



Parliamentary Debates

(HANSARD)

FORTIETH PARLIAMENT
FIRST SESSION
2018

LEGISLATIVE COUNCIL

Tuesday, 16 October 2018

Legislative Council

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THE PRESIDENT (Hon Kate Doust) took the chair at 2.00 pm, read prayers and acknowledged country.

INDEPENDENT SCIENTIFIC PANEL INQUIRY INTO HYDRAULIC FRACTURE STIMULATION IN WESTERN AUSTRALIA — TERMS OF REFERENCE

Petition

HON ROBIN CHAPPLE (Mining and Pastoral) [2.02 pm]: I present a petition containing 13 927 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 residents of Western Australia are concerned that the current WA fracking inquiry's terms of reference do not include an examination of whether or not fracking should be banned in WA. We acknowledge that there is growing peer-reviewed scientific evidence that fracking cannot be done without risk to human health, climate stability, water quality, air quality and the environment. **Your petitioners therefore respectfully request that the Legislative Council support a permanent legislated ban on fracking in WA.** And your petitioners as in duty bound, will ever pray.

[See paper 2058.]

CROWN LAND LOT 9789, ALFRED COVE

Petition

HON ALISON XAMON (North Metropolitan) [2.03 pm]: I present a petition containing 13 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 sale of Crown Land Lot 9789 to the City of Melville. The Swan Estuary Marine Park and Adjacent Nature Reserves Management Plan (pgs 4 — 6) recommends Crown Land Lot 9789 (described in the Plan as Reserve 35486) form part of the Alfred Cove A-Class Nature Reserve — required to increase the riparian buffer from its current inadequate depth to a recommended >40m for the highly significant Swan Estuary Marine Park at Alfred Cove. As well, the whole-of-government draft Perth and Peel Green Growth Plan for 3.5 million (Green Growth Plan) specifies that Crown Land Lot 9789 should be brought into the conservation estate in the first stage of implementation.

We therefore ask the Legislative Council to 1) oppose any sale of this land to the City of Melville and 2) recommend that the Government legislates as matter of urgency to draw Lot 9789 into the conservation estate as part of Alfred Cove A Class Nature Reserve Number 35066.

And your petitioners as in duty bound, will ever pray.

[See paper 2059.]

TAXIS — PLATES — BUYBACK SCHEME

Petition

HON ROBIN SCOTT (Mining and Pastoral) [2.04 pm]: I present a petition containing three 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 directors of Taxi Operators Legal Defence Pty Ltd ('TOLD') are opposed to the proposed Transport Bill in its current form on the following basis:

- The process and methodology behind the derivation of the buyback figures is flawed;
- The overwhelming majority of taxi plate owners (i.e. 72% of 1035 taxi plates) are limited to a maximum buy back price of \$100,000, which is unfair and unreasonable;
- The proposed Transport Bill is extensive and generational and will be the most significant change to the Transport Industry in over 30 years by repealing the current Taxi Act 1994;
- The proposed Transport Bill was rushed through the Legislative Assembly with insufficient scrutiny;
- The Government is attempting to undermine the role of the Legislative Council, by formally stating that a buyback will not be revisited if the proposed legislation is not passed;

- The complexities and issues stemming from the proposed levy to fund the buyback of taxi plates; and
- The lack of consultation with taxi plate owners, being the most relevant stakeholders affected by the inadequate offer. The government has also failed to provide details of its review process along with any industry and consumer consultation forums.

We therefore ask the Legislative Council to commission an inquiry into an adequate and appropriate buy-back amount to be paid to taxi plate owners.

And your petitioners as in duty bound, will ever pray.

[See paper 2060.]

POLICE — MEDICALLY RETIRED OFFICERS

Petition

HON CHARLES SMITH (East Metropolitan) [2.06 pm]: I present a petition containing one signature couched in the following terms —

To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

I, the undersigned, confirm that this Petition —

1. Strongly opposes the ongoing use of S8(1) and S33L of the Police Act 1892 to remove Police Officers declared medically unfit as a direct result of physical or mental injuries sustained within their work environment.
2. Strongly condemns the ongoing delays and failure by successive Governments over 30 years to finalise a Redress Scheme to compensate officers unfairly removed from their Police career ...
3. Strongly condemns the WA Government ... for failing to formally notify all medically retired unfit (MRU) ex Police Officers that their ... S8 dismissal has been recognised ...
4. Strongly condemns 30 years of successive WA Governments for failing in their duty as employers to provide Workers' Compensation to members of the WA Police Force.

I, the undersigned, therefore ask the Legislative Council to —

- ...
 2. Recommend the Minister for Police formally acknowledge to the Legislative Council that she is fully aware that under S8(1) the Police Commissioner cannot remove Police Officers injured or disabled as a direct result of their work environment without her Ministerial approval.
 3. Recommend the Minister for Police immediately suspend Ministerial Approval to the Police Commissioner for any further S8 police medical retirements ...
- ...
 5. Recommend the Minister for Police take immediate action and commit to amending S8 and S33L of the Police Act within 3 months to prevent this legislation being used for medical retirements.

...

And your petitioner as in duty bound, will ever pray.

[See paper 2061.]

GIRLS TAKEOVER PARLIAMENT

Statement by Minister for Education and Training

HON SUE ELLERY (South Metropolitan — Minister for Education and Training) [2.08 pm]: I rise today to speak about the Girls Takeover Parliament initiative run by Girl Guides Australia. I am sure many members would have noticed plenty of girl guides wandering around this building last week. Girls Takeover Parliament is an innovative program that takes place on 11 October, or International Day of the Girl. It pairs young women and girls with politicians, to guarantee their voices and opinions are heard. It is a program on a mission to show the world the advantages of releasing girls' potential and to inspire more girls to enter politics.

I was paired with Lily Dunstan from Perry Lakes–Tuart Girl Guides. Lily tells me that she has always been very passionate about gender equality, which is one of the reasons she decided to apply for this program. I hope all the female parliamentarians from all sides of politics whom Lily met throughout the day showed her that women have

what it takes to enter Parliament and do it successfully. Throughout the day, Lily got to attend a briefing with Minister Simone McGurk on the women's strategy, sit in the advisers' seats to watch private members' business in the Legislative Council, attend question times in both the Legislative Council and Assembly, and film an interview with me on what it is like being a woman in Parliament. She even had the opportunity to take on the role of an adviser and write this statement for me.

Girls Takeover Parliament was not just an amazing learning experience for Lily, but gave politicians like me the chance to see the issues that really matter to teenage girls today. I recommend everyone here take part next year to encourage girls and young women to pursue leadership positions in order to close the dream gap for young Australian girls and women, and encourage greater diversity in Parliament. I thank everyone who hosted a girl guide for the day or helped make this program take place. It was a day that not only was very exciting for Lily, but also gave us an insight into what really matters to young girls and women and what they want from us when it comes to representing them.

INTERNATIONAL PREGNANCY AND INFANT LOSS REMEMBRANCE DAY

Statement by Parliamentary Secretary

HON ALANNA CLOHESY (East Metropolitan — Parliamentary Secretary) [2.10 pm]: I rise to inform the house that yesterday, 15 October, was International Pregnancy and Infant Loss Remembrance Day, a day to recall babies who have been lost through miscarriage or stillbirth, or who have died shortly after birth. This day is recognised internationally as well as in New South Wales and Tasmania. The Western Australian Parliament has recognised this day since 2014, and John De'Laney has been here every year since. I acknowledge his presence in the President's gallery today, along with his incredible wife, Kate, and their daughter Mary-Jane, who we have witnessed every year grow a few inches taller. I cannot imagine what it is like to come home from hospital to an empty nursery. Kate, who has gone through this seven times, is an incredibly resilient woman and is dedicated to raising awareness around pregnancy and infant loss. Infant loss is an important issue that affects around a quarter of Australian women. As part of this awareness-raising exercise, several prominent locations around Perth have been lit up in blue and pink, including Parliament House, Elizabeth Quay and Optus Stadium. Although it is a sad topic to talk about, we know that not talking about it is even worse.

Earlier this year the Minister for Health attended the launch of the book *Sophie's Boys* and met with the author, Sophie Smith. Sophie lost all three of her premature triplets, and, not long after this tragedy, lost her husband to brain cancer. Instead of drowning in sorrow, she created a charity called Running for Premature Babies, which has raised more than \$2.5 million in lifesaving equipment. By having the courage to share their stories, people like John and Kate De'Laney and Sophie Smith truly do help others feel a little less alone.

There are small things that we can do to make a big difference in the experience of pregnancy and neonatal loss. The birthing suites at Karratha Health Campus have been designed to an extremely high standard and include soundproofing, an incredibly thoughtful design touch. In the scenario that things do not go well and there is a neonatal death, there is a quiet place to grieve. I commend the design team at Karratha for this feature. Another innovation to be praised is the rollout of cuddle cots at many regional hospitals. The refrigerated cots allow the family to spend extra time with their baby who has passed away, in the room. For grieving families, the gift of time is extremely precious and helps to create some of the only memories that they will have with their baby. I wish to praise Ms Kristy Wiegele, who has been a tireless advocate for the rollout of cuddle cots.

I ask members to wear the lapel ribbons today as a mark of respect and continued solidarity for everyone who has endured a heartbreaking and unexpected loss of a child. I again thank John, Kate and Mary-Jane for being with us today as they continue to share their story and raise awareness about such an important issue.

VISITORS — De'LANEY FAMILY

Statement by President

THE PRESIDENT (Hon Kate Doust): I would also like to acknowledge the De'Laney family who are sitting in the President's gallery today. Welcome to our chamber.

PAPERS TABLED

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

STANDING COMMITTEE ON LEGISLATION

Thirty-seventh Report — "Proposed Part 12 of the Strata Titles Amendment Bill 2018 — Termination of Strata Titles Scheme" — Tabling

HON DR SALLY TALBOT (South West) [2.16 pm]: I am directed to present the thirty-seventh report of the Standing Committee on Legislation titled "Proposed Part 12 of the Strata Titles Amendment Bill 2018 — Termination of Strata Titles Scheme".

[See paper 2062.]

Hon Dr SALLY TALBOT: The report that I have just tabled advises the house of the committee's findings and recommendations regarding proposed part 12 of the Strata Titles Amendment Bill 2018, which will introduce a new statutory process for the termination of strata title schemes. For the purposes of the inquiry, Hon Nick Goiran, MLC, was substituted by Hon Donna Faragher, MLC.

The government has cited a number of factors behind the introduction of part 12, including the ageing of strata scheme buildings, the increasing pressure to terminate existing strata title schemes to meet demand for redevelopment sites, and the inadequacies of the current law governing the termination of strata title schemes. Part 12 provides two types of processes for the termination of strata title schemes: first, a streamlined process in which there is a unanimous resolution by owners in favour of termination; and, second, a majority termination process whereby a termination resolution is passed for strata title schemes with five or more lots if the number of votes cast in favour is at least 80 per cent of the total number of lots in the scheme. The majority termination process contains various safeguards to protect the rights of those owners who do not support the resolution to terminate the strata scheme. One principal safeguard is that for a majority resolution to proceed, it must be confirmed by the State Administrative Tribunal after it has been satisfied of a number of matters, including that the termination process was properly followed; every owner will receive a fair market value for their lot or a like-for-like exchange for the lot; and the proposal to terminate is otherwise just and equitable.

The committee considered evidence from a wide range of stakeholders, which revealed a number of opposing views on issues raised by part 12, which the committee recognises are contentious and have caused concern. Following consideration of the evidence before it, the committee generally supports the policy behind part 12 and the process it provides for the termination of strata title schemes. The committee is of the view that it strikes a reasonable balance between the interests of lot owners who support and oppose termination resolutions and, generally speaking, contains adequate processes and safeguards to address the concerns of all those who have an interest in the strata title scheme, to ensure fairness. However, the committee did have some concerns that safeguards for owners and vulnerable people regarding advice and representation are not currently located in part 12, and that there is no legislative guarantee that that will be provided, despite references in explanatory material and Landgate's evidence to the inquiry.

The committee has also identified a number of Henry VIII clauses in part 12. The committee has made recommendations that it believes will further improve the termination process, including providing greater assuredness that strata councils and lot owners will receive the advice that they require on termination proposals. I commend the report to the house.

GAME AND FERAL ANIMAL CONTROL BILL 2018

Notice of Motion to Introduce

Notice of motion given by **Hon Rick Mazza**.

CHAMBER TIMERS

Statement by President

THE PRESIDENT (Hon Kate Doust): Members, before I give the call to the Leader of the House, you might have noticed that the timers are not working today, and it will take a little while to have them repaired. So when somebody is on their feet today, they will get one ring of a bell when they are two minutes out from finishing. When they have actually reached the end of their time, they will get two rings of the bell and they will finish. We will see how that works today.

Hon Sue Ellery: Shall we trial the bell?

The PRESIDENT: Yes.

[Bell rung.]

The PRESIDENT: That is the bell. We will see how we go. I do not think that these timers will be repaired during this week. If they can be, they will be; but, if not, we will have to rely on this new process.

DISTRICT COURT AMENDMENT RULES (NO. 2) 2018 — DISALLOWANCE

Discharge of Order

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

That order of the day 13, District Court Amendment Rules (No. 2) 2018 — Disallowance, be discharged from the notice paper.

CRIMINAL LAW AMENDMENT (INTIMATE IMAGES) BILL 2018*Second Reading*

Resumed from 11 October.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [2.21 pm]: Having regard to the fact that I am the lead speaker and I think I can speak forever without being stopped —

The PRESIDENT: But, hopefully, not!

Hon MICHAEL MISCHIN: I will try to judge the two minutes before I conclude and ring a bell!

On the last occasion this matter was before the house, last Thursday in fact, I observed that the Criminal Law Amendment (Intimate Images) Bill, to a significant extent—I am not suggesting exclusively—seems to have been informed by the legislation in New South Wales on the same subject. It departs in one significant respect; that is, the New South Wales legislation addresses the issue of non-consensual recording of intimate images, but the government has not chosen to go down that path. I would be interested if, in due course, the minister could indicate why that was not pursued. It may be that provisions in our criminal law cover off on that particular element, that it is work in progress, or that the difficulties of that were insurmountable. Nevertheless, I would be interested in information on that.

Otherwise, the key provision in the bill is proposed section 221BD, which, apart from some definition in proposed subsection (1), provides in proposed subsection (2) the core offence that gives rise to this bill. It states that “A person commits a crime if” and I observe at this point that a crime is an indictable offence by definition, so the matter could be dealt with on indictment and, indeed, ordinarily would be, although the bill contains a provision for a summary conviction penalty, so it could be dealt with as an either-way offence. We will get to that in a moment. It states —

A person commits a crime if —

- (a) the person distributes an intimate image of another person (the *depicted person*); and
- (b) the depicted person does not consent to the distribution.

The penalty is imprisonment for up to three years and, although it does not say so, under the provisions of the Criminal Code, as I recall, the monetary penalty has no limit at all. But there is a summary conviction penalty for an offence against that subsection of imprisonment for up to 18 months and a fine of \$18 000. Presumably also, the other varying levels of disposition available under the Sentencing Act 1995 for offenders against our criminal laws would be available to a court dealing with the sentencing of an offender for such an offence. For its detail, that offence then draws on not only proposed section 221BA, which provides definitions for what is “consent”, what is meant by “distribution” and what is meant by “intimate image”, but also breaks down the element of “intimate image” into a number of possibilities and then draws on one of them, which is engagement in a private act, and provides a definition of that. It otherwise expands proposed section 221BB with what is meant by “consent” and in 221BC with what is meant by “distribution”. We will get to those in due course.

