGE SCHEME

883. Hon MARTIN ALDRIDGE to the Minister for Environment:

I refer to the minister's media statement of 3 September 2020 entitled "Containers for Change refund points announced".

(1) How many locations in Western Australia as set out in the minimum network standards will not have a refund point on 1 October 2020?

(2) Can the minister please identify the locations that will not be operational on 1 October 2020?

(3) Is the minister aware that people near refund point locations in my electorate that will not be operational by 1 October 2020 will now face travel in excess of 100 kilometres in order to seek a refund from the scheme?

(4) Will the minister commit to a temporary solution that at a minimum will require the scheme operator to offer a bag-drop solution at these locations?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question and, indeed, I thank him for his support and interest in the containers for change scheme, which will start on 1 October.

(1) With more than 200 refund points scheduled to open on 1 October, the scheme coordinator, WA Return Recycle Renew Ltd, has exceeded the requirement to establish a collection network of at least 172 refund points by 1 October 2020 across nine regions.

(2) Specific locations are not set in the minimum network standard.

(3)–(4) In the honourable member's electorate, the minimum network standard by 1 October 2020 has been met. I am advised that six of the indicative locations of refund points expected by 1 October 2021 have not yet been recruited. They are Gingin, Kojonup, Lake Grace, Morawa, Mt Barker, and Northampton. WARRRL is actively engaging with local organisations, community groups and businesses in these locations to secure operators. WARRRL has active leads in all these towns that it will continue to pursue. WARRRL is also working with neighbouring refund point operators to provide an interim service, most likely as a mobile service, until refund points have been recruited.

PLANT AND ANIMAL PESTS — AUDITOR GENERAL'S REPORTS

Question without Notice 844 — Supplementary Information

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Agriculture and Food) [5.09 pm]: Yesterday, I undertook to provide Hon Dr Steve Thomas with some more information about his question without notice 844. I now have the information I committed to provide.

[See paper 4181.]

STATUTES (REPEALS AND MINOR AMENDMENTS) BILL 2020

Introduction and First Reading

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

Second Reading

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.10 pm]: I move —

That the bill be now read a second time.

This is an omnibus bill. It makes a range of repeals and minor amendments to a number of acts, all under the umbrella of a single bill. As members may be aware, bills of this nature are a routine part of legislative review and ensure that the state's statute book is regularly updated and streamlined.

Part 2 of the bill provides for the repeals of Western Australian acts and imperial enactments. Part 3 of the bill provides for the amendments. The amendments range from inserting missing words to correcting typographical, cross-referencing and formatting errors, and to account for updates to and repeals of other legislation. Redundant or lapsed provisions will also be removed or corrected by the passage of this bill. Detailed explanations of each of the amendments are set out in the explanatory memorandum accompanying this bill.

Pursuant to standing order 126(1), I confirm 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. No uniform schemes or uniform laws throughout the commonwealth are introduced through this bill.

In accordance with past practice, the bill will be referred to the Standing Committee on Uniform Legislation and Statutes Review in accordance with that committee's responsibility to scrutinise and review the statute book. I look forward to the committee's consideration of and report on this bill in due course.

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

[See paper 4182.]

Discharge of Order and Referral to Standing Committee on Uniform Legislation and Statutes Review — Motion

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.11 pm] — without notice: I move —

That the Statutes (Repeals and Minor Amendments) Bill 2020 be discharged and referred to the Standing Committee on Uniform Legislation and Statutes Review for consideration and report.

HON SIMON O'BRIEN (South Metropolitan) [5.12 pm]: This is a little bit unusual but very expedient. This is a referral without notice to the Standing Committee on Uniform Legislation and Statutes Review ahead of the second reading debate; is that correct?

The PRESIDENT: That is correct, but my understanding is that these types of bills have in the past been referred automatically to that committee for consideration and review.

Hon SIMON O'BRIEN: Thank you for that clarification.

Question put and passed.

ELECTORAL AMENDMENT BILL 2020

Second Reading

Resumed from 8 September.

HON SIMON O'BRIEN (South Metropolitan) [5.13 pm]: Over the years, this house has received for its contemplation all sorts of bills that are meritorious and hold out the promise of making a great contribution to the statute book of Western Australia for the benefit of the people of Western Australia. The bill before us today, the Electoral Amendment Bill 2020, ain't one of them—no siree! No, no! I am at a loss to understand initially what on earth the government is doing with this bill. It has taken a little bit of reflection and research to try to answer that question. Other members might have found it much the same, so I propose to all members in this place that we now accompany each other on an expedition to delve into what this bill is trying to do and why, and whether it should receive our support.

I commence by offering on behalf of the opposition our view that the bill does not merit support. Unlike the most optimistic curate's egg, it is not even good in parts. A decent bill brought before this house arrives here because there has been a process to develop it—a proper process of policy development involving consultation with interested parties. When it comes to an electoral amendment bill, the scope of those who are interested parties is very broad indeed. We will see in due course that the bill is deficient in that area. We will also look for the other things we expect in a bill, including that there is some policy reason why it needs to be introduced and why the measures contained therein need to be adopted and enshrined into legislation. We will search for some redeeming elements.

There is an expectation that a bill that is brought to this place will somehow contribute to our statute book in a way that benefits the people of Western Australia. There is an expectation that a bill that is introduced into this place is prompted, in large part, by the need to address a deficiency, to make redress of some wrong, or to provide for some need that is not being met. On all of these counts and many more, this bill fails miserably. I know there might be one or two members and their associates on the crossbench who might be open to contemplate why on earth they should support this bill, in whole or in part. Part of my purpose in leading this second reading debate is to help members explore the ins and outs of this bill and what is behind it. What is going to be the net result of it being enshrined in law? What will the outcomes be? Members will soon be able to judge for themselves whether those outcomes are individually or jointly desirable—desirable from the point of view of the people of Western Australia, and democracy and political practice in Western Australia—or whether they are motivated by some other, less worthy, base motivations. We will discover in due course what may be behind what the government proposes. We will test whether the government is capable of any sort of candour in declaring what is behind all this and we will examine the various clauses of the bill. I propose to raise a number of questions now, in the course of the second reading debate, that I hope the minister might be able to answer satisfactorily. I have asked a lot of these questions before and I have not had any answers. There is a challenge right now for the minister. He is not here in a representative capacity. Our minister here, our colleague, is the Minister for Electoral Affairs. I do not know what he did to upset "St Mark" somewhere along the line, but that is what he is, and he is responsible for this bill. He has to tell this house why it is required and why it merits support; so far, that information has not been forthcoming in a way that could give one any form of confidence whatsoever.

I will come to the provisions of the bill in due course and, as I say, I will be posing some questions as we go. I am pretty sure that that will not obviate the need to go into Committee of the Whole House. Unless the bill is defeated at its second reading vote, we will be going into the committee stage; I can guarantee members that. Perhaps some of these questions will need to be put again and again, because I do not think the government is going to come up with any better answers than the non-answers we have received thus far.

Let us look at the background of electoral affairs here in Western Australia. Not so long ago I read a quote attributed to a former ALP spokesperson for electoral affairs who said that it was a tradition in this Parliament for governments to consult with oppositions on electoral reforms. That is news to me. I was here in the days when Hon Jim McGinty was Minister for Electoral Affairs. I was here in the days when our former colleague Hon Alan Cadby was here, and there were some fairly dramatic changes to electoral laws then. Were they developed in consultation with the then opposition? I can assure members they were not. They were created with all sorts of spin attached to them about how they were going to be democratic and all the rest of it. The Labor government was trying to dud regional Western Australia, in particular, and to dud the parties that represented regional Western Australia, with no apology—none whatever. That is what it set out to do, and that is what it did. It is instructive that we have several Labor-controlled electorates in some regions where we find the phenomenon that was introduced at that time of phantom voters.

That is the ALP's history when it comes to declaring equal votes for all Western Australians. It was done to advantage the Labor Party politically. That is not my rhetoric; that is what history shows us. It was done to impact adversely on regional Western Australia and its representatives. Members representing regional Western Australia need to be reminded of that as they contemplate their position on this bill. Fortunately, I am not the only one here who knows where some of the bodies are buried. Serendipitously, the Leader of the Opposition, Hon Peter Collier, is himself a former Minister for Electoral Affairs. He has substantial knowledge, historical and direct, about how electoral reforms should be progressed. He progressed some, and there was not then the opposition that we are about to see in respect of the Electoral Amendment Bill 2020.

What is the history of this bill and of the Labor Party in government? When the bill came into this place, we of course heard the second reading speech, and I will refer back to it from time to time, as one should. One of the opening remarks in that speech is something that I just have to highlight. In the second sentence the minister said, without any sense of irony —

> Western Australian electors deserve to know that those with the deepest pockets should not be able to spend their way to influence an election. This bill will ensure the public have confidence in the accountability, transparency and integrity of elections in Western Australia.

Honestly; butter would not melt in his mouth! Something I have found from long observation of the Labor Party in government—my earliest political involvement goes back to the Burke days—is that one has to watch out for what Labor members are pontificating about, or against, because the most likely thing is that they are up to it themselves. If that sort of hypocrisy is, in fact, on display in these matters, what confidence can members in this place have in supporting this bill? If members are not already acquainted with that reality—they will be, shortly—they ought to pause in their ultimate decision on whether to second read this bill.

Because of the position I hold in Parliament, I generally do not have a frontline political role, but I noticed as the Liberal Party went into opposition in 2017 that there did not seem to be a designated spokesperson allocated for electoral affairs. I said to our then leader, "Look, do you want me to keep an eye on this? I've seen a few of these issues come and go over the years." That was accepted, so that is why I am in charge of this bill. It is not unusual for a Deputy President in opposition to be in charge of a bill, of course, particularly in a representative role, but that is why I am looking after this bill. I am not normally involved in the hurly-burly of politics at a portfolio level, as members know. That gives me the opportunity to stand back and look at how the political landscape is developing and shaping, and how governments and oppositions respectively are performing. I think I have enough background to know when I have to view things with a degree of circumspection.