One thing I am interested in is why consent has been developed in the way it has in section 221BB. It provides —

In this Chapter —

That is proposed chapter XXVA of the Criminal Code, which deals with intimate images —

a reference to *consent* is a reference to consent freely and voluntarily given.

I would like to know whether that has been necessary in other provisions of the Criminal Code. One would have thought that the concept of consent means consent that is not only freely and voluntarily given but also an informed consent—that is, being aware of what is being done. If someone has a cognitive difficulty, is mentally disabled or mentally ill and is suffering from the consequences of those circumstances, or is intoxicated whether by way of drugs or alcohol, the question of consent does not change. For there to be true or real consent, it has to be voluntarily given and it has to be something that is informed consent. Nevertheless, in this bill we deal with specifying, quite surprisingly I would have thought but maybe there is a good reason and maybe it is for prudence sake, in proposed subsection (2) —

Without limiting the generality of subsection (1), consent is not freely and voluntarily given if it is obtained by force, threat, intimidation, deceit or any fraudulent means.

I would have thought that goes without saying, so I wonder why it was thought necessary for that in this particular case. Dated back, of course, to the start of photography and the ability of people to take photographs of people and distribute them is the old standard ploy in the classic extortion movies and crime movies about the use of intimate images as a blackmail device. But I would have thought the handing over of money on the basis that someone is prepared to threaten a person with releasing an intimate image of them could not be consensual in any sense. I do not recall that it was ever regarded as something that needed any further development to define “consent”. Nevertheless, it is thought fit in this case.

I can understand proposed subsection (3) specifying that a person who consents to the distribution of an intimate image of themselves on a particular occasion is not because of that consenting to the distribution of other intimate images on other occasions. I do not think that needs to be said either, but there we go; there is no harm in that. Consent to the distribution of an image to a person does not necessarily mean that it is consent to distribution generally. Again, I would have thought that that would go without saying, likewise with some of the other provisions in proposed section 221BB. One provision that requires a bit of explanation is proposed subsection (6), which provides —

A person under 16 years of age is incapable of consenting to the distribution of an intimate image.

Our Criminal Code contains provisions about the age of consent to sexual conduct and the like. I can understand the reason that a similar touchstone is being used in the case of intimate images. However, that raises the question of whether parents might inadvertently fall foul of the prohibition and the offence contained in this legislation were they to take photographs—with no malicious intent involved; and that would not be relevant anyway—of their children under the age of 16, whether engaged in a private act, or in circumstances in which those children might be expected to enjoy some privacy, and distribute those images to relatives. One of the more obvious examples is whether proud parents who take a photograph of their baby in the bath or having a nappy change, or whatever it happens to be, would fall foul of this legislation, given that the child cannot give meaningful voluntary informed consent, being under the age of 16. I am sure the legislation would cover off and accommodate that. However, I am interested to know, for the comfort of those who may fear the consequences of this legislation, how that will be dealt with. I presume also that, like other provisions in the Criminal Code, there is at least theoretically open an offence of attempting to commit this crime. The threats provisions in the Criminal Code have also been preserved, and this is included as one of those circumstances that may give rise to an offence of threatening to distribute an image contrary to section 338 and its fellows in the Criminal Code.

I now turn momentarily to the definitions in proposed section 221BA in the bill. The starting point is the definition of “intimate image”, which provides in part —

intimate image, of a person —

- (a) means a still or moving image, in any form, —

I observe that that is presumably to allow for changes in technology and the like, such as a still or moving picture, or a video image, whether by way of a graphics interchange format or another form of animated file —

that shows, in circumstances in which the person would reasonably expect to be afforded privacy —

I understand that the formula in the New South Wales legislation does not focus on the words “the person would reasonably expect to be afforded privacy” but rather refers to “a reasonable person would reasonably expect to be afforded privacy”. I presume a conscious decision was made to adopt this formula. However, that seems to me to have some implications, particularly if, as I foreshadowed when I last spoke on this bill, it were to limit the ability to prosecute in cases in which the person is not prepared to complain about the distribution of their image. One of the elements required in order to prosecute the offence is that the depicted person does not consent to the distribution of their image. I would have thought there would be circumstances in which we can infer a lack of consent. However, because we are not looking objectively at “a reasonable person would reasonably expect”, it seems to imply that the person depicted in the image will need to be prepared to give evidence to the effect that they did not consent to the distribution of their image, rather than rely on inference. The Leader of the House may be able to explain that as well.

Paragraph (a) of the definition of “intimate image” provides the following three subparagraphs —

- (i) the person’s genital area or anal area, whether bare or covered by underwear; or
- (ii) in the case of a female person, or transgender or intersex person identifying as female, the breasts of the person, whether bare or covered by underwear; or
- (iii) the person engaged in a private act; and

The words “private act” refer to the following definition in proposed section 221BA —

engaged in a private act means —

- (a) in a state of undress; or
- (b) using the toilet, showering or bathing; or
- (c) engaged in a sexual act;

In the New South Wales legislation, “sexual act” is limited by the qualification that it is of a kind not ordinarily done in public. In the case of this legislation, it is a sexual act in the broadest of terms. I am interested to know

what the bounds of that might be. For example, would kissing in private, particularly if done in a passionate manner, be considered a sexual act?

That brings me to another matter on which I would like some advice. “Privacy” ordinarily refers to behaviour that we do not expect to be observed or be the subject of public scrutiny. Is the evil with which we are dealing in this legislation that of depicting acts that are done in private, or is it the invasion of privacy by publicising and distributing behaviour which one might wish to keep private, but which is done in a way that can be overseen by others? One example is paparazzi. It may be the case that one performs an act in public and does not mind that act being seen in public, but one draws the line at that act being distributed on the internet for the whole world to see. What are the bounds of privacy that we are dealing with in this particular legislation? In a sense that draws in another element of the legislation—that is, the defences that are provided for in proposed section 221BD(3). The offence, the commission of the crime, is effected if the person does the distribution and the depicted person does not consent to the distribution. There are, of course, exculpatory considerations in the criminal responsibility chapter, chapter V, of the Criminal Code—unwilled act, accidental event, honest and reasonable but mistaken belief in the state of things, and the like. But there are a number of specific defences and defences are, of course, of a different category. Defences are not something that the prosecution has to disprove as part of its case; defences are something that have to be positively raised and established on the balance of probabilities by the accused. We heard a lot in the last Parliament about how terrible it was that people ought to have to prove their innocence. In this particular case, there are a number of defences and they seem to be quite wide ones; notwithstanding that, they are defences that need to be established on the balance of probabilities by the person charged.

One is that the distribution of the image was for a genuine scientific, educational or medical purpose or that it was reasonably necessary for the purposes of legal proceedings. The more interesting one is that the person who distributed the image did so for media activity purposes and did not intend the distribution to cause harm to the depicted person and reasonably believed the distribution to be in the public interest. I raise as a possibility a wardrobe malfunction, if you like, in someone’s yard, which is filmed and distributed on the internet. Could it be said that that was done for media activity purposes? Quite possibly, because media activity is having the character of news, current affairs or a documentary or material consisting of commentary or opinion on or analysis of news, current affairs or a documentary. I suppose it could be portrayed as one of those human interest stories that finish off the news bulletins at night. But whether or not one intended to cause harm, I think it is a pretty fair inference that harm would be caused. I would have doubt as to whether it is in public interest. Things that the public are interested in are not necessarily objectively in the public interest, although our media organisations seem to think otherwise, but, again, these are defences that have to be established on the balance of probabilities.

Perhaps a greater catch-all is proposed subsection (3)(d), in which —

a reasonable person would consider the distribution of the image to be acceptable, having regard to each of the following (to the extent relevant) —

- (i) the nature and content of the image;
- (ii) the circumstances in which the image was distributed;
- (iii) the age, mental capacity, vulnerability or other relevant circumstances of the depicted person; —

I observe at this stage that some of this information may be well beyond the knowledge of the person charged —

- (iv) the degree to which the accused’s actions affect the privacy of the depicted person;
- (v) the relationship between the accused and the depicted person;
- (vi) any other relevant matters.

I would have thought that it is a little unusual to have a defence to a criminal charge that is not a little more tightly framed than “any other relevant matters”. I wonder how a judge might direct a jury in this regard. The court directs the jury that it has to be satisfied beyond reasonable doubt of each of the elements of the offence. The elements of the offence are that a person distributed an intimate image of another person and that the depicted person did not consent to the distribution. A defence, if the accused manages to establish it, is that a reasonable person would consider the distribution of the image to be acceptable having regard to, amongst other things, any other relevant matters. How does a judge sensibly direct a jury as to whether it can be satisfied on the balance of probabilities on the available evidence that there was a legitimate defence to that charge? Perhaps the minister can assist there.

Before I turn to the rectification provisions in the code, as I have observed, there is a summary conviction penalty for the offence. If I have not already raised it, perhaps the minister can give an indication of the circumstances that the government sees would warrant this offence being dealt with on indictment—namely, before a judge and jury—as opposed to before a magistrate summarily.

I move now to the rectification provisions. Interestingly, they provide a power to the court to try to remedy the harm that has been done by the distribution of an intimate image. The material provision is proposed section 221BE(2), which provides —

If a person is charged with an intimate image offence, the court may order the person to take reasonable actions to remove, retract, recover, delete, destroy or forfeit to the State any intimate image to which the offence relates within a period specified by the court.

Some of those terms are fairly straightforward—they overlap and there is no harm in that—but perhaps the minister can provide some information on, firstly, how practical some of this may be. If one were to put an intimate image on a website that specialises in the distribution of intimate images, it may be impossible to remove, retract, recover, delete or destroy the image to which the offence relates within any period set by the court. Although a penalty is provided in proposed subsection (6) for the failure to comply with an order, that penalty is not only relatively small—12 months' imprisonment and a fine of \$12 000—but also subject to reasonable excuse. It seems to me that it would not be difficult to have a reasonable, albeit perhaps a morally reprehensible, excuse, to say, "I've distributed this image in a way that no retraction is possible. I can't do anything about it now. Sorry, but there it is", which does not seem satisfactory. Furthermore, it is not a continuing offence. I would like some explanation about why that was not provided for, rather than simply having an offence at a point in time. Another feature of the rectification provisions is the forfeiture to the state. I note that no provision requires the return or surrender of an image to the person who has been wronged, rather than the forfeiture of that image to the state. Perhaps the minister can explain what is contemplated in that regard, what the state proposes to do with the images and why is there no requirement for an order for surrender of the images.

I also note that no powers are included in the legislation to require the agencies by which these images are being distributed to act in any particular way. That may be because the state does not have the legislative power to deal with them. An amendment to the commonwealth Copyright Act 1968 allowed a copyright holder to compel internet service providers, by way of an injunction, to block websites that were hosted outside Australia that had the primary purpose of facilitating the illegal downloading of copyright material such as films and so forth. It may be beyond Western Australia's legislative competence to do it, or there may be other reasons for it, but perhaps the minister could advise us whether the question of being able to make orders of rectification that would be binding on internet service providers that operate within this jurisdiction was considered and why it was not pursued.

In due course, I would like some information on two other elements. The first relates to resources to be made available to the police to deal with these matters. I accept that it may be difficult to estimate the number of cases that may be brought forward for police action. However, there may be some indication of the sort of draw on state and police resources from the experience in other jurisdictions. As I observed, we are not the first state to implement this legislation. We have had the advantage of being able to observe the efforts of South Australia, Victoria, New South Wales and the Australian Capital Territory in addressing this problem. I would be interested to know how many cases have been prosecuted under their legislation and to what degree of success. If there were powers to order rectification, were they used to any degree of success in order to give an idea how this legislation may operate in Western Australia? Has there been any proposal to review the effectiveness of this legislation in order to address any shortcomings that may have been revealed in its operations?

Other than that, I again commend the government for introducing the Criminal Law Amendment (Intimate Images) Bill 2018. Subject to anything that may be revealed in the course of the second reading reply and ultimately, because I believe we will be going into Committee of the Whole, we will be able to consider the detail of the legislation and how it will operate, but it seems to be well drawn within the parameters that have been chosen for it. There will always be potential loose ends and potential operations that may be extreme or undesirable and those will need to be addressed. Subject to the issues I have raised, I think the legislation is a sound initiative. It was worked on before the last Parliament rose, although there was no prospect of bringing it in let alone passing it. The "National Statement of Principles Relating to the Criminalisation of the Non-Consensual Sharing of Intimate Images" has provided some useful guidelines on best practice for the legislation, and they were settled only back in May last year. I note from the statement that there are several possibilities for how to deal with the elements of the offence and certain choices have been made in this case rather than those that were foreshadowed in the guidelines. The minister will, no doubt, also be able to explain that. I think this will be as good a fist as one can make of addressing this very difficult problem. I conclude my remarks with congratulating the government on introducing the legislation.

HON ALISON XAMON (North Metropolitan) [2.56 pm]: I rise as the lead speaker for the Greens on the Criminal Law Amendment (Intimate Images) Bill 2018 and indicate from the outset that the Greens will support the passage of this legislation. However, like the speaker before me, the Greens have a lot of questions about this legislation, particularly wanting to clarify that we do not end up with unintended consequences as a result of bringing in these new laws. It is an important legislative reform to look at. The world we live in these days is very different from the world in the past and it is rapidly changing. In fact, it was only 30 years ago that the internet did not even exist; 15 years ago, we did not even have Facebook; 10 years ago, there was no Instagram; and five years

ago, we did not have Tinder. Yet, in that relatively short period, here in 2018, six in 10 Australians use Facebook and, of them, one in two Australians use Facebook on a daily basis; one in two Australians use YouTube; one in three Australians use Instagram; and one in four Australians use Snapchat and of those, 4.5 million people in Australia use Snapchat daily. I cannot even imagine what the next decade will bring in access to technology and in how people will be using social media because things are changing so rapidly and so often.

The proposed legislation before us is needed precisely because of these developments in technology. Technology has obviously enabled us to quickly and cheaply send high-quality images to multiple people and there are significant positives in that. We had some discussion in my office about the best benefits. One of my staff members is of the view that circulation of videos of baby goats has been probably the greatest advantage of technology. I, for one, prefer movies of dogs. There was considerable debate around it within my office. Obviously, on a more serious note, advances in technology have also brought significant risks. I am sure I will not be the first member in this place to indicate my relief that I managed to go through my teens and early 20s in the days before social media. I do wonder how much that might have haunted me now that I am in my 40s. The bill before us addresses a significant gap in the protections that have been available to people in Western Australia. The Criminal Law Amendment (Intimate Images) Bill 2018 seeks to address the non-consensual distribution of intimate images. I note there is a concerted effort to use this terminology, rather than referring to “revenge porn”, as has been common in the past. I think the term “abuse” more appropriately captures the seriousness of the offence, which we have seen can have long-term impacts and implications on people’s lives, because, put very simply, having intimate images shared without consent is a form of abuse. It is about time the law is able to recognise that. I note the researchers Dr Nicola Henry, Dr Anastasia Power and Dr Asher Flynn have commented that for many victims, discovering that their images have been made public constitutes a violation of their sexual autonomy and dignity. It is also not revenge porn, because intimate image abuse does not have to be motivated by revenge, so it is a bit of a misnomer to talk about the distribution of intimate images as being revenge porn. We know the distribution of images can be motivated by many other things. It can be motivated by a desire to control, to intimidate, for sexual gratification, for monetary gain, to build social status or, quite simply, just to try to cause emotional harm and humiliation. Furthermore, use of the word “revenge” implies that somehow the behaviours were provoked, and far too often the behaviour of the victim is called into question. Therefore, we really need to get away from suggesting that victims are in any way responsible for the offence being perpetrated against them.