When this term started off, I made informal contact with the then Minister for Electoral Affairs and we had some discussions. It was pretty obvious to me then that nothing was going to happen unless, of course, we came along and suggested that something might happen, so that the government could be confident of the support necessary to get measures through the upper house. Members who observe what goes on in another place might have noticed that just yesterday no less a character than the Attorney General referred to members in this place as dinosaurs; I take that as a term of affection, so God bless him! But members in the other place do not like the upper house. They do not like the upper house because we presume to hold them to account and we regularly take their legislation apart, put it back together in some sort of order, and send pages and pages of amendments back to them, so for a whole lot of reasons, they do not like us. But we have an important job to do, and the then Minister for Electoral Affairs acknowledged that and was pragmatic enough to note that unless it is something the government can be damn sure that we will go along with, why would he waste his time with so-called electoral reform, in whatever shape that might take?

Members in minor parties, on the crossbench and Independents might feel a bit miffed about that. I hope I am not miffing anyone, because I am not a purveyor of miffedness, I hope! However, the brutal truth is that some people have worked out that if the government and the opposition in the upper house get together and decide on a course that requires an absolute majority in the upper house, they can just get on and do it, and the minor parties and Independent members do not matter—cast them to one side. That is the brutal truth; not that that is a view I have ever held or exhibited, but it is exhibited by some.

The Labor Party, I think, understands this and understands it only too well. I can go back to before the turn of the century and recall conversations I had with—what do they call them—powerbrokers in the Labor Party. All these plans were being put forward: "What do you want to do about this minor party and that minor party? Aren't they a nuisance?" and all the rest of it. I do not know how many times I have been sent proposals from certain interested parties—hangers-on, perhaps—in the political sphere on the Labor side, imploring me to go along with proposals that would change our electoral system. They have given me statistics and tables; they have sometimes even shown me bar graphs to illustrate the points that they were putting forward. They have even pointed out that if we were to go along with their pet project, guess what would happen? On their modelling, the Liberal Party would pick up some seats in the upper house, probably at the expense of the Nats. The Labor Party might do the same with some of its sometime fellow travellers, who I think have woken up to the Labor Party a bit better now. They have expected me to go along with that. They have expected me to put that up as policy. They have expected me to go along to my party room and say, "Look, I've got an idea. About how we dud the Nats?" Some of my country colleagues might think that that is potentially not a bad idea, but, of course, I would never contemplate that. I have to disappoint them because I am not interested.

The fact of the matter is we have heard all the bleating in the world. Jeez, we have heard some bleating from the front bench of the ALP in government! They are never happy. They are never satisfied. They are bleating about how on earth they did not get the numbers in the upper house after their very strong showing at the last state election in 2017, in which they got—what?

Hon Peter Collier interjected.

Hon SIMON O'BRIEN: No. Statewide, they got about 47 per cent of the vote, I think.

Hon Peter Collier: It was 37.

Hon SIMON O'BRIEN: It was a very high vote historically for them; very much a high watermark. I hope it is a high watermark because it is up to our chins! Yet, they are not happy; they do not have a majority in the upper house. They do not even have 47 per cent in the upper house because they did not get 47 per cent of the vote in the upper house, did they? No. The built-in insurance policy that Western Australian voters have always given themselves is that a lot of people voted differently for the upper house. I think the former electoral affairs minister was saying that they got about 37 per cent in the upper house. If we do a rough calculation, how many seats did they get in here? It was about 14, I think. It was 14 out of 36. Hello! It sounds to me that under their valued system of proportional representation, I would say that 14 seats out of 36 sounds like a very generous 37 per cent return; in fact, a bit better. Look at what the Greens got.

Hon Alison Xamon: It's proportionate.

Hon SIMON O'BRIEN: It is directly proportionate, in round figures, to their representation in this place. The Nats are a bit hard to calculate because they did not compete in all six regions; nonetheless, we can draw parallels there as well. One Nation, as well, did not achieve members returning from every region, but, as it happens, their proportional return of members out of the total is directly proportional to their vote. We could even get down to individuals in the Shooters, Fishers and Farmers Party to see some similarities.

But for how long did the poor old Labor Party front bench spend moaning in this house after 17 March? I would have thought they would have been more cheerful after 17 March. They were moaning and moaning and moaning that they did not have control in the upper house in their own right. Neither should they have, because the people of Western Australia did not give it to them; yet, at the same time, they have been running amok down in another place, where they got 40 per cent, or something, of the vote—I think it was about 47 per cent—and they got 68 per cent of the seats. They are grizzling that they did not get an adequate return on the vote that they got and that the system is all wrong. I would be quite happy if they did have 47 per cent of the seats in the lower house at this time—absolutely happy—and it would serve them jolly well right, too. But they do not; they have 68 per cent. A bit of tweaking happened with a few by-elections and so on, but they certainly cannot grizzle about their return in another place.

A couple of observations need to be made about that, all within the context of this bill. The first thing it tells us is that the ALP is never satisfied. It does not come with the attitude that I saw exhibited by Richard Court in our party room in 1997, when he said, "Look, I think they're reduced to about 11 members. I do not want to see anyone on our side lording it over them." That is what he said. I was there to hear him say it. But, of course, as a family the Courts are well known for their dignity, propriety and sense of proportion. Similar sentiments were expressed by Colin Barnett in 2013 after a similar landslide result in our favour. But do we get that from the Labor Party when it comes into power? No. There is no sense of that. They just want to stick the boot in, be the bullies that they are. When they have us outnumbered 41 to a dozen, or whatever it is we have lately, no—no quarter there—they are not satisfied with that. They want to take more. They do not care about balance between government and opposition—balance in a Parliament. They are not concerned about proportion. No. It is all about power, power, power.

To the question of whether we want to hop into bed, or propose to hop into bed—because it has to be at our initiative apparently—with these people and do we want to accept the glittering prize that we might take a seat or two off the Nats, in each case I have said, "No, thank you; not interested." Has anyone ever heard me grizzle or complain about the Labor Party's 47 per cent vote that gave it 68 per cent of the seats in the Assembly? I am not complaining now and I never have. That is the system. When a party gets a thumping result, it happens to pick up quite a few seats with a variety of margins, from close calls to safe seats. That is the system. Similarly, that is the system in the upper house. I am not grizzling about that either. I will leave it to the Labor Party to grizzle about that. If there is one party, despite the several others here, that has a membership proportionate to the vote that it got, which was actually dudded in the views of some, it is the Liberal Party. The vote for the Liberal Party at the last election was abysmal because electors were fed up with us and they wanted to give us a good thumping. By jingo, they certainly did. Our challenge of course, as a political party that forms government from time to time—we are always looking forward to working closely with potential colleagues in coalition, in an environment of mutual respect and common purpose—is that we got nine seats out of 36 in this house, or 25 per cent cold. Our result was bloomin' awful. But even our result was not that bad. It was not that low; it was not 25 per cent. But, again, have we grizzled that we missed out on some seats that we thought we would win—number 2 in East Metro and others like that? No, we have not because that is the system. We take the good with the bad, and ultimately the electorate decides what the make-up of this Parliament will look like. There is no point in taking any comfort from silly sentiments such as, "The electorate got it wrong." The electorate never gets it wrong! If members think the electors got it wrong, see the previous rule, because they are the ones who have the only say that counts.

I have pledged to this house and anyone observing this debate that the Parliamentary Liberal Party owns the result that it suffered at the last election, and that gives us a base to move forward. While we do that, there are others who do not have our best interests at heart, which is tragic. But we will see how much of that is on display as we work

through this political Electoral Amendment Bill. The first Minister for Electoral Affairs in the McGowan Labor government—or, as it is now, the McGowan socialist Labor government—came and went without troubling the scorer. I think the WA Labor Party decided at its last annual state conference to put "socialism" back in its platform; it is a socialist party. That was adopted at its last annual conference, in between walkouts and what have you! He had a perfect score—no foul-ups in the electoral affairs portfolio whatsoever. There were no slip-ups, no aborted operations and no problems—because he did not do anything! Then of course we got electoral affairs minister number 2, who is the incumbent minister. I thought, "That's good; here's a chap I can talk to." I could talk to the other bloke quite well; the member for Cannington is my local member. We talk quite often when we run into each other. He trusts me on electoral matters—he has told me so. I looked him in the eye and said, "Bill, I'm not going to vote for you at the next election." He said, "Simon, I know I can rely on you when you tell me that"! One thing you can trust in this game is when someone looks you in the eye and says, "I'm not going to vote for you."

Hon Alison Xamon: You know they're not lying.

Hon SIMON O'BRIEN: You know they are not lying in that case.

I know that the Acting President does not want me to digress too far from the bill, but on matters electoral, I wondered secretly: does he vote for me? I will not be going around again so I guess we will never find out!

Hon Stephen Dawson: I can tell you now he never has!

Hon SIMON O'BRIEN: How would you know? Are you "caucused" on these matters? Is there a show-and-tell matter in your polling booths?

Hon Stephen Dawson: You can rest assured he would never vote for you; and he will not be, as the member has indicated.

Hon SIMON O'BRIEN: Does he put me last?

Hon Stephen Dawson: He follows the ticket.

Hon SIMON O'BRIEN: Where does he put me—ahead or behind the Greens, do you think?

Hon Stephen Dawson: He is a good party man; he follows the ticket.

The ACTING PRESIDENT (Hon Martin Aldridge): Order, members! Perhaps we can return our concentration to the bill.