Unfortunately, this is not a marginal issue. The statistics around these types of offences are staggering. According to a report last year, one in five Australians has experienced image-based abuse. Some people are more vulnerable to abuse, and image-based abuse is no different in that regard. For example, the same research found that one in two Australians with a disability reported being a victim of image-based abuse. I want members to think about that—one in two people with a disability. The research published last year indicated that 53 per cent of participants with a disability reported that an intimate image had been taken without their permission, 42 per cent reported that such an image had been distributed and 41 per cent said that they had experienced threats relating to the distribution of intimate images. That is a terrifying piece of research. This report also found that one in two Indigenous Australians had experienced image-based abuse and also that image-based abuse victimisation is higher for members of the lesbian, gay, bisexual, transgender, intersex community. It is also higher for young people aged 16 to 29, although I note that the research I am referring to did not include people under 16. I expect that group is likely to be at increasing risk.

There is a gendered nature to image-based abuse. Although women are less likely to share sexual self-images in the first place, they are just as likely as men to be victims of the misuse of those images. That means that perpetrators are most likely to be male and known to the victim. Intimate image abuse can be a particular issue for women who are victims of domestic violence, who often also face technology-facilitated stalking and abuse. The image may have been taken by the victim; however, many victims have had images—we are talking about photos or videos—taken without their permission and sometimes even without their knowledge. Research indicates that one in 10 people who say they have never consensually sent or been pressured to send someone else a sexual self-image were still victims of image-based abuse.

I understand that there is widespread support for legislation of this type. I note that it has been estimated that 80 per cent of Australians agree that it should be a crime to share sexual or nude images without permission. This is as it should be. Image-based abuse is a horrific crime. Not only is it a serious invasion of privacy; it can also cause long-term psychological damage to victims. In fact, we know of instances in which victims have subsequently taken their lives. It is crucial that victims have recourse under the law. In that sense, the law has been playing a very slow catch-up in this space.

I would like to make a few comments about victim blaming, which, unfortunately, is particularly pervasive in this space. It is simply not okay for any of our responses to intimate image abuse to be that the victim should not have taken the picture in the first place. That is classic victim blaming. Victim-blaming attitudes are too common and they need to be challenged and called out whenever they occur. There was some commentary in the other place around this issue. Let us be very clear: the blame and condemnation for intimate image abuse should be 100 per cent directed towards the perpetrators—those who knowingly distribute those images. We all need to ensure that we are working together to create a culture that supports victims and is calling out the perpetrators.

Importantly, this bill does not criminalise the consensual sharing of images between two consenting adults and nor should it. Instead, the bill before us amends the Criminal Code by inserting a new chapter that makes distribution of intimate images an offence in certain circumstances. It provides a maximum penalty of three years' imprisonment if the matter is dealt with on indictment and a maximum penalty of 18 months' imprisonment or an \$18 000 fine if the matter is dealt with summarily. It also amends provisions relating to "threat" to include threats to distribute images, and the usual penalty for threat will apply. If a person is charged with either the new offence or the threat offence, the bill grants courts the power to order the accused to rectify by taking reasonable actions to remove or destroy the alleged image. Noncompliance is itself an offence, with a maximum penalty of 12 months' imprisonment or a fine of \$12 000. I think this is a really important provision to include in the legislation. I am not aware of any protocol of prosecutors to routinely seek a rectification order at the first court mention if the accused concedes that there is an image, but does not necessarily admit the offence. I am adamant that the earlier a rectification order is made, the better it will be for the victim. A question I have for the minister is whether such a protocol is likely to be implemented; and, if not, whether that could be brought to the attention of the Attorney General. I think the capacity to rectify the damage as soon as possible is a really important power that is being incorporated, but we need to ensure that it is an automatic matter to be addressed as soon as possible and as a matter of course.

"Intimate image" means any still or moving image shown in circumstances in which the person depicted would reasonably expect privacy. The bill specifically refers to a person's naked or underwear-clad genital or anal area, or breasts, if the person is female or identifies as female, and if the person is in a state of undress, using the toilet, showering, bathing or doing a sexual act. It also includes any form of image that has been made or changed to make it appear to show any of those things, such as transposing a person's face onto a porn image.

An intimate image, whether the depicted person knows that it has been created, is covered by the bill. That is to deal with offences such as upskirting, which is a pretty grubby offence, particularly when people walk around with cameras that are usually concealed and will actually film up skirts, or whether it is being distributed such as through hacking.

It also includes lewd cartoons or caricatures, and that is subject to the defences below. On that note, members, I was hoping to table a cartoon that was circulated very recently in response to the dispute around the use of the Sydney Opera House to project advertising. For me it raised questions about the scope of this bill. It is a rather lewd caricature of Alan Jones, and I wish to table it because I am concerned about whether this would be deemed to be an offence under the Criminal Law Amendment (Intimate Images) Bill 2018. It would be useful to determine the degree to which this legislation intends to capture that. It has been not only published, but also circulated. I wondered whether the act of me bringing it to the attention of members or my staff would be captured under the bill. I seek leave to table this published cartoon to be able to elaborate further.

Leave granted. [See paper 2063.]

Hon ALISON XAMON: I will further refer to that cartoon when we go into Committee of the Whole House, because I think it would be useful to get an idea of the intended parameters of the legislation.

"Distribution" is broadly defined. It includes to distribute or access by any means or agreement or by an arrangement to do so, such as traditional paper-based distribution and technology-based distribution. I note that it must be an image of another person—so, for example, not the distributor emailing a selfie to a laptop. If someone chooses to take lewd images of themselves and send it to themselves, that would not be covered. It relates only to non-consensual distribution to third parties; I have already mentioned that. It is not intended to cover the person sending it or the person depicted, such as during consensual sexting.

Sections 23A, 23B and 24 of the Criminal Code provide that a person is not criminally responsible for something that happens independently of the exercise of a person's will, such as an unintended automatic distribution by computer, or by accident, such as clumsily pressing "send" instead of "delete", or by mistake of fact, such as if it is claimed that the person intended to press another button, not "send". That seems to be a pretty easy way to try to argue that someone had not intended to distribute an image. I would like some more information on what the burden will be in being able to demonstrate that it was indeed done by error or mistake. Of course, in many circumstances that could be a very legitimate defence, but I certainly hope that it will not be so broad as to ensure that people are able to, effectively, get out of being held responsible for the distribution of images when they really otherwise should not be able to.

Hon Michael Mischin asked lots of questions about consent. For the purposes of the bill, we are talking about a person giving free and voluntary consent to the distribution of an intimate image of themselves. In this day and age, it is unfortunate that we have to really spell out what is and is not consent, but I do not necessarily have a problem with a piece of legislation making it very, very clear that simply saying yes does not constitute consent and illustrating why that is the case. It seems that some people are challenged by this idea of what constitutes genuine consent—I am not suggesting the previous speaker is—so it is useful to make it unequivocally clear in the legislation.

A person's consent to the distribution of an intimate image of themselves is not taken to mean that they also consent to it or any other intimate image of themselves being distributed on another occasion, or to another person for any other distribution. That gets back to the victim blaming that I was speaking about earlier. Simply the fact that

a person agrees to the taking of an image does not mean that it is okay to forward it to anybody else. Really importantly, a person under 16 years of age is deemed to never be able to give consent to the distribution of an intimate image. That is exactly as it should be. Also, circumstances of non-consent are not limited to just those circumstances. It will be for the prosecution to prove non-consent. If the accused believed that the victim consented, they can rely on the general defence of honest and reasonable mistake of fact. Unlike sexual assault, if consent is given and the image is distributed, that is the end of the matter—consent cannot then be withdrawn. All the person can do is try to have the image taken down, and they can do that with the help of the eSafety Commissioner, if needed.

Whether harm was intended by the distributor or suffered by the person depicted is not relevant. It all turns on the issue of non-consensual conduct. That is an appropriate line to draw. The non-consensual sharing of intimate images has the potential to do great and unacceptable harm to people, whether or not that harm was intended. It is important for the legislation to reflect that.

I turn now to the issue of sex offender registration and reporting. This bill will not add to the list of offences in the Community Protection (Offender Reporting) Act 2004; however, as for any offence under section 13 of the act, if a person is convicted and the court is satisfied that the offender poses a risk to the lives or the sexual safety of one or more persons or persons generally, the court can order that the offender comply with the act's reporting obligations. Serious offences involving children are more likely to be prosecuted under child exploitation material provisions than this provision. Of course, convictions under child exploitation material provisions attract sex offender registration, as well as a higher maximum penalty.

The bill will also amend the Restraining Orders Act by rewording the relevant parts of the definition of “family violence” and the restraints that a court can impose via a family violence order to align with the wording used for the new Criminal Code offence. The bill will amend the Working with Children (Criminal Record Checking) Act by making a new Criminal Code offence. If the image is of a child, it will be a class 2 offence, so they will not be able to work with children unless exceptional circumstances apply. This is the same class as for child exploitation material offences.

I note that the bill has no impact on any additional powers that a court may have under the Criminal Property Confiscation Act or section 731 of the Criminal Code, which relates to forfeiture of property used to commit and offence provisions. I think that that is probably a reasonable judgement call.

One key concern I have, which was certainly raised in the briefings and which I think we need to get clearly on the record, is the impact on children and young people of these provisions. I note that in consultation to develop this bill, the Commissioner for Children and Young People was advised and consulted as to the early stages of the bill, which is appropriate. I am really pleased to hear that that process occurred; that is a good use of that important statutory office. I also understand that the office of the Commissioner for Children and Young People reported that it sees that there will be no adverse impacts on children. It confirmed the advice to our office, which we had also received at the briefing, that for this sort of behaviour the police tend to think carefully about whether to charge a juvenile, and that often they talk to the accused and often involve parents and talk to the parties involved instead of laying charges. That is one issue that the Greens were concerned about. We want to make sure that discretion is appropriately applied so that when children have simply been stupid, criminal charges will not necessarily be laid in particular circumstances when it is not particularly appropriate. That is important because the bill applies to all people, and children and young people are included within these particular offences.

The offence created by the bill will not apply to distribution, to the distributor or to the person depicted. Again I point out that a person under 16 cannot consent to distribution of their intimate images anyway.

I note that the Department of Education, the Department of Justice, Legal Aid Western Australia and the Ministerial Youth Advisory Council are apparently working on an education campaign for students and young people. I understand from the briefing that it is intended that this is to be integrated with existing cyber safety and legal education. I maintain that it is very important that the same information is provided in non-government schools and in government schools. I understand that that is the government's intention, but I ask that the minister confirm whether that is indeed what will happen. I also note that not all young people are at school. It is important that those young people, too, have access to the same information. Some young people are particularly vulnerable to these particular offences. I understand that ways of reaching out to this cohort are being considered and will be developed. Again I ask the minister to confirm that that is happening and explain what that will look like potentially. It is also very important that this information is made available to parents, who are well-placed to reinforce this with their children. It is a whole new world we have to guide our children in and we need to make sure that people right across the community are well-informed about the impact of these laws.

I note that if a young person commits this new offence—I learnt this from the second reading speech—the usual protections and diversions under the Young Offenders Act will apply, including options to caution or referral to a juvenile justice team. Although that is appropriate, I note the recent Auditor General's report “Diverting Young People Away From Court”, which indicates that police choose to divert young people from court in less than half

of eligible cases, and that this has been the case for at least the last five years. The report further identifies that police do not record their reasons for choosing not to divert; they are not guided or supported to prioritise diversion; and that even if they do divert, only a small proportion of diverted young people get the sort of help that they likely need to prevent re-offending. This is a very concerning situation. Members would be aware that I am quite concerned about the status of youth justice within this state, so I think that it is vitally important that at the core of the way we address offending by children and young people, we address rehabilitation and the underlying causes of youth offending behaviour. Until then, I am concerned that we will continue to add to the ongoing pipeline of young people who go from the youth justice system to the overcrowded prison system. That being said, I was encouraged to hear at the briefing that for existing offences that cover similar behaviour to this new offence, police will be using diversion appropriately.

Diversion of young people from the justice system is particularly important given the potential impact a charge or a conviction under this legislation will have on a person's future work and travel opportunities. A young person who is charged under this legislation may, as a result, fail to get a working with children check card, which of course will impact not only on their ability to gain employment, but also on future recreational and volunteering opportunities. One thing we know about being a teenager is that teenagers make mistakes—I most certainly did. They often do not fully understand the consequences of their behaviour or, in fact, may not even care. Teenagers' brains are wired for risk-taking. There is a lot of neurological research on why that is the case, but, unfortunately, social media has made it really easy for people to take and send pictures impulsively. Although that does not minimise the seriousness of the act, it does mean that we have to think very carefully about the most appropriate responses when we are dealing with children and young people. I ask the minister to confirm that police will use diversion for young people under this new offence when appropriate, and that they will record their reasons for not using diversion. I also ask the minister to confirm that the diversion methods that are used have been shown to be effective in reducing re-offending.

I strongly believe that the impact of this bill on children and young people should be monitored and be the subject of a formal statutory review. The world is changing, as I have said, and many people share photos online. A core part of young people's daily social interaction involves sharing photos online, so we need to regularly review legislation so that we can ensure that we achieve an appropriate balance between protecting the community and responding in a way that we do not unfairly—if that were the case—impact on a person's ability to seek employment and travel effectively for the rest of their lives. It is important that we do not create offences that are too broad and that we do not convict people whose actions are outside the intended scope.

Another interesting aspect of the legislation we need to consider is its potential impact on people who shame individuals who have sent them unsolicited intimate images. Mr Deputy President, I did seek the President's guidance about how I should appropriately refer to this within Parliament so as to not be unparliamentary. I am referring to the form of sexual harassment that can take place in the digital age when a sexual harasser will send unwelcome sexually explicit images of themselves to their victims. A colloquial phrase is used to describe this but, effectively, I am referring to when men take pictures of their genitals and, unsolicited, send them to another person, usually a woman. I do not know whether any members here have been the recipients of such images. Unfortunately, I have.

The DEPUTY PRESIDENT: Order! Hon Robin Chapple knows not to pass between the member speaking and the Chair.

Hon Robin Chapple interjected.

The DEPUTY PRESIDENT: Order! Hon Robin Chapple also knows not to address the Chair when he is not in his place. Hon Alison Xamon will continue her remarks before we go for strike three!

Hon ALISON XAMON: Thank you, Mr Deputy President.

I want to ask some questions about what this legislation might mean for someone like me who might receive such an unwelcome image. Sometimes these images are accompanied by a so-called invitation, but more often they are accompanied by a threat of some form of sexual violence.

The Criminal Law Amendment (Intimate Images) Bill contains exclusions permitting the distribution of an image by the victim for purposes of law enforcement or administration. That might be appropriate because I may be the unwelcome recipient of a particular picture and I subsequently send it to the police, and that is fine. However, the bill does not appear to permit the victim recipient to share or distribute the images for any other purpose. It has become a very common technique, particularly for women who have been the recipient of such pictures, to further distribute these images to attempt to humiliate the person who has sent the unwelcome image. This might be for the purpose of sending it to family or friends. I might choose to send it to my husband to say, "Can you believe I just received this?" This would be to seek support. Effectively, I may have sent it on without the consent of the person who sent me that offending image. I am wondering whether I will be breaching the legislation. Am I likely to be the recipient of criminal charges?

What has become increasingly common, particularly by people who become the endless recipients of these pictures, is to publicly shame the harasser, sometimes through republication on a website or on social media. That tactic is increasingly applied, particularly when women in this situation have become fed up with constantly receiving these images. If my daughter were receiving these images, I would want to do everything possible to shame the person who was sending them. But, frankly, I would also want to shame them if they sent them to me. This has become a typical response and it is the kind of response to sexual harassment that we have seen increasing, particularly in light of the Me Too movement. I am concerned that these people, me or anyone else I care about—in fact, anyone in this chamber—may end up being considered to be an offender when I believe we have been offended against. It seems that in those cases, under this bill, the victim must rely on police choosing not to prosecute them for the distribution or, if prosecution is brought, the defence that a reasonable person would consider the distribution to be acceptable. I want to know whether it is that latter bit that is likely to be considered within the scope of a reasonable defence. The last thing we want is for legislation that is specifically designed to protect victims of abuse and harassment, which is welcome, important and overdue, to end up criminalising those same victims when their response has been to seek to shame their harasser. This, too, is something I strongly consider should be monitored and be subject to a formal statutory review. It may also require public awareness raising.

In relation to the defence of distribution, the bill before us provides a number of defences for the non-consensual distribution of intimate images, such as distribution for genuine scientific, educational or medical purposes. I would expect, however, in those instances consent would usually be obtained for distribution for these purposes, making the defence unnecessary. I ask the minister to provide for the record examples of the circumstances to which this defence would normally apply, because I am not aware, when those types of images are circulated, that consent is not actually required ahead of time. It is also a defence to reasonably and necessarily distribute for the purposes of legal proceedings and for media activity if no harm was intended and the distributor reasonably believed it was in the public interest. It is also a defence if a reasonable person would consider the distribution acceptable having regard to the image; the circumstances; the depicted person's age, mental capacity, vulnerability or other relevant circumstances; the degree of impact on the person's privacy; the relationship between the parties; and any other relevant matters. This is particularly the issue to which Hon Michael Misich also referred—the scope to which an intended catch-all defence reflects community standards of the relevant time—for example, as was said, the usual baby-in-the-bath photos sent by one proud parent to the other. We would not expect them to attract charges in the unlikely event the police were minded to so charge. I note the onus is on the defence to prove the defence on the balance of probabilities. I note that distribution is not an offence by law enforcement agencies in their official duties in accordance with or in the performance of the person's functions under a written law or an Australian law, or for the administration of justice. The onus is on the prosecution to prove the exception does not apply, if indeed it is raised at all.

I ask the minister to confirm for the record that the exclusion in accordance with or in the performance of a person's functions under a written law or an Australian law includes both the following scenarios: distribution of an intimate image to the eSafety Commissioner; for example, by the parent of a depicted child or young person even if that young person has not given their consent—remembering that if the depicted person is under 16 years old, they cannot legally consent anyway—and distribution of an intimate image of a depicted student by a teacher for the purpose of reporting the incident to senior teaching staff or the appropriate government department or parents of the students involved. I say that because the legislation is quite clear when it comes to the distribution of an image between those legal and statutory appointees. But if a student raises a concern with a teacher and the teacher subsequently sends it to the principal, who then deals with it, these are people who, in good faith, are trying to deal with the issue but it is unclear whether they are, effectively, at risk for having forwarded that image on further. I would like some clarity around those intentions.

In concluding my remarks, I note that intimate image abuse is a multifaceted issue and requires initiatives beyond a purely legislative response. That includes initiatives to support victims, as well as initiatives to change the attitude of people, including young people and their parents, and the wider community. We need to ensure that this is done through education, support and restorative justice. Only by making such a comprehensive response will we be able to create the cultural changes needed to ensure that we are adequately supporting victims. We need to hold the perpetrators accountable and ultimately prevent these harms.

The Greens welcome this legislation as an important part of our response to intimate image abuse. I look forward to being able to tease out in the committee stage the further detail of this legislation to ensure that it does not have unintended consequences.

HON CHARLES SMITH (East Metropolitan) [3.40 pm]: I rise to indicate broad support on behalf of the crossbench for the passage of the Criminal Law Amendment (Intimate Images) Bill 2018, and to offer my subdued congratulations to the Attorney General for pushing this bill up the notice paper.

The rise of the internet has brought with it a number of challenges, particularly for legislators. Since the rise of online media, particularly in the last decade, a new form of harassment has arisen—the online distribution of intimate images of a person, an attack commonly known nowadays as “revenge porn”. In the age of the internet,

any content can spread rapidly to millions of people. That includes content that is intended to harm or humiliate people. Little is as damaging or humiliating to a person than the distribution of intimate images without their consent. Therefore, I am very pleased that the Attorney General and the Labor government have listened to me and are finally doing something positive in response to crime.

This bill seeks to insert into the Criminal Code offences related to the distribution of intimate images without consent; contains provisions to deal with existing threats to distribute intimate images; and provides that the courts can make an order requiring a person charged with the offence to remove or destroy the images.

However, I provide a word of warning to the government. Unfortunately, once material is distributed online, it is next to impossible to scrub the internet of its presence. Once an image is uploaded, anyone who sees the image can download it and re-upload it elsewhere, or merely keep it in their possession. Therefore, I must levy some criticism at proposed section 221BE. Although I support this proposed section in essence, I take issue with some of its language. The terms “remove” and “retract” merely imply deleting the image from the uploaded or distributed form. They do not imply deleting or removing the images or content from the offender’s possession or access. The term “recover” implies bringing the image back into the possession of the offender, or enabling the offender to regain access to the content. Therefore, I ask the government to clarify what it means by these terms. Further, I recommend that something be done to expedite these matters. In the case of online distribution, time is of the essence. The longer content remains online, the more likely its distribution will increase and further harm the victim. Perhaps one way of providing interim injunctive relief would be to compel an accused to remove the content immediately, in the interests of protecting the victim.

Despite these criticisms, I support this legislation. Although I find it long overdue, it is a refreshing step in the right direction from a government that has otherwise thus far been weak on crime.

HON NICK GOIRAN (South Metropolitan) [3.44 pm]: I rise to contribute to the second reading debate on the Criminal Law Amendment (Intimate Images) Bill 2018. My learned friend the shadow Attorney General, Hon Michael Mischin, has already outlined the support that will be provided by the opposition for this bill. Therefore, my contribution at this time is in my capacity as shadow Minister for Prevention of Family and Domestic Violence. I note that I will be subject to a limited time to speak this afternoon, notwithstanding the fact that we have some difficulties within the chamber with regard to timing. Therefore, I do not intend to be the first victim of the new bell system. My friend the Leader of the House, who has carriage of this bill, will be pleased to know that I do not intend to speak for so long as to warrant the use of the bell. As is sometimes the case in this place, those may be famous last words. However, I seriously do not anticipate that that will be necessary.

The reason I join with other members in supporting this bill’s passage through the house is that there is a need for this bill. Other members have outlined the need for this bill, not the least of which is the ongoing developments in technology. I am sure all members will appreciate that, unfortunately, phones and iPhones are constantly involved in our lives. I note as I look around the chamber that some members are currently engaging in the use of such technology. That demonstrates the point that, for better and for worse—it is both a blessing and a curse—this technology is at our disposal and is constantly involved in our lives. The capability of this technology and the various communications and apps seem to be never ending. As I have said, this technology has proved to be very helpful for us. However, equally, it comes with its challenges. It should be noted that this modern form of technology and communication carries with it an ever-increasing capacity to store and transmit personal information. Although that provides great efficiency and convenience, it also provides opportunities for exploitation.

The second reason we need this bill is the anonymity that is provided by the internet. This is an increasing phenomenon. It lends itself to what is known as behaviour disinhibition—that is, when people feel free and removed from any repercussions for their behaviour and, as a result, act in a fashion in which they would not act if they did not think they were shielded by the internet.

I recently had the privilege of attending the launch of a book entitled *Violence Against Women in the 21st Century*. The editors of the book are Marika Guggisberg and Jessamy Henricksen. The back cover of the book contains a useful quote that explains the context of the book. It states —

This book examines issues around violence against women in relation to contemporary experiences, theories and interventions. It provides insight from research and expertise of international scholars, which invites readers to critically reflect on the nature, impacts and complex responses to women’s experiences of interpersonal violence, inequality and racism. The book raises awareness of different forms of violence, which include emerging types such as image-based abuse, sextortion and online stalking.

The book is aimed at scholars, students, practitioners, policy makers and interested community members. A primary emphasis is on resituating major issues in the context of contemporary challenges and current research. Violence against women is an ongoing phenomenon that continues to confront and impact individuals, sub-populations and whole societies. Major misconceptions in the context of family and intimate relationships are highlighted along with prejudicial attitudes of those responding to the violence.

Furthermore, cultural expectations and media representations are implicated and reasons for ongoing and new digital technology facilitated abuse are discussed.

This book makes it abundantly clear that awareness needs to be raised continuously, along with discussions in relation to effective intervention and prevention. Although progress has been made in recent years and decades, contemporary concerns need to be raised, challenges need to be considered to press forward, tolerance towards violence against women needs to be reduced and ultimately prevented altogether.

A number of useful articles or essays are in this book. The first one I bring to members' attention is by one of the editors, Jessamy Henricksen, and it is entitled "Representations of Violence Against Women in the Mass Media". At page 99 of the book is this useful quote —

The online environment depersonalises anonymous individuals, which leads to behavioural disinhibition ...

The article quotes a 2014 piece of research from Fox and Tang and another piece of research from 1998. It goes on to say —

Behavioural disinhibition occurs when individuals believe in the anonymity of the internet, resulting in individuals freely expressing opinions and behaving in a manner that would otherwise not be socially accepted ... According to Fox and colleagues ... online disinhibition is not distinctively negative, but it can manifest as toxic disinhibition resulting in behaviours such as trolling and cyberbullying. Research demonstrated associations between anonymity and online aggression ... as well as sexual harassment ... For example, Wright examined the connection between anonymity and engagement in online aggression among 130 young adults. Findings highlighted that anonymity influenced cyber aggression in two ways: confidence with not being caught and the belief that online content is not permanent. Ritter explored how the affordances of online environments enable motivated individuals to engage in a variety of online sexual harassment behaviours. According to Ritter, perceptions of anonymity promote intentions to engage in online sexual harassing behaviour.

As I mentioned, in my view this explains one of the reasons the Criminal Law Amendment (Intimate Images) Bill 2018 is indeed needed.

The third reason it is needed is that a new form of abuse has emerged—it has been referred to by several members during the consideration to date of the second reading of the bill and also mentioned in the particular book from which I have already quoted—and that is image-based sexual abuse. The fourth reason that the bill is needed is because technology evolves so quickly that victims have to break new ground in the law just to keep pace with the evolution of technology. Again, I will quote from the book but from a different article. This time I will quote from an article entitled "Sexually explicit images". This article is found in the book, and the section I will quote is on page 150. The authors of this article or essay are Madalena Grobbelaar and Marika Guggisberg. They refer to some research by Powell and Henry, the authors of that particular publication from 2016, and say —

... Powell and Henry (2016b) argued that law enforcement responses to the harm done to victims through the proliferation of technologically-facilitated abusive behaviours have been slow, given the challenge in keeping pace with the evolving landscape of the internet and policing the complex and multi-layered harm. Simultaneously, the pace of evolution in online communication leaves targets of online attacks in the very challenging position of having to break new ground as they try to challenge or prevent abusive behaviour ...

In my view, this puts more stress on the victim and leaves the potential for no justice to be achieved. This is an ongoing challenge, hence the need for the bill.

The fifth and last of the reasons the bill is needed is to achieve what I call a transformation of attitudes. There seems to exist the attitude that image-based sexual abuse is less serious than physical abuse. It also appears that victims are often not taken seriously or are indeed blamed, which aids the perpetrators in avoiding accountability. This bill aims to highlight the severity of the issue and transform those attitudes. Having said that, I want to touch on one point—this remark was made earlier at the very least by Hon Alison Xamon and possibly other speakers—which is the issue of what is called victim blaming. There seems to be in this and other debates a view that under no circumstances can people say anything about the conduct that might have led to the problem that has arisen. In response, I say this: it is important to acknowledge the choices that are made by individuals and the fact that choices have consequences. By way of example, I think of my own role as a parent. If a child has a problem that has been caused by another individual, what do people do as parents? They immediately empathise with the child and the situation they find themselves in. Our instinctive parental protective behaviours or attitudes kick in and we want to do something to remedy the situation, and we definitely want to go after the perpetrator and make sure that justice is meted out. But in all of that, do we ever sit down with our child and say, "How has this situation arisen in the first place"? Do parents have a conversation with them about choices and say that choices have consequences? I believe that they do. I believe that a responsible parent would but it is done in proportion. They

do not spend all their time having that conversation with their child so that they feel that they are completely to blame for the situation. I think that is where things have got out of kilter in this and other debates where there seems to be no permission to have a conversation about the very acts that started the problem. I indicate that I do not place myself in the camp of others who say that under no circumstances can we have any conversation about that. I do not think that helps. When people find themselves in a difficult position, it is important to acknowledge all the circumstances that have given rise to it, but it needs to be done in proportion and with sensitivity and compassion. In all of that, we absolutely want to make sure that the full force of the law is meted out on perpetrators, but I do not think we do ourselves any favours, including for the people who find themselves in this horrendous situation, to have no conversations whatsoever as to, in this instance, how the image came about in the first place. I wanted to provide that point of difference from some of the other contributions that have been made on that point. Nevertheless, I am wholeheartedly in agreement that we want to see a transformation of attitudes about these things in our society. It beggars belief that people might think that it is appropriate or a good idea, or that it is inconsequential, to transmit these images. Frankly, from my perspective, it beggars belief why the images exist in the first place. We want to transform all these attitudes so we do not find ourselves and people in this horrendous situation.

Of course, there are various methods of obtaining images, including the hacking of devices and accounts, manipulation, force, threats and deception. As I outlined earlier, developments in technology have made a lot of this easier. There are also various motivations for the distribution of non-consensual images, including to humiliate, to hurt, for some form of revenge, to control someone, or for blackmail et cetera. This can be the case even if the threat can be used to achieve other goals and, therefore, it is just as harmful. The problem is that the impacts of this type of behaviour are pervasive and irreversible. The impacts can include several bad consequences for those people caught up in this, such as losing their job or losing friends, family and relationships. It can have an impact on their mental health, and it can even result in harassment by strangers. According to some of the literature I have read, it can also increase the risk of stalking and rape. Many people have relocated homes or cities as a result of this. Of course, it can also be used to control someone who is in an abusive relationship or force them to stay in the relationship. That is one of the various links to the portfolio of the prevention of family and domestic violence.

One of the problems with this type of abuse is that, because the internet is everywhere, the victim really cannot escape the abuse. I want to quote from the book that I referred to earlier and the same article, entitled “Sexually Explicit Images”. There are a couple of useful quotes in the article. At page 150, the authors state —

Social withdrawal due to fear, shame and embarrassment, as well as to avoid further abuse, exacerbates the negative experiences for victims. Activities such as social media or blogging, particularly if one’s job is technologically bound, may result in potential financial loss.

However, perhaps even more disturbing than all the mental health consequences to victims is the existent possibility of stalking as well as suicide, particularly in vulnerable or marginalised groups, as the ultimate effect of image-based sexual abuse ...