Hon SIMON O'BRIEN: I am sorry I allowed unruly interjections to distract me. It will not happen until it occurs again!

We are onto the new Minister for Electoral Affairs. He is a friend of us all; he is a colleague here in this house and I thought: right, now things are going to happen. I asked him some questions. I have not dug out the old *Hansard* to quote from questions without notice. He will probably recall what I asked him because he hardly ever gets any questions. He likes to be involved, so I try to involve him. I asked, "What are your plans in the electoral affairs portfolio?" He gave me a wonderful answer. His answer was, "Nothing"—he did not have any plans. There was nothing at all he could point to.

Hon Stephen Dawson interjected.

Hon SIMON O'BRIEN: I am paraphrasing a little; I will give the minister that! If this debate lasts much longer and I get a chance, I will look up the question and I might stand corrected. But the gist of it was that he did not have anything much coming, but they might be working on something. He did not make any reference to any specifics that I can recall. But he did say, however, "The McGowan government is always wanting to improve things, so if anybody has got any good ideas, we'd love to hear from them."

Hon Stephen Dawson: And I never heard from you.

Hon SIMON O'BRIEN: That is because I did not want you to do anything because so often —

Hon Stephen Dawson: Are you sure it was not because you did not have any good ideas?

Hon SIMON O'BRIEN: I have plenty of good ideas, but that is another story. He needed some ideas. Obviously, he had idle hands and being the devil's instruments, they have come up with this wretched bill here—so more fool me! I could have told him things to do. I could have told him where to go. I could have done all sorts of things.

Hon Stephen Dawson: Are you sure you would have told me where to go?

Hon SIMON O'BRIEN: Never, my friend.

The one thing I could rely on was this: as a former ALP opposition spokesperson for electoral affairs, who has now gone on to much higher office, used to claim, "We insist, in the ALP, that any changes to electoral laws should be done on a bipartisan basis." Does the minister remember that person saying that? I wonder whether he does.

Hon Stephen Dawson: I do not recall. I am thinking about it, but I do not recall the statement being made.

Hon SIMON O'BRIEN: He got up here in this house and said that it is always done on a bipartisan basis, and unruly people, like me, said, "That's news to us because you've never exhibited that in the past." But how reassured I was because that now senior member of the ALP said, "The way forward is that we're going to have a tradition that it's always done on a bipartisan basis"—no shonkiness, no dirty dealing—none of that. Even if the subtext was, "How can we do over the minor parties?", at least there would have been bipartisan arrangement. That was reassuring. The current minister said, "Come and let us know if you've got any ideas; otherwise, I'm too busy with the environment portfolio to worry about it." Next thing you know we get rumblings from the crossbench: "We're all being approached about bills about disclosure laws and things like that." Nobody ever said boo to me or anybody else in the Liberal Party. Right from the start we are seeing that the bipartisan tradition is to be betrayed even before it was entrenched, after it was asserted—more or less a shame—but before it was put into practice.

I heard nothing about this except from a whole lot of other people about the town, but no-one came to me to show this bipartisanship that the ALP allegedly stands for. Gee, that was useful! It told me what I needed to know up-front. The government is trying to do something to advantage itself—that is a given—but it is trying to disadvantage the opposition.

An opposition member: That's a given too.

Hon SIMON O'BRIEN: It certainly is, and the government never approached us, saying that it had some perfectly reasonable arrangements, as was said in the second reading speech, about ensuring that the public has confidence in the accountability, transparency and integrity of elections in Western Australia. Who could disagree with that motherhood statement? If anyone had come to me or the representatives of my party and said, "Here's what we want to do: we want to have some accountability, transparency and integrity of elections in Western Australia", I would have said, "Hey, I'm the electoral affairs spokesman; the coffee's on me! Let's sit down and talk about it." It never happened until this bill appeared. There was no consultation with perhaps the biggest individual identifiable stakeholder in this state—so much for bipartisanship; so much for playing a straight bat. But, I am happy to say, so much for playing true to form and going about things in a way that we knew exactly where the government was coming from. That is what we have learnt out of that process so far.

We were not completely taken by surprise. As I say, we have had many people talking to us to say that the government is up to something—it is always up to something, is it not! Where does that flow from, though? Is it about accountability? Is it about transparency? Is it about integrity of elections? No! This particular hyena does not change its spots. There is always a hidden agenda—one that is unworthy and the government knows it is unworthy. How do we know the government knows that it is unworthy? The government seeks to hide it behind a smokescreen of spin about how it is doing things with the purest of intentions, such as gold-standard accountability, transparency and integrity—all these things that in terms of its reputation are in an increasingly tattered state.

I have been looking out for the government's bill. I did not know exactly what was going to be in it, but I had some ideas. I was looking out for it from the middle of February this year. That is another time and another place, is it not, Mr Acting President? One month before the whole COVID thing made everything very different, members might recall it was a different time, a different place and a different political environment here in Western Australia. An article was published in the weekend issue of *The West Australian* of Saturday, 15 February. The article was written by Peter Law, the state political editor at *The West Australian* and he interpreted it in this way. I will selectively quote from the article, but it is available for everyone to read. The second paragraph spelt out what the government was going to do, but the first paragraph, in its opening lines, said what the government was all about. It reads —

> Clive Palmer would be banned from bankrolling a multimillion-dollar advertising blitz at next year's State lection under a plan by the McGowan Government to cap political donations and campaign spending.

If members were in my position, sitting down and reading Saturday's *The West Australian*, that would pique their notice and it certainly piqued mine. It continues —

> New laws to overhaul WA's political donation rules will be unveiled this year as the mining magnate—whose attack ads last year targeted Mark McGowan—looms as a potential threat to WA Labor.
>
> After spending $80 million on a failed attempt to re-enter Federal Parliament last year, a spokesman for Mr Palmer said the billionaire was considering whether to run United Australia Party candidates at next year's March poll.
>
> Mr McGowan was targeted by the Queensland businessman after he last year threatened to rewrite a State agreement to resolve a dispute between the Queensland businessman's Mineralogy company and Chinese-backed CITIC over the expansion of a Pilbara mine.

The article continues —

> The Premier has walked away from intervening in the longrunning dispute because of the likelihood of a costly legal battle. But behind the scenes, his Government is drafting legislation that would likely stop individuals such as Mr Palmer from funding a big-spending election campaign next year.
>
> The reforms —

What a twee word to use! —

> would deliver on a pre-election promise to introduce election campaign spending caps for candidates and political parties, reduce the threshold for disclosure of donations and speed up disclosures.
>
> Electoral Affairs Minister Stephen Dawson would not reveal the details of the spending cap but said legislation to reform donation and disclosure laws would be introduced this year.

That is interesting, is it not? Here is the first evidence we have of an intention to change electoral legislation after the first minister had basically said that he was not interested in doing it and demonstrated that by way of his inaction. There was nothing—no imprimatur, no sense of "we have to deliver in this area", no desire or interest at all. Well ahead of this newspaper story, I had asked the present minister whether the government was doing anything and he intimated that something might come in due course but he did not know what, and if anyone had any ideas, he would love to hear them. That was the record then, and then this article appeared with this sort of announcement. This is how this government works. It likes to put its stories out through *The West Australian* and try to claim the agenda that way. What was the total motivation that we can discern through this reporter in this particular story? It was about a fight by a Queensland mining magnate who had been targeted by Premier McGowan and felt threatened by him.

The Premier, or the government collectively, decided to do something to neuter this bloke as a political opponent. I do not know Clive Palmer from a bar of soap. I have never clapped eyes on him. I am not aware of any association he has with anybody in the Liberal Party, despite the strenuous and extraordinary attempts by this government, with every resource at its disposal and every spin doctor it can throw into the fray, to try to not only demonise this Palmer person, but also link him in the eyes of the public to the Liberal Party. They are trying to kill two birds with one stone. Apparently, that is the genesis of this bill.

It was put to the Minister for Electoral Affairs in this house that the government was bringing in this bill. Somehow, the reporter knew about it. I wonder how. It would have come from an official source. When interviewed, Minister Dawson would not reveal details. He knew all about it, six months before this bill came to the house. I never heard boo about bipartisan things and so on. We eventually got a bill that refers to introducing accountability, transparency, integrity, disclosure of this and expenditure caps on that. There is also something about foreign donations, which I will come to in due course.

The root cause of this is base-level politics. It is about a Premier who is not satisfied with his 40 seats in the Legislative Assembly. He is not satisfied with that. He wants to annihilate the opposition because he feels so insecure. He is determined to do anything. We have an often sycophantic media in Western Australia, but we hear that government members actually criticise reporters who do not praise them enough. We have seen all sorts of nauseating headlines day after day about how wonderful "Mr 91 Per Cent" is. He is probably up to "Mr 110 Per Cent" by now, if there has been another poll. But that is not good enough for the government. Power is not enough; it wants more. We have seen so much of that in recent times; the government has been using the COVID-19 excuse to get more and more for itself. Hell, I am surprised that the government has not called this a COVID bill and said that it is urgent because of COVID-19. Perhaps it will bring forward a COVID-19 electoral bill, which will say that people do not have to turn up at a polling booth because they will not practise social distancing. The government will say, "People don't have to go and vote; we'll just assume that they are voting for us! Hey, I know; we'll get them to run one of those polls that *The West* runs. That'll give us 91 per cent of the vote." That would give the government a fair old majority in the upper house! I wonder: is it that much of a joke? When I consider some of the comments that have been made by the likes of the Attorney General in recent months, I wonder what sort of excess some of these people are ultimately capable of.

Anyway, it is what it is; we have a bill before us and we have to consider it. However, in the first instance, members need to understand a bit of the history. The genesis of this bill is that a mining magnate was being threatened by the Premier and the Premier was worried about how he might retaliate, given his past form. I have stated and will say again that the Liberal Party is not in league with Clive Palmer. It is wrong for anyone to identify me or any of my colleagues as being in league with this enemy of Western Australia, as he has now been painted. I will not shed any tears if I see him spend millions and millions of dollars in a federal election to denigrate the federal Labor opposition and Prime Minister Morrison gets up. That will not particularly bother me, but I do know that there is no actual conspiracy there. If there was and if he had us professionals doing it, I think there would be better value achieved for the money spent! Anyway, we are not involved in that way. The person who is involved with Clive Palmer is Mark McGowan. He is involved in a dispute. The Premier was threatening him prior to February this year, and then he started worrying about what the results might be.

Not satisfied with the predominant position that Labor holds in Western Australian politics at the moment, Mr McGowan and the Labor Party are determined to squeeze some more out of it. How do they do that? By attacking every opposition or non-government party that there is—there are a lot of them in this house—that is not under its thumb. I am glad to say that not one of the non-government parties in this house is under the government's thumb. That is not good enough for Mr McGowan and it is not good enough for his colleagues in cabinet. They have

brought forward this bill. They are going to try to kid us that it is about accountability, transparency and integrity of elections when it is nothing of the sort, as we will discover in a moment when I conclude my introductory remarks and move on to some of the specific clauses in the bill.

Before we do that, let us just go back and contemplate some of the things that will come up in this debate. There is a document that is headed, apparently without any sense of embarrassment or being overly dramatic, "Disclosure and Democracy in the Digital Age". I am referring to an information sheet from the election manifesto of the state Labor Party. This document included some undertakings or proposals that Labor had put forward, which apparently slipped the notice of the first Minister for Electoral Affairs. I do not know whether they were immediately in the mind of the current minister, until he dug them out and found that they might be useful to the dialogue that has led to this bill, but there were some provisions in there. There were some other proposals, but I will not go into them because they are not touched on by this bill. Various claims were made and proposals put forward by the Labor Party in opposition. Frankly, some of them were so loopy that I am glad the government has not proceeded with them. Anyway, we are not debating those now, so I will concentrate on what we do have. There is not much of it, but it displays the sort of mindset that I have been describing to the house and exposes what really is the thinking behind what is contained in this bill.

I have several points to mention. Firstly, it states —

> Whist a public online system is being developed WA Labor will speed up the public disclosure following an election by:
>
> - **Amending the Electoral Act disclosure period from "within 15 weeks after polling day" to 12 weeks. Allowing, the Electoral Commissioner to review the returns and make them available to the public 14 weeks after polling day.**

We will compare and contrast that with what is in the bill and how that may or may not work. A flagship promise, again I think in part for public consumption but with a private agenda as well, comes under the heading "Reduction in public disclosure threshold for donations". It reads —

> WA Labor believes that all organisations and individuals have the right to participate in our democracy, including through the provision of financial support to election candidates and political parties.

Boy, Labor members sure believe that! That is going to form a focus of our debate—that is, how Labor wants certain organisations and individuals to most definitely participate in democracy by funding Labor. That is okay, but others apparently have to be restricted.

Labor is proposing to do that through disclosure laws. It goes on to say —

> Currently, gifts or donation amounts of less than $2,300 do not need to be disclosed.

Of course—again, I thought it was in a bipartisan way—long ago the state attached itself to the federal thresholds for disclosure, but that is too convenient for this government, so we will introduce a whole new regime of red tape. However, that is not the worst of it. The document goes on to say —

> WA Labor believes that any contribution greater than a $1,000 is significant.
>
> - **WA Labor will legislate to lower the public disclosure threshold from $2,300 to $1,000.**

At least there is an election promise to go through with. But why? What was in the mind of the ALP spokesperson—I cannot remember who it was—when they drafted this? The document goes on to say —

> It is important that this fundamental right, is also as transparent as possible and significant contributions to election candidates and political parties are made public.

There is a bit of "Burkeism" there, which I referred to earlier. The ALP starts off by saying something that everyone had agreed to, even though no-one is asking it to say it. Then it whacks them with the other bit that is designed to affect its opponent, even though the ALP will not take any notice of it—the fundamental right, transparent as possible. The transparency, accountability and integrity oozing off the page almost makes one misty eyed. Is that really what is in this bill, though? We will have a good examination of this bill and I think we will find that the agenda is rather different, and I think members might be appalled to find out what it is about. Even people who might champion all this stuff about disclosures and so on might find that they have to look at things a little differently. To do the document justice, it goes on to say, and this is the sting, that there will be greater transparency around third party fundraising bodies—those naughty third party fundraising bodies. Is it not the case that most members have not even got into their office and people are banging on their door? They say, "Mr O'Brien, you've got to do something about the transparency around third party fundraising bodies." Rubbish! Nonsense! However, the Labor Party wants to say it is an issue. Why? The document states —

> WA Labor believes that all donations to election candidates and political parties should be able to be traced back to their origin.

Why? I say to the minister through the Chair that I will ask him that question. I will ask him why it should be able to be traced back to its origin. What will be the outcome from that? What is the Australian Labor Party's motivation? I will expect a better answer than I received in the briefings I have had so far, for which I say thank you very much to his officers who were very helpful in organising those briefings. The experts from the Western Australian Electoral Commission were very, very good and very professional in the way they delivered those briefings. They were perhaps a little bit candid in that the first five or 10 minutes were basically an apology that this will add greatly to the administrative burden of our respective parties, but that was just being polite, I am sure.

It was a good briefing. I will tell members about this briefing we had. It tells us how important this matter, and our consideration of this bill, is. Normally, when we have a briefing, as you might recall, Madam President, from when you were a humble opposition spokesperson, let us say, for argument's sake, on something or other, and as most members would —

The PRESIDENT: Perhaps for electoral affairs indeed.

Hon SIMON O'BRIEN: Surely not! A briefing is put on —

Point of Order

Hon STEPHEN DAWSON: I query drawing the Chair into the debate.

Hon SIMON O'BRIEN: The President jumped into the debate.

The PRESIDENT: I was trying to provide assistance to the spokesperson. Thank you for your assistance, minister.

Hon SIMON O'BRIEN: I am sorry, Madam President. That is the second time he has led us astray just in this speech alone. I do not know whether there is a third strike proviso, but I again apologise for my colleague's unruliness.

Debate Resumed

Hon SIMON O'BRIEN: When a briefing is provided for some bills, quite often we are lucky if the attendance comprises the person organising the briefing; one other member, perhaps from the other house, who must be the spokesperson there; and another member who accidentally wanders in, thinking it is another meeting and is too polite to turn around and walk out. Not this one! The briefing we had was well attended by not only advisers, but also members of the state Parliamentary Liberal Party. I reckon we had a majority of the opposition present at this briefing, together with some of our own staff and others. That briefing went ahead and showed that we were taking it seriously and that these things matter.

Noting the time of day, I made sure that we provided sausage rolls and scones for the assembled masses. However, my daughter makes a very nice banana loaf, and Joy and Nadika spent a bit of time preparing a platter with nice slices hot out of the oven with butter on them and what have you, and they did not last very long. Two things came out of that briefing. The first was that the standard of catering was better than that at the average briefing. I think there was general agreement about that. The other one was that there is something really wrong with the motives behind this bill, and that is something that we will tease out very thoroughly in the course of this debate, because the document "WA Labor: Disclosure and Democracy in The Digital Age" went on to say —

> Currently there are a number of 3rd party bodies (or associated entities such as think tanks, or dedicated fundraising groups such as the 500 Club) that fundraise and accept donations then pass those—sometimes significant amounts of money—on to election candidates and political parties without disclosing the origins of the funds raised.

It then goes on to pontificate and states —

> This is not transparent and can lead to individuals and corporations anonymously donating indirectly to election candidates and political parties.

That is what this document tells us, anyway. What this does tell us is that the ALP is targeting someone with this policy. When I read the bill and went to the briefing, it soon became abundantly clear whom it was targeting. My opening remarks are not all froth and bubble and scaremongering. No; this is further evidence that with this legislation, the ALP is up to no good to try to do over its political opponents, specifically the opposition—specifically the state Liberal Party of Western Australia. Why does the government single out the 500 Club as an associated entity? It is transparently obvious! It does not single out the Trades and Labor Council or any other form of associated entity, as it calls it, that fulfils the same function of raising, collecting and passing on funds to people of like political mind. That is something that we really need to examine in detail and, in the course of dealing with this bill, we will.

The PRESIDENT: Member, as you draw your breath, noting the time, I am going to interrupt the debate and we will now take members' statements.

Debate adjourned, pursuant to standing orders.

APPLE APP STORE — PURCHASES

Statement

HON PIERRE YANG (South Metropolitan) [6.20 pm]: Yesterday, I came across an article on WAtoday, titled "ACCC examining Apple, Google app practices amid Fortnite scuffle". Fortnite is a game developed by a company that has a long-running issue. The article states that the Australian Competition and Consumer Commission has announced that part of its five-year digital platforms services inquiry —

> … will focus on Apple and Google's various roles as app developers, platform-holders, hardware makers and suppliers of dominant app marketplaces, and whether their positions negatively impact others' ability to compete.

The next paragraph is more interesting. It reads —

> The research will also examine in-app purchases—which both companies currently mandate are processed through their own apparatus with a 30 per-cent charge to app developers—as well as the collection and use of consumer data by app marketplaces.

I had a look at the Apple App Store clarification about its fee structure. It is correct that developers earn up to 70 per cent of sales from in-app purchases, and Apple collects a 30 per cent commission.