Previously on pages 148 and 149, the authors state —

... in the case of image-based sexual abuse it is precisely the loss of anonymity that is most damaging to victims as “they are raised out of anonymous masses and connected to specific nude pictures that will forever surface in internet searches involving their name” ... In contrast, it is exactly anonymity that can be used as armour to protect those who defame, harass, offend or attack as it protects the perpetrator from identification and legal reprisal; one group is victimised while the other abdicates accountability through anonymous protection ...

Risks for females whose sexually explicit images are distributed non-consensually with identifying personal details include the possibility that anonymous strangers contact victims with messages such as “First I will rape you, then I will kill you”..., often resulting in anxiety and hypervigilance. Women who identified as victim-survivors of image-based sexual abuse described numerous mental health effects including anxiety, depression, loss of control, issues with trust, overwhelming invasions of sexual privacy and personal space, PTSD, feelings of despair and decreased self-esteem ...

Later in the chapter, the authors state —

The consequences of unlawfully distributing sexual images are immediate and often irreversible. Within only a few days the images can dominate the first pages of web searches under the women’s name, and their details can be emailed to family, friends, peers and even employers ... For example, victims have resorted to changing their names as future employers increasingly conduct online searches of potential job candidates. Naturally, employers do not contact potential candidates whose sexually explicit images have been found on internet searches as this would reflect badly on the firm’s credibility ... Thus, compounding the fear and shame that these women first experience following the discovery of their images online, they also reported losing jobs, losing friendships, experiencing ruptures to family relationships and being harassed by strangers who recognised them from the internet ... Importantly, given that personal information is available online, victimised women are at an increased risk of physical danger from stalking and rape.

I will read two more quotes from this article. Page 141 states —

As with other forms of image-based sexual abuse, sextortion has devastating negative effects on victimised women. In addition to the financial impact, emotional, psychological and social effects have been reported with 12% of victims indicating that they had to relocate as a result ... Furthermore ...

A 2016 study found —

... 42% of victims were coerced into remaining in an abusive relationship or return to the sextortionist.

The last quote I will read from this article is found at page 144, under the heading “The Link to Intimate Partner Violence.” The authors are looking at research from 2009 by Hand, Chung and Peters. The article states —

Hand, Chung and Peters ... highlighted the way that female victims of non-physical forms of abuse and control through digital means lose a sense of ‘feeling safe,’ given that the wide reaching nature of technology results in a lack of a ‘safe distance’ from abusive partners. The power and control that perpetrators of IPV, —

That is, intimate partner violence —

as well as individuals motivated by revenge, are able to exercise through the nature of the 24/7 digital connectivity, is particularly invasive and constitutes ongoing harm for victims ... For example, some of the descriptions by participants in a study exploring technology-assisted adolescent dating violence and abuse included “no escape from abuse, the abuse stays with you, it gets in your head” ...

Looking at this bill before us, I note that although it is punitive, it also aims to minimise harm. It does that in a number of ways. I note it looks in a preventive sense to amend the Working with Children (Criminal Record Checking) Act. One would assume that this will protect against future exploitation of vulnerable youth. It also looks to minimise the impact on the victim. Because images spread so rapidly and extensively online, the abuse, of course, does not end after the first round of distribution; it becomes, if you like, perpetual. I note that the bill mentions the possibility of a rectification order to limit the spread of the images and this amending of the Restraining Orders Act also will enable victims to protect themselves from further abuse. I also note that the bill is dealing with intent to harm, and there does not necessarily need to be proof of intent to harm or that harm was experienced. The default position of this law will be to protect the victim, and I think that demonstrates that the chamber and the lawmakers in Western Australia are endeavouring to provide their full support to the victim in this instance.

I just touch on a couple of concerns I have. I anticipate these concerns will need to be dealt with in the Committee of the Whole House, particularly when we get to clause 4. I note that a number of definitions are discussed or used in clause 4, and the first is to do with issue of consent. I have not compared notes with my learned friend Hon Michael Misichin, shadow Attorney General, on this particular point, but I heard in his contribution earlier exactly this issue of consent and why the government has felt the need to specify some important components of it, specifically circumstances that would enable us to come to the conclusion that consent is not genuine, but it only does so in a very limited fashion. The government seems to have, if you like, cherry-picked—my words—one important component on the criteria for genuine consent without looking at any of the other criteria, and I would like to explore that a little further. The bill also looks to discuss and define terms such as “distribute” and “reasonable expectation of privacy”, and I think we need to explore these things a little further during consideration of the bill in greater detail.

One thing I want to draw members’ attention to and to ask the government to prepare for when we go to Committee of the Whole House are some questions on a link with the federal Enhancing Online Safety (Non-consensual Sharing of Intimate Images) Act 2018. I note that that act refers to the depiction of a person with attire of religious or cultural significance, where, because of the person’s religious or cultural background, the person consistently wears particular attire of religious or cultural significance whenever they are in public—yet that does not appear to be captured in this bill. I would not mind exploring that a little further. For the benefit of the advisers, we are specifically looking at section 98 of the federal act. There was quite a bit of attention given to this by the Office of the eSafety Commissioner when it was released in September. We will look at that further. I note that the bill is also looking at some intended exceptions and defences to do with scientific, educational and medical purposes, and also for the purposes of the administration of justice and legal proceedings. It also looks at the media, and there is an exception provided if no harm was intended, and I would not mind exploring that as well. There are also matters relating to whether something is in the public interest and other reasonable circumstances. It would be interesting to see what the government has in mind for those reasonable circumstances.

I would like to explore some other minor clarifications—and, again, I am looking at clause 4. I note that when it comes to the issue of the rectification order, the terms used are quite broad. It states that the court may order the person to take reasonable actions. That might well be done purposefully by the government, but could there be some consequences? If somebody is taking reasonable actions, is that term intended to cover any particular examples? I am especially interested to know how other jurisdictions have handled the issue of asking a person to

take reasonable actions in a rectification order. Some other circumstances that might be worth exploring are when consent has initially been provided but is later removed. The image was already distributed when the consent had been given, but is there still a possibility of rectification afterwards? Obviously, the initial distribution was not wrongful, because there had been consent, but if somebody then removes their consent after the event, can they have the image removed? What are the means by which this legislation would assist the victim in that sense, being able to remove the image they seek to no longer have out there?

As I said earlier, I would also like to explore the federal Enhancing Online Safety (Non-consensual Sharing of Intimate Images) Act 2018. I note that this mechanism by the federal Parliament, and the federal government, allows the provider of a social media service, an internet service or a hosting platform to be issued a removal notice giving them 48 hours to remove content. That seems to be an excellent thing in place at the federal level; however, it still seems to be limited to the need for objection to be first provided to the eSafety Commissioner and is reliant on the commissioner to issue a removal notice to the provider. My question to the government in due course will be: to what extent does this legislation then intersect with those provisions and mechanisms available at a federal level?

I fear the pending bell ringing. It is quite something not to have the time to look at when we are so used to having it there to guide us. Hopefully, this is just an issue for one week, and next week when we are in recess, all efforts will be made to fix the clock. With no further ado, I once again indicate my support for the Criminal Law Amendment (Intimate Images) Bill 2018. I think it will be a helpful step in combatting this issue and, consequently, it has my support. It is a foundation we will need to build on because of the very issues I outlined at the beginning of my contribution. I mentioned that part of the challenge is that technology is changing so quickly, and with all the advantages that come with that come some of these challenges. It strikes me that education measures will be crucial if we are to seriously combat this issue. Earlier there was discussion about the need for there not to be victim blaming, but if there is to be education, it has to be delivered to somebody. The people the education will be delivered to will be presumably one of two categories of people—possible future perpetrators or victims. I cannot for the life of me believe that that education to a group of possible future victims would not include something along the lines of, firstly, to be very, very careful about the type of images they get themselves caught up in; and, secondly, to be even more careful about the images they consent to having distributed. I cannot imagine that the education provided would not at least include that. I think that will be important, and that type of education will have my full support. That type of education to prospective victims is not about victim blaming; it is about making sure that those people are very, very clear that choices have consequences and that they need to be very careful what they get themselves involved in because in many respects a level of immeasurable harm might come their way, not because they deserve it but because there will always be one or two people out there who will take advantage of the choices other people make.

I will conclude on that because I think it is important to get the balance right when educating young people. We need to encourage them to take responsibility for their choices and be very circumspect about the individuals they interact with so that they get a greater and deeper understanding of the importance of decision-making and the consequences that can arise, and the fact that the technology they so love—in some respects have become so addicted to and obsessed with—can, as much as it can be an enjoyable, efficient and convenient use of modern technology, also have some severe consequences. I would very much like to see all that as part of the education package that goes to children and young people as they consider the consequences that might arise if they get themselves caught up in the changes to the Criminal Code and the Restraining Orders Act that will come about after the assent to the Criminal Law Amendment (Intimate Images) Bill 2018 that, as I earlier indicated, has my support.

Debate adjourned, on motion by **Hon Pierre Yang**.

TRANSPORT (ROAD PASSENGER SERVICES) BILL 2018 TRANSPORT (ROAD PASSENGER SERVICES) AMENDMENT BILL 2018

Cognate Debate

Leave granted for the Transport (Road Passenger Services) Bill 2018 and the Transport (Road Passenger Services) Amendment Bill 2018 to be considered cognately, and for the Transport (Road Passenger Services) Bill 2018 to be the principal bill.

Second Reading — Cognate Debate

Resumed from 20 September.

The DEPUTY PRESIDENT: I understand that the lead speaker for the opposition is engaged in other parliamentary business at the moment, so we will have to wait with bated breath to see what he has to say! The question is that the bills be read a second time.

HON NICK GOIRAN (South Metropolitan) [4.25 pm]: I am delighted to briefly contribute to the second reading debate on the Transport (Road Passenger Services) Bill 2018 and the Transport (Road Passenger Services) Amendment Bill 2018. I indicate at the outset that I am not the lead speaker for the opposition, and so I will once again be constrained by limited speaking minutes. Our hardworking lead spokesperson, Hon Simon O'Brien, will of course not be constrained by time limits and the like, with the threat of the bell ringing, as I will for the second

time today. I very much look forward to hearing from the opposition spokesperson on these bills, and I indicate that I was pleased to support the motion of the Minister for Environment that asked us to consent to these bills being dealt with cognately. I understand a number of members are keen to contribute to this cognate debate, and I look forward to hearing what they say.

HON COLIN TINCKNELL (South West) [4.27 pm]: I will make a start, in the limited amount of time before questions without notice, on my contribution to debate on the Transport (Road Passenger Services) Bill 2018 and the Transport (Road Passenger Services) Amendment Bill 2018. Firstly, to get to where we are today has been a long, sorry and sad tale. When I became a member of this house 18 months ago, one of the first things that came across my desk was the taxi plate buyback scheme. There has been no hurry about this because it was taken off the agenda, and now, 12 months later, we are finally debating this important issue.

I make clear to the house that the previous government also had blood on its hands over this. I am not happy with how we got to today's position. The members of Pauline Hanson's One Nation are not happy with the package proposed by the government. Where do I start? So many things are wrong with where we are today and what we are here to debate. Members will see that in the public gallery today there are a few taxi owners and drivers. They have waited a long, long time to get justice and an even playing field. That is one of the issues we are here to talk about today. When Uber came into the market, it created a completely uneven playing field. The situation we are in now is a shambles. Other on-demand providers are coming into the market. These are people who do not operate in a regulated market, and it is an uneven playing field.

Later in the debate, fellow One Nation member Hon Robin Scott will detail what we believe is a fair and equitable proposal. Today, I am here to talk about where we are at today. I believe that we have a once-in-a-generation opportunity to fix the taxi industry and to create the reform that is needed—that is, a fair and equal reform that will be fair to the public. The public is our number one responsibility in this house. A 10 per cent levy or tax—whatever you want to call it—will not be fair to, firstly, the public, secondly, taxi operators, and, thirdly, taxidivers and all other on-demand drivers. I am not overly worried about a certain company called Uber or other on-demand companies.

Debate interrupted, pursuant to standing orders.

[Continued on page 6998.]

QUESTIONS WITHOUT NOTICE

ALBANY WAVE ENERGY PROJECT — CARNEGIE CLEAN ENERGY — FINANCIAL ASSISTANCE

949. Hon PETER COLLIER to the Minister for Regional Development:

I refer to the minister's response to question without notice 885, asked on Tuesday, 9 October.

- (1) Was the legal advice that the government received to the effect that the government was obliged to pay \$2.625 million?
- (2) If yes to (1), was the obligation in relation to the original agreement or the renegotiated agreement?
- (3) When was the legal advice sought and received?

Hon ALANNAH MacTIERNAN replied:

- (1) Yes.
- (2) The obligation was in relation to the variation to the financial assistance agreement. Milestone 1 in the original FAA was in dispute regarding the interpretation of whether procurement of the common-user infrastructure had been demonstrated. The Department of Primary Industries and Regional Development and Carnegie negotiated a variation, which DPIRD believed mitigated the risk to the state while still honouring the contractual obligations to Carnegie. The variation prepared, following advice from DPIRD's internal counsel, included a staged payment arrangement for milestone 1, which limited the state's financial exposure to payment of the full milestone. DPIRD sought legal advice on the state's options regarding payment of the renegotiated milestone following Carnegie's releases to the ASX and the resignation of the chief executive officer.
- (3) Legal advice was sought and received over the period 3 to 5 October 2018.

PERTH CHILDREN'S HOSPITAL — HIGH DEPENDENCY UNIT AND PAEDIATRIC INTENSIVE CARE UNIT

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

I refer to the high dependency unit and paediatric intensive care unit at Perth Children's Hospital.

- (1) What is the bed capacity in each unit?
- (2) Since opening, has either unit not operated at full bed capacity; and, if so, for how many days and for what reason?

- (3) For any days in (2), were the remaining available beds fully occupied; and, if so, on how many days?
- (4) If yes to (3), were any patients turned away from the respective units; and, if so, how many?
- (5) If yes to (3), were any operations at the hospital cancelled or delayed due to a lack of bed capacity in either unit; and, if so, how many and what were the operations?

Hon ALANNA CLOHESY replied:

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

I am advised that the information requested by the honourable member will take some time to collate. I will undertake to provide it to the member as soon as it is available.

FRANCIS BURT LAW EDUCATION PROGRAMME

951. Hon MICHAEL MISCHIN to the Minister for Education and Training:

I refer to the Department of Education's advice to the Law Society of Western Australia that it will cease funding the Francis Burt Law Education Programme from 1 July 2019.

- (1) Given that with the passage of the Duties Amendment (Additional Duties for Foreign Persons) Bill 2018 the McGowan government will have an additional \$123 million in revenue over the next four years, more than it requires to freeze TAFE fees, will the minister undertake to ensure the reinstatement of the modest \$110 000 sought for the continuation of this important legal education program?
- (2) If the funding is not provided, what does the minister understand to be the fate of the program; and, so that she may make a reasoned, rather than a difficult or hard decision regarding funding, what steps has she taken to find out?
- (3) What steps has the minister taken to date to restore funding to the program; and, if none, why not?
- (4) What steps will the minister be taking to restore funding or support to the program and to provide certainty regarding its future?

Hon SUE ELLERY replied:

- (1) This question is another example of the strategy of the Liberal–National government that led to the catastrophic financial position of this state by spending the same money many times over. To answer: the agreement between the Law Society of Western Australia and the Department of Education expires on 30 June 2019.
- (2) The Law Society of Western Australia was notified by letter in December 2017 that the agreement would not be renewed at its conclusion, thus allowing 18 months for the Law Society to seek alternative sources of funding for its programs or to adjust the services it provides. Department officers have met with and provided information to the law society that may assist it to identify alternative sources of funding. The decision to review the Department of Education's external funding agreements was done in support of budget repair measures to return the state budget to surplus in 2021.
- (3)–(4) The decision to cease funding to the program will remain. As advised on 11 October 2018, should the Law Society secure alternative funding to cover the salary cost of a teacher, the Department of Education would be willing to investigate the possibility of a teacher secondment.