Members may wonder why I am making this statement. I encountered a very interesting situation last week. I was on social media and I came across an app that turns a photo into cartoon figures. I had a photo with the Premier from some time ago and I thought it would be a cool idea to turn the Premier and I into cartoon characters to use it as a profile for my social media account. It was a bad idea—a very bad idea. It was not a bad idea to have a photo with the Premier turned into a cartoon; it was a bad idea to even touch that app.

I have been an Apple supporter for many years. My first iPhone was an iPhone 3G, which I probably bought a decade ago. Since then, I have used a number of iPhones. I have had a number of iPads and my wife uses an Apple computer. I think Apple is a tremendous company, which has made a significant contribution to human history and the ability for people to communicate. Apple mobile phones have revolutionised how we communicate and use mobile phones. For that, I give Apple credit. However, I have identified an issue that I wish to raise in this house.

My latest iPhone has a face ID feature. I thought it was pretty handy; I do not have to rely on my thumbprint, which does not work most of the time, to open the iPhone. The latest technology seems to identify my facial structure a lot more easily. All of a sudden, as I was flicking and clicking, I entered into a subscription with the app. Unbeknownst to me, $114.99 was gone immediately and I did not know that. I tried the cartoon function, but it did not really work. I thought it was not useful so I would delete it. I clicked the details. I cannot really explain which part, but it was on my iPhone. I realised that it was a subscription of $114.99 and that money was gone. I started to do a bit of research and tried to delete the subscription. I could cancel the subscription so they will not charge me in September 2021, but I could not cancel it. I delved into that and had a look at the reviews. The reviews I read were United States reviews. I found out later that there was an Australian version. Obviously, the number of reviews was much smaller but, nonetheless, there were numerous reviews—in the hundreds!—about the same issue.

I may have to come back to the subject again tomorrow as I have a lot of information here. I am going to table a few documents that show what happened. The purchase did not give me a receipt, but a couple of days later Apple emailed me its Apple invoice, which showed a sum of $114.99.

Madam President, can I take your guidance? Can I table the documents now?

The PRESIDENT: You can seek leave to table them.

Hon PIERRE YANG: I seek leave to table the following documents: a screenshot that is part of the Apple ID account, which shows that there is no receipt for this transaction; a subscription list for the app "illus: Cartoon Face Hair Salon"—I am embarrassed to even quote the name; a purchase history under my purchase account; a tax invoice from Apple; and a subscription confirmation.

Leave granted. [See paper 4183.]

Hon PIERRE YANG: To cut a long story short, given that I have only three minutes and 37 seconds, I came across a function to connect me with an Apple staff member over a chat function. I said, essentially, that I am 37 years of age and was a lawyer, and if I could be conned, tricked and cheated, what chance would a young child have? I wanted to find out why Apple is still allowing this app in the App Store, especially as there have been reviews about the scamming nature of this app since November 2019. As a matter of fact, they have been there since June 2019. Is Apple going to refund all those who were conned, or at least those who can be identified through their reviews? I said that I would reserve the right to raise this issue in Parliament. I said to the person behind the screen that I have never revealed my job when I have come across an issue in my personal life, but I would do it this time for those people and young children who have been conned, especially during this pandemic.

As I said, I may come back to this, but I wish to use my remaining two minutes today to read a few reviews from the Australian section. A review from "surfer girl 2020" dated 27 June 2020 states —

> **Terrible Customer Service**
>
> My 7 year old daughter purchased a $100+ annual subscription by mistake. I immediately requested a refund but the app developer did not even respond to my multiple emails. Very unprofessional, Don't support this money hungry company with such terrible customer service.

The next review reads —

> **APPALLING AND A SCAM**
>
> Didn't even open the app and they charged me $114. I chose the free trial to see if I liked it and hadn't even downloaded or opened it yet and they took $114. SCAM!! This app is a joke.
>
> Looks like I won't even be getting a response from them.

There are a couple of other reviews from the United States. I have tons of reviews; I will see whether I can fit them in down the track. Another review, from a person called FoodTaka on 21 August 2020, reads in part —

> Update: Apple processed the refund. Thank you Apple! Now please shut down this app so other people don't fall for this scam.

The Australian minimum wage is $19.84, so $114 is worth about eight hours of work. This is not acceptable. I will continue to pursue this issue tomorrow. I wish to have a response in due course from the relevant parties concerned.

BUSHFIRE MITIGATION

Statement

HON DIANE EVERS (South West) [6.30 pm]: I would like to remind everyone that the fire season is coming again. I have sat and watched the Northern Hemisphere burn, with one fire after another burning in California, Oregon and Washington. People are dying and losing their homes. I realise that the fire season is coming here. We know the climate is changing. We know we are entering a drier and hotter period. Recently, I was in Broome for five days where the temperature was 38 degrees, even though it was still winter. It was wonderful, but it was very hot. In Chicago, 38 degrees in winter would be wonderful, because of course it would be Fahrenheit. In Broome, 38 degrees is something else. We are in for hotter and drier seasons. Our rainfall up until August was one of the lowest on record. We have to reassess what we are doing because what we are doing is not protecting us. Even if we undertook prescribed burning on everything every two years, fires can still start. It will not work to just burn everything and wait for two years, then burn it again. Human activity can increase our fire risk. What we burn and what we log can also increase our fire risk. Certain circumstances can lead to more and more fuel being on the ground to burn hotter, drier and faster fires. Forests burn, and dry forests burn more.

It is reasonable to assume that in a desert we are not likely to get much burning, but I do not think anyone in here wants to see more of Western Australia turn into desert. I think we all agree that we love our forests and we would like to keep our forests. To ever consider that we might strategically plan to make more of Western Australia a desert would seem outrageous, but a lot of our choices are leading us that way.

Where to from here? I tabled a petition a few weeks back. A lot of people out there are asking, "Please can we review what we do? Is it possible that the steps we have been taking are not working and not lowering the risk?" We know there will always be a risk when there are forests around us. Even without forests around us, we still have a risk of fire. In fact, we lose more homes each year from house fires than we do from forest fires. We have to acknowledge that what we have been doing has not stopped the risk. We are not even able to prove that it has diminished the risk. Why can we not reassess it? Is it possible that strategic mitigation, combined with early detection and quick suppression—if we up the game on quick suppression—might reduce our risk and make the population safer?

With strategic mitigation, I know we had a target. I read in the paper some time ago that we were not going to go with the 200 000-hectare target anymore, but I have not heard that confirmed. Until I do, I assume we are going to burn 200 000 hectares a year and try to keep the costs as low as possible per hectare. It does not make sense to me. Why can we not do it strategically, as we talked about strategic planning earlier today? Why can we not have strategic fire mitigation? Some of it would be prescribed burns. We could have perimeter burns around native forests for better, quicker access to that forest by keeping the perimeter under control, but not burning an entire forest's biodiversity and habitat. We need to stop drying out the ground even faster than the climate is doing it. Via prescribed burns, perimeter burns and asset protection burns we can protect the places we want to protect. Instead of burning peat areas, why do we not protect them by having perimeter burns around them? It will ensure the peat that has built up over thousands of years can stay there, as it should, for years into the future. A lot of people are very concerned because they live next to pine plantations; they do burn. I heard a suggestion that we start planting fire-suppressant species around our pine plantations. Some species of trees act as fire suppressants and can be planted

around the perimeter of forests to protect people. Fires would not only be less likely to go through the plantations, which of course is bad for the profit that people might be making out of them, but also if fire is in a plantation, it cannot get out onto private land and private or state forests. It makes a lot of sense to me and I really wish I could hear that we were going to start reviewing how we manage fire in this state.

In addition to strategic mitigation, we really need to look at the early detection of fires. The lookout trees we had in the past were excellent. I know planes fly around trying to spot the early signs of fire. With internet connectivity working better in the regions, we should be getting the population out there. We need to make sure that the Department of Environment Regulation and the Department of Fire and Emergency Services are made aware of these fires as soon as possible because a smaller fire is much easier to put out than a larger fire. Rather than finding out we have a wildfire and waiting to see what happens—which way it goes, using it as a pseudo-prescribed burn because we let it go—why do we not put it out? If we get early detection systems going so that people are involved and everybody understands that we want to find out where the fires are and put them out as quickly as possible, then we can start working with our fire brigades. At this point, I have to thank the government because I understand that the Tatra trucks I have talked about in here before are on the cards. Tatra trucks are really good in hilly areas. The trucks we have been using do not go uphill very well when fully loaded with a tank of water, unless there is a proper road. A Tatra truck can go uphill with water to fight a fire that is at the top of the hill. It makes a lot of sense to me, so I am really pleased that the trucks are on their way.

Fire brigades are still looking for more volunteers. Volunteers would like more training and proper personal protective equipment and I think this government can deliver it. We need our fire brigade volunteers to be properly kitted out. Their rewards include good training—they get to learn to drive all the different vehicles and use all the equipment. They also get the connection of working together with other people from their community. I understand that we are heading that way but we can still do more. If we can train volunteers and get early suppression working, we can continue with prescribed burns in the areas where we see a risk and where it is the appropriate thing to do. I am not saying we should stop prescribed burning; I am saying that we should also look at quick suppression. We also need an environment department that actually wants to protect the environment. It seems like a good idea to me! The Department of Biodiversity, Conservation and Attractions needs to recognise how important biodiversity is and how damaging a really hot fire can be. We should try cultural burning—the cool burns—so we can protect the landscape rather than destroy it. I think we can do a lot better. I believe there are people out there who can share this information. We can change and we can develop it. We can help to protect ourselves so that what we are seeing in California is not what we will see here. From a financial point of view, what we are doing is not working. There is not only a significant cost for prescribed burns, but also the additional significant cost of fighting wildfires. If we can change how we fight fires so we can strategically mitigate them, detect them early and put them out early, quickly and efficiently, we may just find that our costs and risks are significantly reduced, and that our environment is significantly improved. Climate is changing. We are getting drier and we are getting hotter. The fires are going to be there, and the only way to avoid it completely would be to have a desert and, as I said, I do not think anyone in here thinks that that is a solution. Thank you.