EDUCATION — REGIONAL LEARNING SPECIALISTS

952. Hon DONNA FARAGHER to the Minister for Education and Training:

I refer to the answer given to question without notice 888, asked on 9 October 2018, regarding regional learning specialists.

- (1) Can the minister confirm that regional learning specialists will now be based at the Statewide Services Centre, not the School of Isolated and Distance Education; and, if yes, will the minister advise the reasons for the change?
- (2) Will these specialists report to SIDE; and, if yes, to whom?
- (3) If no to (2), to which division and officer within the Department of Education will they report?
- (4) What protocols or operational plans have been developed to ensure that these specialists liaise closely with SIDE staff, including SIDE student coordinators and supervisors?
- (5) How does their role differ from the supports already provided through SIDE and its staff?

Hon SUE ELLERY replied:

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

- (1) Yes. The transfer of responsibility for the regional learning specialist initiative from the School of Isolated and Distance Education to the Statewide Services Centre in Padbury was to enable the team to be part of the broader teaching and learning supports and services available to schools and regions.
- (2) No.
- (3) The RLS team will report to the manager, teacher development, in the statewide services division.
- (4) During term 4, 2018, new team members will engage in a comprehensive induction and planning process, including liaising with SIDE to establish protocols and processes for working collaboratively.
- (5) The RLS team will be able to provide more face-to-face support and complement the work of SIDE teachers through —
 - (a) providing fortnightly online tutorials, which are additional to the online classes provided to students by regular SIDE teachers;
 - (b) conducting intensive exam revision sessions, face-to-face or online as practicable; and
 - (c) working face-to-face with students once a term for a week at a time, for each course being delivered to a school.

HEALTH — POSTHUMOUS COLLECTION OF GAMETES — REVIEW**953. Hon NICK GOIRAN to the parliamentary secretary representing the Minister for Health:**

I refer to the parliamentary secretary's answer to my question without notice on 14 March 2018, in which she informed the house about the key performance indicators for the independent review of the Human Reproductive Technology Act 1991 and the Surrogacy Act 2008, conducted by Associate Professor Sonia Allan.

- (1) Was the draft report supplied by 20 July, as expected?
- (2) Will the minister table the draft report?
- (3) Was feedback on the draft report sent by 21 September, as expected?
- (4) Was the final report supplied by 12 October, as expected?
- (5) Will the minister table the final report?
- (6) Will the minister table the submissions to the review that the parliamentary secretary previously advised would be made publicly available?

Hon ALANNA CLOHESY replied:

I thank the honourable member for some notice of the question. I am advised of the following.

- (1)–(2) No.
- (3) Yes.
- (4) No.
- (5) Yes, once the report is completed.
- (6) No. Submissions that are not marked private and confidential will be made publicly available on the review website, following the completion of the review.

DUST MANAGEMENT — PORT HEDLAND**954. Hon JACQUI BOYDELL to the Minister for Regional Development:**

I refer to the minister's joint media release yesterday regarding dust issues in Port Hedland and her comments that "our response to the dust issue ensures the health of local residents without putting at risk the industries that drive jobs for the region and the state".

- (1) Does the minister expect the industries that use the port to invest in the latest dust suppression technology to reduce dust emissions at the port?
- (2) What type of commercial activity does her government see as ideal for the west end if the issue of dust suppression is still not being addressed?
- (3) Does the government consider it acceptable to place those working in any new commercial precinct in the west end at risk of continued exposure to dust?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

- (1) Yes. The Department of Water and Environmental Regulation will complete reviews of all port premises licences under part V of the Environmental Protection Act 1986, applying a consistent and risk-based approach to the regulation of dust for each premises. Licence holders will then need to make whatever investment is required to comply with their licence conditions. Monitoring of dust will now be undertaken by DWER rather than the Port Hedland Industries Council.
- (2) The preferred forms of commercial development in the west end will be identified as part of the process of developing an improvement plan and improvement scheme for the area. This will include opportunities for community consultation.
- (3) The 2016 Port Hedland health risk assessment concluded that there is no immediate or acute health risk to the Port Hedland community but the focus should be on minimising exposure to dust. The proposed land use planning measures, in tandem with the proposed industry regulation approach, are seen as the most effective ways of achieving this outcome.

BUNBURY OUTER RING ROAD ROUTE**955. Hon COLIN HOLT to the minister representing the Minister for Transport:**

I refer to the Bunbury Outer Ring Road.

- (1) Please table the economic and social impact studies for the Bunbury Outer Ring Road. If they are not yet available, when will they be completed?
- (2) Where will the interchanges at South Western Highway be located?
- (3) What off-ramps and local roads will be expected to be used to reach Ferguson Valley?
- (4) Will local roads need to be upgraded and is funding allocated in the Bunbury Outer Ring Road project to fund these roads?
- (5) What interchanges and off-ramps will be used to reach the City of Bunbury?
- (6) Will the Minister for Transport meet with the greater Bunbury community and other local consultative groups to hear their concerns first hand on the new alignment and impacts of the Bunbury Outer Ring Road?

Hon STEPHEN DAWSON replied:

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

- (1) Economic and social impacts are considered as part of the ongoing planning process.
- (2) Proposed interchange locations for the Bunbury Outer Ring Road are currently being determined.
- (3) An interchange is proposed in the Waterloo area, with the precise location to be confirmed.
- (4) Funding will be allocated for any local road upgrades required as a result of the project.
- (5)–(6) Main Roads is still undertaking the project planning and development investigations and is keeping the minister's office apprised of the issues.

FIREARMS — SPORTING SHOOTERS ASSOCIATION OF AUSTRALIA (WA) FLYERS**956. Hon RICK MAZZA to the minister representing the Minister for Police:**

I refer to advertising flyers included in Western Australian licence renewals.

- (1) Is the minister aware that the Sporting Shooters Association of Australia (WA) has attempted through the Western Australia Police Force firearms branch to include "Secure your guns, secure your sport" flyers in firearms licence renewal notices as a community service to remind firearms owners of their obligations of safe storage?
- (2) If yes, considering a number of relevant advertising flyers are included with motor vehicle registration renewals, can the minister advise —
 - (a) why the SSAA's gun safety flyers are not being included in firearms licence renewal notices; and
 - (b) when the SSAA (WA) flyer will be included if it is not being included in the firearms licence renewal notices?

I seek leave to table the flyer.

Leave granted. [See paper 2064.]

Hon STEPHEN DAWSON replied:

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

- (1) Yes.
- (2) Promoting the safe storage of firearms is a positive initiative and the minister can understand why distributing this information is advocated by the Sporting Shooters Association of Australia (WA). The Western Australia Police Force advises that the brochure promotes a private association and endorsement for membership, and therefore is not appropriate to be distributed by the Western Australian Police Force.

POPULATION GROWTH

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

I refer to recent calls by the Premier of New South Wales for a special meeting of the Council of Australian Governments to be devoted to the issues of population growth and immigration. As the minister will be aware, Australia has the fastest rate of population growth among major developed countries, at nearly nine times the European Union average. This rapid growth is being driven by the largest per capita immigration intake in the world. I also refer to the population pressures predicted to be mounting on Perth.

- (1) Does the state government support the current population trajectory that will see Perth more than double its population in less than three decades?
- (2) Does the state government have a plan to finance and build the necessary infrastructure to accommodate this extraordinary population growth?
- (3) Does the state government support a special COAG meeting on population?
- (4) If no to (3), why not?

Hon STEPHEN DAWSON replied:

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

- (1) The Department of Planning, Lands and Heritage estimates that approximately 3.5 million people will live in the Perth and Peel regions by 2050.
- (2) The government released the Perth and Peel@3.5million suite of documents to provide strategic guidance to agencies and departments on planning matters, including infrastructure investment. The government is committed to and working to deliver a strong infrastructure program through Metronet.
- (3)–(4) The state government is open to engaging with the federal government and other states on any issues deemed to be of national importance. However, issues of the Council of Australian Governments' agenda rest primarily with the Prime Minister and the Premier.

EQUAL OPPORTUNITY ACT — REVIEW

958. Hon ALISON XAMON to the Leader of the House representing the Attorney General:

I refer to the government's recent announcement of a review of the Equal Opportunity Act 1984.

- (1) Has the scope of the review been finalised?
- (2) If yes to (1) —
 - (a) what are the terms of reference for the review; and
 - (b) who was consulted ahead of establishing the terms of reference?
- (3) If no to (1), who will be consulted as to the scope of the review and the development of the terms of reference?
- (4) What is the intended time frame for the review?

Hon SUE ELLERY replied:

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

- (1) No.
- (2) Not applicable.
- (3) The Department of Justice, the Equal Opportunity Commission, the State Solicitor's Office and the Law Reform Commission of Western Australia will be consulted.
- (4) This is to be determined in consultation with the Law Reform Commission of Western Australia.

LANDFILL LEVY — WASTE AVOIDANCE AND RESOURCE RECOVERY ACCOUNT

959. Hon ROBIN CHAPPLE to the Minister for Environment:

I refer to the funds obtained through the landfill levy over the last financial year.

- (1) What was the total amount raised from the landfill levy?
- (2) Of the total amount raised, how much was directed to the waste avoidance and resource recovery account?
- (3) Of the total amount raised, how much was directed to consolidated revenue?
- (4) Were any of the funds in the WARR account directed to the Department of Water and Environmental Regulation?
- (5) Were any of the funds raised from the landfill levy and directed to consolidated revenue then directed to the Department of Water and Environmental Regulation?
- (6) If yes to (5), how much and what for?

Hon STEPHEN DAWSON replied:

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

An answer could not be provided in the time available; therefore, I ask that the honourable member place this question on notice.

SENIOR DRIVER'S LICENCE RENEWAL — DERBY

960. Hon KEN BASTON to the parliamentary secretary representing the Minister for Health:

- (1) Would the minister please advise how much it would cost an 80 to 84-year-old person to attend an appointment at Derby Hospital to receive a "Medical Assessment Certificate: Senior Driver's Licence Renewal Declaration" form—form M108A?
- (2) Is there a privately run medical service in Derby capable of providing this service?

Hon ALANNA CLOHESY replied:

I thank the honourable member for some notice of the question. I am advised as follows.

- (1) The WA Country Health Service, Derby Hospital currently charges \$280 to patients aged between 80 and 84 years for a "Medical Assessment Certificate: Senior Driver's Licence Renewal Declaration" form, using the form M108A.
- (2) There is no privately run medical practice in Derby other than the Aboriginal Medical Service.

HIGH STREET UPGRADE — FREMANTLE GOLF COURSES

961. Hon SIMON O'BRIEN to the minister representing the Minister for Transport:

I refer to the McGowan government's proposed works for High Street and Stirling Highway in Fremantle.

- (1) What is the general scope of work that will directly affect Royal Fremantle Golf Club's course and the cost of that work and who is paying for the work?
- (2) What is the general scope of work that will directly affect the Fremantle public golf course and the cost of that work and who is paying for the work?
- (3) What financial contribution or other assistance is the state government providing to the City of Fremantle to offset the resumption of land on the northern boundary of the public course and to enable the city to reinstate a full, functioning public golf course?

Hon STEPHEN DAWSON replied:

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

- (1)–(3) Main Roads is working closely with the City of Fremantle on the High Street project. The upgrade of High Street will require land from the Royal Fremantle Golf Club and will impact a portion of the Fremantle public golf course. Main Roads is working with the City of Fremantle on the modifications required to enable a fully functioning golf course. The cost of this work has not yet been determined, but will be accommodated within the project budget.

WILD DOGS — CONTROL

962. Hon ROBIN SCOTT to the Minister for Agriculture and Food:

- (1) Since the change of government in March 2017, what has been the total sum promised by the Western Australian government for the control of wild dogs and/or dingoes in Western Australia?
- (2) How much of that sum has been spent?

- (3) What is the total sum promised by the federal government for the control of wild dogs and/or dingoes in Western Australia?
- (4) How much of that sum has been spent?
- (5) On ABC news on 29 March 2017, the following statement was attributed to the minister —

Obviously the sheep have just become light snacks for the local dogs ... There is money in the budget for wild dog management, which will continue, but looking at these other solutions such as carbon farming ... maybe that's part of the solution.

Was the minister correctly reported in that statement?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

- (1) The Western Australian government has committed \$28.56 million to wild dog control over four years from 2017 to 2021. This comprises \$18.6 million under the wild dog action plan, \$7.02 million matching funding for the recognised biosecurity groups and \$2.94 million in consolidated funds.
- (2) At approximately one-third of the way through the four-year period, the government has spent \$2.2 million under the wild dog action plan—note that the largest expenditure item, the Esperance extension to the state barrier fence, is awaiting statutory approvals—\$2.12 million in matching funding for recognised biosecurity groups, with the remainder of the 2018–19 funds to be paid this financial year; and approximately \$1 million from consolidated funds for staff, and state barrier fence maintenance.
- (3) The total sum is \$3.5 million for cell fencing and capacity building of wild dog-affected recognised biosecurity groups.
- (4) The amount spent is \$2.68 million. Federal funds were time-limited and were spent early in the program.
- (5) Yes.

BUNBURY OUTER RING ROAD ROUTE

963. Hon DIANE EVERS to the minister representing the Minister for Transport:

I refer to the Bunbury Outer Ring Road project update of September 2018, which states that Main Roads is committed to the existing corridor for the southern section.

- (1) What environmental issues are of concern to the government in relation to —
 - (a) the existing corridor; and
 - (b) the alternative corridor?
- (2) Has the government compared the likely positive and negative impacts of the use of the existing corridor and the alternative corridor on issues such as local business, tourism, safety, liveability, and community development; and —
 - (a) if not, why not; and
 - (b) if yes, what impacts on the community have been identified for each corridor, by the government and by the community?
- (3) Is the government intending to undertake more meaningful, collaborative community engagement beyond question and answer sessions; and, if not, why not?
- (4) Please detail the community engagement methods that will be used, and how they differ from question and answer sessions?
- (5) Will the minister meet with residents of Gelorup to view the environment that will be destroyed should this corridor be cleared?

Hon STEPHEN DAWSON replied:

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

- (1)
 - (a) The environmental issues that have been raised with regard to the existing corridor for the southern section include banksia woodland, the black cockatoo and the western ringtail possum.
 - (b) Detailed environmental surveys are being undertaken within the alternative investigation corridor as part of the environmental approvals process. These will provide information on environmental values.
- (2) Not at this stage. The focus of the current work is to compare the two alignments in terms of environmental impact.
- (3) Yes.

- (4) In April 2018, Main Roads formed an integrated project team to complete detailed planning and project development. This work is scheduled for completion by the end of 2019 and includes an extensive program of community and stakeholder engagement. Ongoing activities include two community reference groups; community drop-in sessions; landowner meetings; local government consultation; consultation with special interests, including freight industry, road user groups, community groups and Bunbury port; and regular project updates to members of the community.
- (5) Main Roads is still undertaking the project planning/development investigations and is keeping the minister's office apprised of the issues.

**CORRUPTION AND CRIME COMMISSION — NORTH METROPOLITAN HEALTH SERVICE —
MISCONDUCT — STATE SOLICITOR'S OFFICE**

964. Hon TJORN SIBMA to the Leader of the House representing the Attorney General:

This is question C972 from Thursday, 11 October.