NATIONAL DISABILITY INSURANCE SCHEME (WORKER SCREENING) BILL 2020

Receipt and First Reading

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

Second Reading

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Disability Services) [6.40 pm]: I move —

That the bill be now read a second time.

This government is committed to implementing the National Disability Insurance Scheme in Western Australia to produce major benefits for people with disability, their families and the broader community. The National Disability Insurance Scheme (Worker Screening) Bill 2020 provides for the screening and ongoing monitoring, by reference to national criminal records and other relevant information, of certain disability workers in Western Australia. The objective of nationally consistent NDIS worker screening and this bill is to protect and prevent people with disability from experiencing harm from poor quality or unsafe supports or services delivered under the NDIS, by deterring certain individuals from seeking work in the sector, excluding certain people from working for registered NDIS providers in certain roles, and reducing the potential for NDIS providers to employ certain workers, if those workers pose an unacceptable risk of harm to people with disability.

The bill implements Western Australia's obligations under the Intergovernmental Agreement on Nationally Consistent Worker Screening for the National Disability Insurance Scheme, which sets out the national policy for NDIS worker screening. As such, the bill falls within Legislative Council standing order 126(1) in respect of uniform legislation. Western Australia entered the IGA in June 2019, joining all other states and territories. The bill incorporates relevant definitions from the National Disability Insurance Scheme Act 2013 and the National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018 of the commonwealth to achieve the IGA's policy

intentions. The IGA, the NDIS rules and the related documents have been in the public arena for some time. I understand that workers, employers, people with disability and their carers and families are keen for NDIS worker screening to commence. The IGA provides the responsibilities of the commonwealth, states and territories in relation to worker screening and the key elements for nationally consistent screening, which are being implemented by discrete legislation in each state and territory. The commonwealth's responsibilities include establishing and administering the national clearance database. This will record the outcomes of NDIS worker screening checks and enable employers to verify workers and check their clearance status. The commonwealth's responsibilities under the framework will be implemented by the NDIS Quality and Safeguards Commission, an independent commonwealth agency established for this purpose. The responsibilities of the states and territories include implementing legislation to establish NDIS worker screening consistent with the IGA, establishing and operating NDIS worker screening units, facilitating effective information sharing between NDIS worker screening units and the commission, and checking all nationally cleared workers against state criminal history records for ongoing monitoring.

This bill is not mirror legislation. The IGA aims for national consistency in worker screening, rather than exact uniformity between jurisdictions. It provides states and territories with significant discretion in implementing certain elements of the national policy including, for example, in relation to penalties, enforcement, the issue of physical cards, and the ability for workers to commence work in advance of their applications being determined. In these issues of discretion, the bill is drafted to achieve consistency with Western Australia's Working with Children (Criminal Record Checking) Act 2004, as appropriate. The bill implements a worker screening scheme broadly similar, but not identical, to that of the working with children legislation. Differences between the schemes contained in the bill and in the working with children legislation are generally due to the requirements for national consistency, particularly those of the IGA.

Some jurisdictions have proposed legislation that combines NDIS worker screening with other vulnerable person screening requirements. In Western Australia, a standalone bill is proposed. The working with children check and NDIS check are, fundamentally, two schemes that have key differences that result in the need for both checks. There are, for example, differences in the vulnerability of the cohorts; additional offences to be considered by the NDIS check, such as fraud and deception offences; and differences in offence classifications, and the NDIS check is subject to national ongoing monitoring. There are also some provisions in the bill, and in other jurisdictions' legislation, which diverge from the agreed parameters as set out in the IGA or in subsequent national policies. In these few issues, the bill is either consistent with the majority of other states and territories, or the government considers that the protection of people with disability warrants minor departure from the IGA. Notwithstanding the few minor differences, each state's and territory's legislation to implement nationally consistent worker screening will mean that the results of worker screening will be portable across Australia and across NDIS employers. NDIS clearance holders in Western Australia will pay a single application fee that will entitle them to work throughout Australia, without being required to meet additional criteria or pay additional fees. Outcomes from worker screening in another state or territory will also determine whether applications can be made, or certain measures taken, in Western Australia. Jurisdictions intend to commence NDIS worker screening from 1 February 2021 to allow for a coordinated national launch and to simplify the messaging to and regulatory obligations on NDIS providers nationally.

I turn now to some key features of the bill. People who engage or intend to engage in NDIS work, and who either do so in WA or who reside in WA, may apply for an NDIS clearance. As required by the NDIS act and the rules, persons employed by or otherwise engaged by registered NDIS providers, including contractors and subcontractors who are in risk-assessed roles, will require a clearance. Risk-assessed roles include key personnel such as those holding executive and senior management positions, and roles for which the normal duties include the direct delivery of specified supports or services to, or are likely to require more than incidental contact with, a person with disability. Self-employed people and volunteers used by registered NDIS providers and their subcontractors in risk-assessed roles will similarly be required to apply.

To achieve an appropriate balance between enabling individual choice and control and sufficient quality and safeguarding for people with disability, self-managing NDIS participants may choose to receive NDIS supports and services from workers engaged by unregistered providers who may not have a clearance or who may be subject to an exclusion. Self-managing NDIS participants may request that workers engaged by unregistered providers who provide them with supports and services, have a clearance. Workers of unregistered providers may apply for an NDIS clearance if they are delivering or are planning to deliver NDIS supports and services and the application is endorsed by their employer, but there is no requirement for them to apply. They will not be committing an offence if they remain in NDIS work without having made an application. Similarly, people employed or engaged by registered NDIS providers in non–risk assessed roles—for example, those who have only incidental contact with an NDIS participant—will not be required to have a clearance. The Department of Communities will be the department principally assisting the Minister for Disability Services in the administration of the act, and the CEO of communities will have responsibility for undertaking NDIS worker screening. People who perform functions delegated by the CEO under the act will also require a clearance.

Applicants for a clearance will complete an approved form, which will require the self-disclosure of information such as international criminal history, child protection orders and any relevant workplace misconduct findings. On

receiving an application for a clearance, the CEO or her delegate must conduct a criminal record check, which will contain any convictions, including spent convictions, non-conviction charges and current pending charges, including for offences committed or allegedly committed as a child. The CEO will also make a request for any relevant information held by the NDIS commission about the applicant. Certain bodies can also provide relevant findings to the CEO. Clearances will remain in force for up to five years, subject to ongoing monitoring by NDIS worker screening units. Clearance holders will be subject to ongoing monitoring for relevant criminal history, NDIS commission records, or any other information considered relevant by the NDIS worker screening unit, which may lead to reassessment and possible cancellation of an NDIS clearance before it expires.

Clause 6 of the bill captures offences in other jurisdictions of a kind to offences in Western Australia and offences prior to the bill's commencement. Class 1 and class 2 offences against Western Australian legislation are listed respectively in schedules 1 and 2 of the bill. The listed offences have been drafted in acknowledgement of the nationally agreed position on offence categorisation for the purposes of NDIS worker screening. The offences and the definitions of "disqualified" and "presumptively disqualified" persons contained in the bill are for application in the CEO's decision-making framework. Schedules 1 and 2 specify conditions in relation to some offences—for example, so that an offence is only classified as class 1 if the victim is a child or vulnerable person as defined in the bill. A young adolescent relationship carve-out is also included so that certain offences are not to be classified as class 1 if certain age-related requirements are met. Additional offences and additional conditions for the offences listed in the schedules may be prescribed in the regulations. This will accommodate the potential creation of new relevant offences in Western Australia or other jurisdictions, as occurred, for example, with the recent passage through this house of the landmark Family Violence Legislation Reform Act 2020. Offences which are not captured under the bill as class 1 or 2 are class 3 offences.

If the applicant or clearance holder has a criminal record showing a conviction for a class 1 offence committed as an adult, the CEO must issue an automatic exclusion, as these persons are disqualified from NDIS work. Disqualified persons are permanently excluded from NDIS work and will not be entitled to reapply. Exclusions must also be issued if the CEO conducts a risk assessment of the applicant or clearance holder and determines that there is an unacceptable risk that the person may cause harm to people with disability in the course of carrying out NDIS work. The CEO must impose an interim bar on applicants and a suspension on clearance holders who are or become disqualified or presumptively disqualified while a risk assessment is being undertaken. The CEO may impose an interim bar or suspension on any other ground she determines appropriate.

In certain circumstances, a risk assessment of the applicant or clearance holder will be triggered, this being conducted by the CEO. The purpose of the risk assessment is to determine whether there is an unacceptable risk that the applicant or clearance holder may cause harm to people with disability in the course of carrying out NDIS work. Harm includes, but is not limited to, any detrimental effect on a person's physical, sexual, psychological, emotional or financial wellbeing. Once a risk assessment is triggered, any lawfully obtained information may be considered as long as it is relevant to risk. Under the bill, information gathering is not confined to criminal record information; indeed, information outside criminal record information, such as information from registration and regulatory authorities prescribed in the regulations, can trigger a risk assessment and, during that assessment, an interim bar or suspension may be imposed. The CEO may request and consider information from any person or body when conducting a risk assessment.

The bill sets out certain principles relevant to the risk assessment. Importantly, these include, for example, that the risk of harm need not be likely in order to be unacceptable. An unacceptable risk may arise from a pattern of behaviour or a single event, from conduct that is intended or unintended, and whether or not harm has been shown to have resulted from any past or alleged conduct. An unacceptable risk may arise from events that are not recent and need not be based on any assessment as to whether any conduct is likely to recur. Matters that are irrelevant to the risk assessment are also set out in the bill. The aim of this bill is to ensure the safety and wellbeing of people with disability and their right to live free from abuse, violence, neglect and exploitation. It is the paramount consideration that is intended to inform all functions set out in this bill, and particularly the assessment of the potential risk of harm that people with disability may be exposed to from those who work with them.

The approach to risk assessment provided for in division 2 of this bill is a precautionary one so that doubts about risk must always be resolved in favour of protecting people with disability from harm. When the information considered in the risk assessment gives rise to significant concern that cannot be resolved one way or the other—for example, where allegations of offending or misconduct are unable to be proven to any given standard—the unacceptable risk test to be applied to decision-making under this bill will embody that precautionary approach. In conducting the risk assessment, the presumption will be that the applicant or clearance holder is disqualified in certain circumstances, as set out in clause 8. The presumption in the CEO's risk assessment of these persons is that they should be excluded from NDIS work unless the CEO is satisfied that because of the exceptional circumstances of the case the person does not pose an unacceptable risk of harm to people with disability in the course of carrying out NDIS work. In other circumstances when a risk assessment is conducted, there is no presumption of exclusion and the precautionary principle applies.

The bill contains information-sharing provisions to ensure that risk assessments of applicants and clearance holders that are undertaken in Western Australia and in other jurisdictions are informed by all relevant information. Particular provisions have been included for the gathering and sharing of information from the Commissioner of Police, the Director of Public Prosecutions and the CEO administering the Sentence Administration Act 2003. Information sharing between Western Australia's NDIS and working with children screening units is also provided for. These arrangements are expected to provide efficiencies for government and assist the making of appropriate and timely decisions for the protection of these vulnerable cohorts.

The bill also provides that entities and employers who may be affected by decisions taken under the bill can be informed of those decisions. The bill includes provisions for investigation and enforcement so that authorised officers may investigate suspected offences against this and other penalty provisions in the bill. The bill provides natural justice and robust procedural fairness for applicants and clearance holders by providing for the CEO to take submissions from applicants and clearance holders in advance of decisions to refuse or cancel a clearance; an internal review; and an external review of those decisions by the State Administrative Tribunal. Transitional arrangements will be provided for in the regulations to ensure the orderly phasing in of NDIS workers under the new screening requirements in the bill while continuing and strengthening the current safeguards that apply to disability service provision. Upon the commencement of the bill and subject to those transitional arrangements, staff and other personnel of providers registered with the NDIS Commission who engage in NDIS work in risk-assessed roles without having applied for a clearance, or who are subject to exclusion, will commit an offence for which the penalty is $60 000 and imprisonment for five years. The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability was established in April 2019 in response to community concern about widespread reports of violence against and the neglect, abuse and exploitation of people with disability. Effective screening of people who work with people with disability, such as is provided for in this bill, is one mechanism to address such concerns.

In accordance with standing order 126, the bill is to be referred to the Standing Committee on Uniform Legislation and Statutes Review for consideration.

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

[See paper 4184.]

Debate adjourned and bill referred to the Standing Committee on Uniform Legislation and Statutes Review, pursuant to standing orders.

House adjourned at 6.55 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

PREMIER — SOUTH METROPOLITAN REGION VISIT

2997. Hon Nick Goiran to the Leader of the House representing the Premier:

I refer to the email from the Premier's office, dated 18 June 2020 and received at 4:26pm from the Premier's appointments secretary, and I ask:

(a) for what period of time was the Premier in the South Metropolitan Region;

(b) further to (a):

(i) how many meetings, events, functions or similar did the Premier attend;

(ii) who attended each of the meetings, events, functions or similar with the Premier; and

(iii) did the Premier receive or create any documents during or in preparation for the meetings, events, functions or similar;

(c) if yes to (b)(iii), what were those documents;

(d) further to (c), will the Premier table those documents;

(e) if yes to (d), when; and

(f) if no to (d), why not?

Hon Sue Ellery replied:

(a)–(f) For the Member's information, the Premier attended a media event in Piara Waters to announce a new secondary college. He was accompanied by the Minister for Education and the Member for Jandakot.

He was there for approximately 45 minutes.

For the benefit of the honourable member, the email referred to in the question contained contact details if he required further detail.

Emails of this nature are sent as a courtesy. If the member finds them a nuisance, he can reply asking to be removed from future correspondence.

CHILD PROTECTION — INDEPENDENT OVERSIGHT

3006. Hon Alison Xamon to the Leader of the House representing the Premier:

I refer to work to develop independent oversight mechanisms for children in the child protection system, and I ask:

(a) would the Premier please advise what progress has been made towards achieving this aim;

(b) have any specific models been identified for consideration;

(c) if yes to (b), which model(s); and

(d) what is the anticipated timeframe for this project?

Hon Sue Ellery replied:

(a) The Department of the Premier and Cabinet is preparing advice for Government on a whole of government approach to establishing an integrated, nationally consistent system of independent oversight covering the four areas identified by the Royal Commission into Institutional Reponses to Child Sexual Abuse: monitoring and enforcement of Child Safe Standards; establishing a reportable conduct scheme; independent oversight of out-of-home care providers; and independent oversight of youth detention.

(b) The Government's aim is to establish an integrated system of independent oversight enabling agencies with responsibility for particular functions to work effectively with each other by sharing information, referring issues or complaints, and operating effectively with other child protection and law enforcement mechanisms and authorities. Options to achieve this aim are being developed for consideration, and being informed by experiences and approaches in other jurisdictions and the recent report by the Joint Standing Committee on the Commissioner for Children and Young People *From Words to Action: Fulfilling the obligation to be child safe* tabled on 13 August 2020.

(c) Not applicable.

(d) This will be a decision for Government once we have received the advice referred to in paragraph (a) above, but implementation is likely to be phased.

WATER POLICE VESSELS

3008. Hon Martin Aldridge to the minister representing the Minister for Police:

(1) I refer to question on notice 2929, regarding Water Police vessels 1–7, and I ask:

(a) what was the purchase cost of each vessel; and

(b) what is the expected replacement cost?

(2) I refer to vessels 6 and 7, which are now close to or have exceeded their expected useful life for police operations, and I ask:

(a) when will each vessel be replaced;

(b) how will replacement vessels be determined;

(c) what is the expected replacement costs for these vessels; and

(d) has the Western Australia Police Force or the State Government commissioned a review or report on marine capability and, if so, will the Minister please identify the author, date, and table a copy?

Hon Stephen Dawson replied:

The Western Australia Police Force advise:

(1) (a) Vessel 1 – $2 213 465, Vessel 2 – $472 726, Vessel 3 – $429 423, Vessel 4 – $403 091, Vessel 5 – $208 546, Vessel 6 – $198 810 and Vessel 7 – $33 421.

(b) Estimates as follows: Vessel 1 – $3 500 000, Vessel 2 – $500 000, Vessel 3 – $600 000, Vessel 4 – $600 000, Vessel 5 – $500 000, Vessel 6 – $500 000 and Vessel 7 – $50 000.

(2) (a) Estimated to be in 2020–21.

(b) WA Police Force will select.

(c) Please see response to (1)(b).

(d) There has been no formal review or report conducted by the WA Police Force. I understand that the Director General of the Department of the Premier and Cabinet conducted a broader Government Marine Vessel Review.

CORONAVIRUS — STATE DISASTER COUNCIL

3009. Hon Martin Aldridge to the Leader of the House representing the Premier:

I refer to the State Disaster Council (SDC) formed in response to the COVID-19 pandemic, and I ask:

(a) on what date was the SDC formed;

(b) on what dates have the SDC met;

(c) who has chaired each meeting of the SDC identified in (b);

(d) who has formed the membership of the SDC, including relevant commencement and conclusion dates (if applicable);

(e) for each meeting of the SDC who was in attendance at each meeting;

(f) please table minutes of each meeting of the SDC, including any briefing material and situation reports provided to the meeting;

(g) on how many of the occasions identified in (b), has the SDC met with the Security and Emergency Committee of Cabinet (SECC); and

(h) who has formed the membership of the SECC, including relevant commencement and conclusion dates (if applicable)?

Hon Sue Ellery replied:

Department of the Premier and Cabinet advise:

(a) 16 March 2020

(b) 18, 20, 23, 24, 25, 27, 29, 30 March

3, 7, 9, 17, 21 and 24 April

1, 5, 8, 15, 29 May

10, 24 July

7 August

(c) The Premier of Western Australia. However, at the 10 July meeting the Premier left after the first half hour, and the remainder of the meeting was chaired by the Minister for Police.

(d) Since 16 March 2020

Statutory Members

The Premier – Chair

The Minister for Emergency Services

The State Emergency Coordinator

Members appointed by the Chair

The Deputy Premier; Minister for Health

The Minister for Education

The Minister for Police

The Minister for Ports

The Attorney General

The Minister for Citizenship and Multicultural Interests

The Minister for Transport

The Minister for Innovation and ICT

Director General, Department of the Premier and Cabinet – as Executive Officer

Since 17 March 2020:

The Public Sector Commissioner

Since 20 March 2020:

The Minister for Local Government

The Treasurer

(e) The Chief Health Officer and the Director General, Department of Health have attended every meeting. The Commissioner, Fire and Emergency Services attended meetings from 18 March to 26 June and the Minister for Community Services and the State Welfare Coordinator have attended meetings since 21 April. A note-taker has been present at each meeting.

For each of the members listed above in (d), heads of Department, advisors and Chiefs of Staff were invited as observers.