I refer to the matters raised by the Corruption and Crime Commission in the "Report into bribery and corruption in maintenance and service contracts within North Metropolitan Health Service".

- (1) Had the State Solicitor's Office written to any of the 11 companies named in the CCC report at any stage prior to 16 August 2018?
- (2) If yes to (1), on what dates, for what purpose and at whose instruction did that correspondence occur?
- (3) If yes to (1) and (2), can copies of all relevant correspondence be tabled?

Hon SUE ELLERY replied:

I do not have that question in my file. Can the honourable member just give me the number again and I will get everyone to check?

Hon TJORN SIBMA: It is C972.

Hon SUE ELLERY: I am sorry. We do not have it. If it comes in before the end of question time, I will provide an answer.

E-CONVEYANCING TRANSACTIONS

965. Hon COLIN TINCKNELL to the minister representing the Minister for Lands:

I refer to question without notice 538 asked by Hon Rick Mazza about e-conveyancing, which will become mandatory in December.

- (1) How many PEXA shares does the government own?
- (2) What is the total number of shares issued?
- (3) Has the government made any decision to retain or sell its PEXA shares when PEXA is floated on the stock market?
- (4) What are the names of the other two companies that will provide e-conveyancing in WA?

Hon STEPHEN DAWSON replied:

- (1) Landgate holds 15 816 078 shares in PEXA.
- (2) The total is 133 668 856 shares.
- (3) No decision has yet been finalised.
- (4) Both Sympli Australia Pty Ltd and Purcell Partners, known as LEXTECH, have met stage 1 requirements to become an electronic lodgement network operator.

BEELIAR WETLANDS

966. Hon TIM CLIFFORD to the minister representing the Minister for Planning:

I refer to the Minister for Planning's media statement on 6 June 2018, which commits to further protections for the Beeliar wetlands, and I seek clarification regarding these promises.

- (1) Is the area north of Hope Road and west of Bibra Drive now an A-class conservation area?
- (2) If no to (1), why not?
- (3) With regard to the areas not included in the A-class conservation area that are being rehabilitated, are there plans to assign any conservation status to these areas to afford them some protections?

- (4) If yes to (3), what kinds of conservation classifications will be assigned to these areas?
- (5) If no to (3), why not; and what assurances can be provided to the community that is currently involved in rehabilitating these areas?
- (6) Could the minister please provide a status update on the progress in removing the area from the metropolitan region scheme?

Hon STEPHEN DAWSON replied:

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

- (1)–(2) The Department of Planning, Lands and Heritage is working with the Department of Biodiversity, Conservation and Attractions and Main Roads Western Australia to progress the creation of the class A reserve.
- (3)–(6) The state government remains committed to the protection of the Beeliar wetlands. Rehabilitation works are already progressing on land previously cleared, via a formal agreement between the state government and the City of Cockburn. The future amendment of the metropolitan region scheme is currently being worked on.

TAB — POINT-OF-CONSUMPTION WAGERING TAX

967. Hon PETER COLLIER to the minister representing the Treasurer:

I refer to the media release titled “Certainty for the WA racing industry with historic reform package”.

- (1) Has the government undertaken any modelling on the impact of the introduction of the 15 per cent consumption tax on the revenue of the TAB?
- (2) If no to (1), why not?
- (3) If yes to (1), will the Treasurer provide the results of that modelling?
- (4) If yes to (1), did the modelling take account of the differential rates of the point-of-consumption tax in other jurisdictions in Australia and the impact this may have on the TAB’s revenue?
- (5) Why has the government chosen 15 per cent for the rate of the point-of-consumption tax and not harmonised the tax with other jurisdictions, as it claimed was so important with the foreign buyers surcharge?

Hon STEPHEN DAWSON replied:

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

- (1) No.
- (2) Racing and Wagering Western Australia was consulted during the development of the point-of-consumption tax, including in relation to the Western Australian TAB and impacts on the racing bets levy.
- (3)–(4) Not applicable.
- (5) The 15 per cent rate is consistent with Queensland, South Australia and the Australian Capital Territory.

INTERNATIONAL SCHOOL OF WESTERN AUSTRALIA — RELOCATION

968. Hon ALISON XAMON to the Minister for Education and Training:

I refer to the announced figures for the relocation of the International School of Western Australia, which are \$14.6 million for the redevelopment of the Doubleview Primary School site and \$3 million to assist the school with relocation and establishment costs. Will the minister please explain how the additional \$4 million in the 2017–18 budget for this private school project will be spent?

Hon SUE ELLERY replied:

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

The allocated budget for the relocation of the International School of Western Australia is \$21.6 million. The estimated cost of the redevelopment of the former Doubleview Primary School and additional secondary facilities is \$18.6 million. There is \$3 million allocated to assist the school with relocation and establishment costs.

The \$14.6 million quoted refers to only the construction cost, as reported in the development application considered by the Metro North-West Joint Development Assessment Panel in February 2018. The additional \$4 million provides for the planning; design; building fees, Building Act 2011 compliance and Building and Construction Industry Training Fund Levy; project management; transportable relocations; and construction contingency allowance.

PERTH SEAWATER DESALINATION PLANT

969. Hon ROBIN SCOTT to the minister representing the Minister for Water:

- (1) Will the minister confirm that the Perth seawater reverse osmosis plant, which is generally known as the Kwinana desalination plant, is not presently operating?
- (2) Is regular maintenance the reason?
- (3) Is there a plan for the plant to remain out of service when maintenance is completed on the grounds that there is enough water?
- (4) On what date is the Kwinana desalination plant likely to resume operation?

Hon ALANNAH MacTIERNAN replied:

- (1)–(2) Yes.
- (3) No.
- (4) On 11 November 2018.

BUILDING AND CONSTRUCTION INDUSTRY TRAINING BOARD

970. Hon DONNA FARAGHER to the Minister for Education and Training:

I refer to both the minister's press statement titled "Levy change in place to boost construction training opportunities" and the Building and Construction Industry Training Board.

- (1) Has the minister committed to expand the board membership to include a representative from the resources sector; and, if not, why not?
- (2) If yes to (1), does this require an amendment to the Building and Construction Industry Training Fund and Levy Collection Act 1990?
- (3) If yes to (2), are there any other legislative amendments required to give effect to the levy changes announced by the minister, not including the amendment regulations tabled on 9 October 2018; and, if yes, what are these required amendments and when does the minister intend to introduce legislation?

Hon SUE ELLERY replied:

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

- (1) It is my intention to include representation from the resources sector on the Building and Construction Industry Training Board.
- (2) I am considering short and long-term options to ensure the resource sector is represented. In the long term, there will be an amendment to the Building and Construction Industry Training Fund and Levy Collection Act 1990.
- (3) Although there is no need for legislative amendments to give effect to the levy change, I will continue to consult with resources and building and construction stakeholders over the next few months as the amendment regulations are implemented. Any matters identified that may require legislative change will be referred to the statutory review of the Building and Construction Industry Training Fund and Levy Collection Act 1990, which is due to commence in early 2019.

DAMPIER ARCHIPELAGO AND BURRUP PENINSULA — WORLD HERITAGE LISTING

971. Hon ROBIN CHAPPLE to the Minister for Environment:

I refer to the letter, reference 59-074266, from the state of Western Australia and the Murujuga Aboriginal Corporation calling on the federal Minister for the Environment to progress a nomination of the Burrup Peninsula and Dampier Archipelago for World Heritage listing.

- (1) Has the letter been sent to the federal minister?
- (2) If yes to (1), on what date?
- (3) If no to (1), why not?
- (4) If yes to (1), has the federal minister responded and will the minister table the response?
- (5) If no to (4), when is a response anticipated?

Hon STEPHEN DAWSON replied:

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

- (1) Yes.
- (2) On 27 August 2018.
- (3) Not applicable.

- (4) No, the federal minister has not yet responded.
- (5) This time frame is unknown.

CHILD PROTECTION — CHILD SEXUAL ABUSE — ROEBOURNE

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

I refer to the answer to my question without notice 934, asked on 11 October 2018, in which the house was informed that as at 23 August 2018 the Department of Communities was aware of 42 child victims identified during Operation Fledermaus based on Western Australia Police Force data.

- (1) Did the minister inform the house that there were 50 victims on 23 August 2018?
- (2) Is the difference, between what the Minister for Police and the Minister for Child Protection said explained by there being 42 child victims and eight adult victims?
- (3) If no to (2), how is the difference explained?

Hon STEPHEN DAWSON replied:

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

Western Australia Police Force advises the following.

- (1)–(2) Yes. Eight adult victims were children when the offences occurred.
- (3) Not applicable.

SENSITIVE SITES MAP

973. Hon DIANE EVERS to the Minister for Agriculture and Food:

I refer to the Department of Primary Industries and Regional Development's sensitive sites map, which is designed to assist both sensitive agricultural enterprises and nearby landholders to prepare risk assessment and mitigation plans for their activities to ensure that sensitive sites are protected.

- (1) Given that the sensitive sites map was last updated in 2016 and registration for the 2017–18 map is now closed, when will the government update the map?
- (2) Given the need to support farmers making decisions in real time, will the government improve its data collection and mapping processes to ensure that up-to-date information is available?

Hon ALANNAH MacTIERNAN replied:

- (1) The sensitive sites map 2017–18 will be available on the DPIRD website by 30 October 2018.
- (2) Commercial enterprises that registered with DPIRD before 30 June 2018 will be listed in the upcoming map to ensure that up-to-date information is available.

WESTERN POWER, HORIZON POWER AND SYNERGY — EXECUTIVE TEAM REMUNERATION

Question without Notice 927 — Correction of Answer

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.07 pm]: I rise to provide a correction to the answer to Legislative Council question without notice 927 asked by Hon Peter Collier on 10 October 2018. I seek leave to have Synergy's updated response incorporated in *Hansard*. It is in tabular form, so that is the best way to do it.

Leave granted.

The following material was incorporated —

	FINANCIAL YEAR 16/17		FINANCIAL YEAR 17/18	
Position	Base rate	Total Remuneration (includes super)	Base rate	Total Remuneration (includes super)
Chief Executive Officer	\$538,175	\$563,175	\$538,175	\$563,175
Chief Financial Officer	\$402,595	\$427,595	\$402,595	\$427,595
General Manager, Commercial	\$389,621	\$411,955		

Acting General Manager, Commercial (30/10/17-8/04/2018)			\$407,810	\$432,810
General Manager, Commercial (May 2018 onwards)			\$388,128	\$425,000
General Manager, People and Culture	\$373,785	\$398,785	\$373,785	\$398,785
General Manager, Wholesale	\$386,955	\$411,955	\$386,955	\$411,955
General Manager, Generation	\$423,009	\$447,995	\$423,009	\$447,995
General Manager, Corporate Services	\$357,164	\$391,095	\$357,164	\$391,095
General Manager, Retail	\$407,810	\$432,810	\$407,810	\$432,810
Chief Information Officer	\$315,160	\$345,100	\$315,160	\$345,100
Acting, General Manager Retail (30/10/17-8/04/2018)			\$287, 849	\$315,218

POLICE — DOMESTIC VIOLENCE INCIDENT REPORTS

Question on Notice 1610 — Answer Advice

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.07 pm]: Pursuant to standing order 108(2), I wish to inform the house that the answer to question on notice 1610, asked by Hon Charles Smith, MLC, on 30 August 2018, of me, the Minister for Environment representing the Minister for Police, will be provided on 18 October 2018.

QUESTION ON NOTICE 1617

Paper Tabled

A paper relating to an answer to question on notice 1617 was tabled by **Hon Stephen Dawson (Minister for Environment)**.

GREENPATCH DEVELOPMENT — MINNINUP ROAD — DALYELLUP

Question without Notice 939 — Answer Advice

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.08 pm]: I undertook to provide Hon Diane Evers the site investigation report in relation to question without notice 939 asked on 11 October 2018. I now have that report, which I table.

[See paper 2066.]

WATER — SURFACE WATER LICENCES

Question on Notice 1631 — Answer Advice

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development) [5.09 pm]: Pursuant to standing order 108(2), I inform the house that the answer to question on notice 1631, asked by Hon Rick Mazza on 11 September 2018 of me, the minister representing the Minister for Water, will be provided on 1 November 2018.

TRANSPORT (ROAD PASSENGER SERVICES) BILL 2018 TRANSPORT (ROAD PASSENGER SERVICES) AMENDMENT BILL 2018

Second Reading — Cognate Debate

Resumed from an earlier stage of the sitting.

HON COLIN TINCKNELL (South West) [5.09 pm]: To recap what I was saying before question time, there are people from the taxi industry in the public gallery who commissioned a report from a global company. They spent a lot of money, time and effort. The report was given to the government back in September 2017. It really shows the direction that this government should have taken. Despite the taxi industry's response to this report and

the effort they put into it, what do they get back? They are told, “Take it or leave it.” That is not good enough on behalf of the government. Taxi plate owners deserve better than that. They have fitted in with the previous government’s requirements in the past. They are small businesses. They need to be treated with respect, which is something that has been wanting. For the people in the public gallery, if these bills go through, I imagine they would have mental health repercussions, financial devastation, bankruptcy and family breakdowns. They are the implications of the badly thought out and badly consulted bills that the government has before us today. It is not good enough. This government needs to consult better. In the last 18 months, we have seen that this government does not consult. It makes arbitrary decisions and then expects everyone to be happy. The government cannot come up with bad bills and bad legislation because it has a debt to pay. Government members still have to do the work. They need to work with industries and small business people in the community to make sure they have it right. Alternatives have not seriously been looked at, and that is the real problem here. In their alternative, taxi owners talk about a level playing field. In their alternative, they talk about a fair and reasonable buyback scheme. In their alternative, they talk about having no cost to the public. In their alternative, they talk about being repaid in a short time. These are the options for taxidriviers and taxi plate owners, and all the other drivers in the on-demand industry, contributing together to provide the funds for a fair payback because the system that is being put before us here today does not stack up.

One of the reasons that taxidriviers have really struggled—this is the biggest problem—is that the government is trying to fix the problem, but it has not done a good job so far and the previous government mucked it up. The previous government was not strong on this and taxidriviers have been left hanging in the balance. We have even heard members of Parliament saying, “It’s okay because the country will be exempt.” That is just not good enough. I heard from Minister Saffioti that the country had been made exempt over 12 months ago. Quoting things like that is not up to standard. It is letting down people in the industry and other people of Western Australia. It does not achieve the outcomes that are needed. These people have been severely let down. The report is very thorough. It is by a reputable global company that took the time to do it. People in the gallery and others have put a lot of time into this and they have not received justice at this stage. We will put through some amendments later on if these bills get up. We hope those amendments will be seriously looked at. Hon Robin Chapple will get into this in more detail, but when I look at things that are important here, I wonder why we want the public to pay for this.

The ACTING PRESIDENT (Hon Robin Chapple): Member, were you referring to me as the Chair?

Hon Sue Ellery: You said Robin Chapple instead of Robin Scott.

Hon COLIN TINCKNELL: Sorry; thank you. I got the name wrong. There are too many Robins and too many Colins in the house! Sorry, Mr Acting President.