(f) The State Disaster Council is not itself a sub-committee of Cabinet, however, during the COVID-19 pandemic period the State Disaster Council and the Security and Emergency Committee of Cabinet have met concurrently on each occasion since the State Disaster Council's establishment on 16 March 2020. All deliberations are then considered by Cabinet and subject to Cabinet confidentiality.

(g) As above – all meetings since 18 March 2020.

(h) The standing membership of the SECC is:

Premier (Chair);

Deputy Premier;

Attorney General;

Minister for Police;

Minister for Emergency Services;

Minister for Health;

Minister for Citizenship and Multicultural Interests;

Minister for Defence Issues;

Minister for Innovation and ICT;

any other Ministers invited by the Chair.

FINES, PENALTIES AND INFRINGEMENT NOTICES ENFORCEMENT AMENDMENT BILL 2019

3013. Hon Michael Mischin to the minister representing the Minister for Corrective Services:

I refer to the Attorney General's response to a question from the Member for Maylands on 25 September 2019, and ask:

(a) precisely how many 'fine defaulters' were in prison in the last year of the Barnett Government and how many individuals were in prison for fine default alone;

(b) in what manner was the McGowan Government 'pushing back', please table any documents to that effect;

(c) in what manner was the McGowan Government 'asking the registrar to exercise more discretion', please table any documents to that effect;

(d) in what manner had the McGowan Government up until then suppressed imprisonment as a sanction for fine default, please table any documents to that effect; and

(e) was it by instructions or policy or practice statements or guidelines regarding the issue of, or execution of warrants of commitment for, fine default pending the expected passage of the *Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2019*:

(i) if yes to (e), please table any documents to that effect?

Hon Stephen Dawson replied:

(a) For the period 1 March 2016 to 28 February 2017:

Fine Default Only		**Fine Default & Remand**	
Stays	**Persons**	**Stays**	**Persons**
924	919	1,827	1,787

The estimated cost of detention for those imprisoned for fine default alone during this period, using the Justice Pipeline Model (JPM) costings provided by Treasury for the 2017–2018 period, is $6,673,030. This does not include the cost of writing off the fines for these detainees.

'Fine Default Only' refers to all adult prison stays where, at discharge, the individual was only ever sentenced for fine default offences, and had no remand warrant.

'Fine Default & Remand' refers to all adult prison stays where, at any point, the individual had one or more remand warrants and also a fine default sentence, but no non-fine default sentence. The individual may have had non-fine default sentences at another point in the stay – for example, their fines were cut out while on remand and they were subsequently sentenced for other reasons.

(b)–(e) Please refer to Legislative Council Question on Notice 3014.

FINES, PENALTIES AND INFRINGEMENT NOTICES ENFORCEMENT AMENDMENT BILL 2019

3014. Hon Michael Mischin to the Leader of the House representing the Attorney General:

I refer to the Attorney General's response to a question from the Member for Maylands on 25 September 2019, and ask:

(a) precisely how many 'fine defaulters' were in prison in the last year of the Barnett Government and how many individuals were in prison for fine default alone;

(b) in what manner was the McGowan Government 'pushing back', please table any documents to that effect;

(c) in what manner was the McGowan Government 'asking the registrar to exercise more discretion', please table any documents to that effect;

(d) in what manner had the McGowan Government up until then suppressed imprisonment as a sanction for fine default, please table any documents to that effect; and

(e) was it by instructions or policy or practice statements or guidelines regarding the issue of, or execution of warrants of commitment for, fine default pending the expected passage of the *Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2019*:

(i) if yes to (e), please table any documents to that effect?

Hon Sue Ellery replied:

(a) This aspect of the question falls within the portfolio of Hon Fran Logan MLA, Minister for Corrective Services. Please direct this aspect of the question to him.

(b)–(d) The Fines Enforcement Registrar is an independent officer of the court and cannot be directed to take any particular action. The Registrar did not receive any instructions, policy or practice statements from the Attorney General or the McGowan Government regarding the issue or execution of warrants of commitment. There has been a general decrease in the issue of warrants of commitment over the past two financial years – 2018/19 and 2019/20. This is reflective of the exercise of the Registrar's discretion, their position as an independent officer of the court and the Registrar's power to cancel warrants of commitment for good reason.

(e) Please refer to Answer (1) to Question Without Notice No. 1514 asked on 3 December 2019.

WATER DEFICIENCY DECLARATIONS

3017. Hon Colin de Grussa to the minister representing the Minister for Water:

I refer to the recent water deficiency declaration for the Gairdner district in the Shire of Jerramungup, and I ask:

(a) how many water deficiency declarations are active in Western Australia and please provide the following information:

  (i) geographical location;

  (ii) what date the declaration was made; and

  (iii) what assistance is being provided to impacted communities;

(b) aside from those communities identified in (a), how many water deficiency declarations have been made in the past 12 months, and please provide the following information:

  (i) geographical location;

  (ii) what date the declaration was made;

  (iii) what date the declaration ended; and

  (iv) what assistance was provided to impacted communities;

(c) is the State Government currently carting water to any communities or regions not identified in (a) or (b) and, if so, please provide detail;

(d) has the State Government carted water in the past year to any communities or regions not identified in (a), (b), or (c) and, if so, please provide detail;

(e) what is the current cost to Government for water carting to impacted communities this financial year;

(f) what is the anticipated cost to Government for water carting to impacted communities in the next financial year;

(g) will the State Government reinstate the Farm Water Rebate Scheme;

(h) will the State Government reinstate the Pastoral Water Grants Scheme; and

(i) what is the State Government's long-term plan to address water security for regional communities?

Hon Alannah MacTiernan replied:

(a) There are 12 active water deficiency declared areas in Western Australia.

(i)–(ii) Locations of Water Deficiency Declarations and date of declaration.

Shire / Area	Date Declared
(1) Shire of Ravensthorpe – Mt Short	7 May 2019
(2) Shire of Lake Grace – Ardler Rd	15 May 2019
(3) Shire of Kent – Hollands Rock	4 June 2019
(4) Shire of Lake Grace – Tommys	4 December 2019
(5) Shire of Jerramungup – Jerramungup	19 December 2019
(6) Shire of Esperance – Grasspatch	19 December 2019
(7) Shire of Jerramungup – Fitzgerald	13 February 2020
(8) Shire of Dumbleyung – Kukerin	21 February 2020
(9) Shire of Kent – Hamilton	21 February 2020
(10) Shire of Esperance – Salmon Gums	7 March 2020
(11) Shire of Jerramungup – Gairdner	10 June 2020
(12) Shire of Esperance – Cascades	16 June 2020

(iii) Emergency stock water is supplied by the State Government free of charge and carted to central locations to support farmers in Water Deficiency Declared areas.

The McGowan Government has made significant investment into Strategic Community Water infrastructure. We have spent over $1.5 million on developing and upgrading 37 community water supplies in the south east wheatbelt (dryland agriculture communities) in the last 18 months. We have also provided $541 512 in funding for seven new community water supply projects in 2019–20 in partnership with the Shires of Pingelly, Broomehill–Tambellup, Dumbleyung, Kulin (two projects), Ravensthorpe and the City of Greater Geraldton. All projects will boost the strategic off-farm community water supplies in these vulnerable areas.

Farmers are also able to access a rebate to undertake farm water audits through the Department of Water and Environmental Region's Farm Water Supply Planning Scheme with the rebate increased to $1000.

(b) All Water Deficiency Declarations made since May 2019 are listed under question (a) above.

(i) As for (a)(i)–(ii).

(ii) As for (a)(i)–(ii).

(iii) To date, no Water Deficiency Declarations have been formally revoked.

(iv) Refer to question (a)(iii).

(c) Drinking water carting

Location	**Reason for carting**
Cranbrook	Low levels in local dams
Rocky Gully	Providing on-going drinking water supplies
Wellstead	Supplement local source due to water quality
Varley	Providing on-going drinking water supplies
Lake King	Providing on-going drinking water supplies
Munglinup	Low levels in local dams
Ongerup	Low levels in local dams
Kirup	Providing on-going drinking water supplies (upgrade project active to reduce carting)
Northcliffe	Providing on-going drinking water supplies
Quiningup	Providing on-going drinking water supplies
Augusta (Cape Naturaliste Lighthouse)	Providing on-going drinking water supplies
Logue Brook (Caravan Park)	Providing on-going drinking water supplies
Nabawa	Providing on-going drinking water supplies
Yuna	Providing on-going drinking water supplies
Coomberdale	Providing on-going drinking water supplies

(d) Drinking water carting

Location	**Reason for carting**
Frankland	Supplement local source when needed
Walpole	Supplement local source (peak season only)
Hyden	Supplement local source and scheme when needed
Yerecoin	Emergency – storm damage impacting treatment
Coorow	Emergency – storm damage impacting treatment
Bolgart	Emergency – storm damage impacting treatment
Gingin	Planned work impacting treatment

(e) Total cost of water carting to all locations for financial year 2019–20: $8 568 187.

(f) Much of the water carting is undertaken on an as-needs basis and the cost for water carting in 2020–21 will vary depending on weather conditions and water user needs.

(g)–(h) There are no plans to reinstate these schemes. The State Government's focus is on providing community water supplies which are accessible by all members of the community.

(i) The McGowan Government continues to take a proactive approach to ensuring long-term supply security in areas impacted by climate change. We continue to work with the Federal Government to seek additional funding under Future Drought Fund, and other funding opportunities to support on-the-ground solutions to long-term, systemic dry conditions across WA's pastoral and agricultural regions.

The Department of Water and Environmental Regulation continues to work with local government authorities to further develop Strategic Community Water Supplies across the dryland wheatbelt region. Work programs will continue to focus on upgrading strategic off-farm supplies in vulnerable Shires.

The Water Corporation continues to monitor and invest in infrastructure to ensure reliable and safe supplies of drinking water.

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