As I mentioned before, why do we want the public to pay for this? I do not understand that. Government members talked about making no new taxes. They call this a “levy” but it is really the same thing. We do not know whether it will go away or stay here; there are no guarantees. Another thing is that we should encourage the whole of the industry to get involved and help to pay this back. Why should we not have all the drivers from all the on-demand groups and taxidriviers working together to help repay this debt that plate owners are owed? They are small business people and they have stuck to their part of the bargain. They have now been left high and dry. Having a “take it or leave it” attitude is not a way for a government to act. It is very disappointing. As I mentioned before, the taxi plate owners here today are small business owners, and this government needs these small business owners to achieve its outcomes. As I mentioned before, there will be financial devastation if these bills go through. There will be bankruptcy and there will be family breakdowns.

The buyback value in the current bill is too low. The government proposes to pay back \$100 000 for taxi plates and it is asking the public to pay a 10 per cent levy. One Nation is against this. It is not a fair and equal proposition. Over the last 50 years, governments have perpetuated taxi plate values through issuing taxi plates based on market value as premium plates; transferring fees for selling plates at a percentage of taxi plate values; and a fee has been paid—an upgrading plates cost—for peak-period taxis to be upgraded to full-time taxis. Over the years, taxi plate owners have fitted into this system. Taxi plate owners have provided a solution that will have no direct impact on the future of on-demand transport users because there will be no 10 per cent fee. It will result in taxi fare completion, which is no longer set by the government. It will be fairer to taxi owners, who will receive a fair buyback value. It will be funded by those who choose to participate in the on-demand transport industry. It will be paid in a reasonable time frame and will provide a simpler and easier compliance model.

We have over 15 000 taxi or on-demand drivers. That seems like a lot and it probably means that we have too many. I imagine that the number will settle down over the next few years. However, if we are to use that figure and those drivers were paying what is contained in the proposal, it would raise \$58.5 million and it would pay for the buyback proposal in five years. There would be no tax on the people of Western Australia. As I said at the start of this debate, this is a once-in-a-lifetime generational reform. The \$75 or \$85 a week fee for all drivers on all platforms is not being considered in order to eradicate this logistical nightmare.

I implore the government to listen to the taxi industry. Today I am speaking on its behalf. I am asking the government to reconsider this bill. If the government cannot make the changes that we want, cannot listen to what the people are saying and cannot support the people of WA by stopping another 10 per cent tax, then I ask it to please seriously look at and consider my amendments to the bill when I present them at the next stage. They may help the situation.

This situation is very difficult. I congratulate the government for having the guts to put a program up, but, as I said before, I think the take it or leave it attitude is just not good enough. Arbitrary decisions made by a government when it is not listening to the people of WA usually fall foul and do not work. They usually just create a further impost on the people of WA. As I mentioned before, One Nation is not happy with this bill. These taxidriviers were let down by the previous government. They have not been seriously considered by this current government. The plate owners are small business people. They need to be represented by not just One Nation, but all parties and all members in this house. We need to come up with fair compensation, so they can move forward and plan for the future. Right now, they do not know what the future holds. I finish my contribution to the debate there. Later on, Hon Robin Scott will talk about the option given to this government 13 months ago. I would like the government to reconsider that option.

[Interruption from the gallery.]

The ACTING PRESIDENT (Hon Robin Chapple): Attendance in the public gallery is welcome and valued in this place, but interjections or commentary from the gallery are not approved of. I ask you to refrain in future.

Hon Simon O'Brien has the call. Just to clarify, are you the lead speaker?

HON SIMON O'BRIEN (South Metropolitan) [5.22 pm]: Yes.

We are considering the Transport (Road Passenger Services) Bill 2018 and the accompanying Transport (Road Passenger Services) Amendment Bill 2018. The latter bill, of course, will impose a tax. That is by far the briefer of the two bills, and we will come to that in due course. The Transport (Road Passenger Services) Bill 2018 is quite a large document and the reason for that is reflected in the second reading speech, which states that the purpose of the bill is for it to be —

... the most significant overhaul of the taxi and on-demand transport industry in the state's history.

I think it quite probably is. I also recognise that the government's second reading speech says —

Throughout its history, the taxi industry in Western Australia has been heavily regulated by government through a strict and complex legislative framework over many years.

The government is dead right about that. I am not the Liberal Party spokesperson for transport matters these days, but I was back in the dim, dark past. For now, that is one reason I have carriage of this bill, because I know something about the history of the matters we are contemplating today. We need to understand that history, because, as has already been indicated, this affects a heck of a lot of people very seriously. The government is proposing a radical departure from the current arrangements, and that will affect people, some of them adversely and some of them positively. Overall, we need to make sure we have an outcome that is fair to all. Perhaps I am introducing this concept into the debate for the first time, but we have to have something that produces a better outcome for the future, in particular for the passengers and others who rely on passenger transport services in Western Australia, because they seem to be the ones who never seem to crack a mention when we debate these issues. That is something I have observed over many years.

I was a minister with responsibility for transport in this state some little while ago, and it depends on where we are coming from when we contemplate that. I also served with Hon Eric Charlton and Hon Murray Criddle, who were both Ministers for Transport before me. Then responsibility for taxis went over to someone called the Minister for Planning and Infrastructure. That was part of a now failed experiment set up by the then Labor government to have a place called the department of planning and infrastructure, or DOPI for short! Now, I find I have the great privilege to serve with the then Minister for Planning and Infrastructure, although she is outside the chamber at the moment on urgent parliamentary business. She also tried to come to grips with the vagaries and difficulties that have confronted successive ministers with the regulation of the taxi and related passenger services industries. There have been a number of transport ministers since then as well, of course, until we come to the current minister, who has brought forward the bills currently before us. I do not know how people look back on my tenure. Possibly there is a general view that it was something of a golden age within the Department of Transport—that I rescued it from DOPI and gave it back its sense of identity and something it could be proud of, independent of all those other things that had been tacked onto that department. I notice that despite all the other empire demolition or building that has gone under the machinery-of-government actions of this government, the Department of Transport, which was created at the start of 2009, endures.

I want to acknowledge the efforts of successive generations of officers who have had the difficult task of administering the chooks' breakfast that has been the taxi regulation system in this state. Over 50 years or so we

have had a regulated taxi system in the state, and successive ministers, some of whom I have alluded to, would all have been confronted with the same problem. They probably would have expressed the same desire that I had—if only we could have a clean start and if only we had a fresh piece of paper to design a transport and road passenger services regime that met the needs of all concerned, including, most particularly, its potential customers. Members might ask why they did not do that. It is because successive ministers have all been confronted with the strictures of a regulated system and all the vested interests that a regulated system or a monopoly process, whatever we want to call it, imposes on them—the political realities of what can and cannot be achieved. Over time, governments have been confronted with the problem of deregulation of licensed commercial activity—milk, potatoes, onions, eggs and taxis. What next, I wonder? Lottery kiosks? TABs? Who knows what we will see in the time ahead. But have no doubt: this is a difficult, difficult thing to tackle.

What has happened in the course of the current government, of course—what it inherited—has been something different. It has had what has eluded and not been available to previous ministers—that is, a circuit-breaker that has forced it to restructure an industry and revisit a model that is irretrievably broken. Colloquially, a lot of people say that is Uber. It is all about the technology and trends in providing on-demand transport that have challenged the former arrangements to the extent that something had to give; indeed, everything has to give.

I will do a little revisiting of history, because it is important that we acknowledge where we have been before we agree to go down some new path. I acknowledge the correspondence and other representations that members have received from those who have skin in this game. When I was Minister for Transport—I will try not to use the expression “in my day”; that would probably be more than anyone could bear—I tried to approach it in good faith. I think every other minister I have mentioned would have done the same thing, having regard to the fact that people have invested large sums of money in some cases to buy access to this regulated industry and even taken out mortgages to buy taxi plates, expecting that a long-term plan could be put in place to guide their futures. We came across the essentially human aspects of all this. Taxidriver had been injured because of unfortunate and shameful incidents that sometimes happen, and will continue to happen, with drunken or violent clientele. Indeed, we have also had unhappy incidents occur when passengers have been assaulted and the like. Behind all those people are friends and families, and ultimately there is an entire community of now 2.5 million people who rely on the taxi industry as part of their public transport needs. The vast majority of those people undertake their journeys by taxi without incident and get to their destination safely, and those taxis receive their repeat custom because they value the services. To the greatest extent they can, ministers consider all those things, and they do not want to consider anything that will damage the industry or its participants. I can remember finding the telephone details of taxidriver who had been assaulted and put into hospital, just to call them and find out how they were going. And, no, I did not put out a press release to say I had done it; I genuinely cared, as have other ministers. I recognised political reality when I had forces saying, “You have to deregulate this”, or, “You’ve got to just open up and flood the market with plates and let the market decide”—all that sort of thing. All sorts of pressures come upon transport ministers when they occupy that particular desk. It is the same for the current minister.

As expected, a great quantity of correspondence has already been generated by the prospect of this bill. I am sure we have all seen the material put out by the minister and by the department on the minister’s behalf. A forward notice was provided to the taxi industry some little while ago to indicate that changes were happening. A further, more detailed letter, which is undated in the redacted copy I have, was sent out under the signature of the acting general manager of on-demand transport in, I think, November last year, which talked about the details of the significant changes that have been announced. What a lot of correspondence there has been in the meantime. I had started to say that members here and elsewhere, I should think, would have received a whole lot of correspondence, giving a whole range of perspectives. I acknowledge those now through this opportunity.

Sometimes when members receive a lot of correspondence as part of a campaign—a lot of it being pretty well identical in its wording—it becomes a bit like white noise. We even wonder sometimes whether we are getting multiple copies from the same correspondent, or even whether the same document is being provided by people under assumed or other identities or borrowing extended family’s identities and so on—whatever. I just want anyone who has corresponded with my Liberal colleagues or me to know that we have received their correspondence and taken notice of the contents, but we may not have all had the opportunity, particularly through time, to respond individually. Through her office, our spokesperson, Hon Liza Harvey, has provided responses to each of these several campaign letters that I have alluded to, and has done so on behalf of all state Parliamentary Liberal Party members. I reassure everybody, regardless of which corner they come from, that we have noted their input. We particularly empathise if they are finding that they are under stress and strain or difficult financial or other circumstances, and we want to see them dealt with fairly.

I will refer to a number of the matters that have been raised in the course of this second reading debate, and I will do so again, and more so, in the course of the committee stage. A supplementary notice paper was just now circulated that carries a proposed amendment to the bill standing in my name. The proposed amendment is in response to a message received from a person identifying as an independent charter vehicle operator. I will acquaint the house with some of the points raised by that correspondent in a moment, but there is one other point

I need to make. The nine members out of 36 who are here as the state Parliamentary Liberal Party do not run this house. This is not our bill. This is not our agenda. We are not the government. If people do not like what the government is doing, then I have to say to some people out there, “You voted for them and that’s what you’ve got.” We will be contemplating what brought some people to vote for that government in relation to these bills and this matter a little later on, but I have to say with the greatest of respect to a number of correspondents who have written to us—again, they have had responses from our spokesperson, Hon Liza Harvey—that a lot of the matters that they have raised are matters of issue with this government, not with us. This is the government’s program. These are its bills. This is its legislation. It is doing what it is doing as a government. We can only do so much. We are not pretending to be the government and saying, “No worries! When it comes to the upper house, we’ll rewrite the bills for you.” Sorry, we do not have the opportunity to do that. We have it in writing—indeed, everyone in the taxi industry has it in writing—from Hon Rita Saffioti, MLA, the current Minister for Transport. She sent a letter, I believe undated—perhaps it is timeless in that sense—headed “UPDATE ON PERTH TAXI BUYBACK SCHEME”. It advises, and I quote —

The State Labor Government’s reforms to Western Australia’s taxi and on-demand transport laws, the *Transport (Road Passenger Services) Bill 2018*, has now been introduced into Parliament.

As you know, before the election of the McGowan Labor Government, there was no plan for the future of privately owned taxi plates.

The government cannot help itself; it has to make everything political, even when it is dealing with something so important and dealing with so many thousands of people’s lives and futures. Anyway, I digress. I return to the letter, which states —

It is my priority to resolve this situation. Since coming to office, we have had to create a policy which delivers the fairest possible outcome for plate owners and will allow broader reforms to help modernise the taxi industry.

The State Labor Government is committed to the proposed buyback scheme. It is the most generous buyback scheme of its kind in Australia, and while I acknowledge that some plate owners wanted more, the Government had to strike the right balance.

The proposed buyback scheme is reliant on our legislation being passed through Parliament. If the legislation is not passed, the buyback scheme cannot be initiated.

The State Labor Government and I have been very clear with regard to the buyback. The issue will not be revisited should the Liberal Party and other minor parties defeat the proposed legislation in the Legislative Council, and no further financial payments or assistance to the industry will be considered.

If you want the opportunity to take part in the taxi plate buyback scheme, I would encourage you to contact Members of the Legislative Council in your region to ensure the State Government’s proposed legislation is passed.

That is a take it or leave it letter. That is what we are confronted with as legislators. We are confronted with that and a number of other considerations, including a cohort of correspondence from affected parties, saying, “Please, please, please pass this bill because we want to access the buyback. We are concerned about the uncertainty about our future, please pass the bill.” That was one cohort of correspondence we received. With that and a whole lot of other things in mind, my party has resolved to not oppose this legislation. That will be reflected in my contribution to the various stages of debate, but not before I acknowledge the other cohorts of correspondence that I have received.

I mentioned just now a whole lot of issues that need to be taken up, the sort of things that Hon Colin Tincknell was referring to and in relation to, I think, a petition that was tabled today by Hon Robin Scott. Some matters in there raise questions. I for one am not saying that they are not valid questions—genuinely held concerns—and they need to be answered by the government, because it is the government that is proposing this course of action and is doing so under a take it or leave it manner. I do not know how dinkum the government is when it says what is in that letter. If this bill is passed, is the government seriously saying, “That’s it. We’re not doing anything more with taxis”? I do not know. We can only take the government at its word. We will see what we see.

I was just about to refer to another letter that I have received—a letter that is typical of a third cohort of correspondence that a number of us has received—from a chap who says that he is an independent charter vehicle operator. He commenced in the industry in 2002. He tells us about how he purchased a limousine franchise and found that that was a bit of a mistake. That happens sometimes when people try to set up businesses. They find that it is not as rosy as it was presented to them. He had a disagreement with the franchiser. He ceased being a franchise holder and commenced legal proceedings to recover some of his investment. In the ensuing years, he sought to build his own independent operation by assisting others in the industry and by gradually building his

own client base. In other words, he describes himself as a chauffeur service in the charter vehicle industry. The correspondent, Graeme, says —

The omnibus licence —

That he had —

prohibited me from competing in the Taxi Industry with a requirement to purchase a vehicle that was well above taxi specifications —

That is, a flash luxury vehicle, or a stretch limo or something of the type —

and I was required to charge a minimum fee of \$60/hour.

Back in the day, with such criteria, he would not be competing with the protected species that was the regulated taxi industry. He then goes on to say —

A few years ago UBER commenced operations in Perth, and apparently were operating as Charter Vehicles —

By definition —

However Uber ignored all of the regulations which we were bound by and competed directly with the taxi industry.

Obviously, they also competed with his charter vehicle industry. He continues —

Both the sitting Government and opposition did nothing to enforce their regulations and the Taxi industry suffered.

I imagine governments past and present will possibly take issue with that, but one thing we can all concede is that the regulated industry that we had, along with a heap of other shortcomings, was certainly not prepared for the Uber tsunami that crashed upon it. We saw, month after month—I am referring here to some advice I had from another minister, Dean Nalder—that statistically the amount of taxi work that taxis were getting was dropping, by 15 per cent in one month and then by another aggregate of 15 per cent the next month, and like figures. This is what we saw as the circuit-breaker that had to come and that has arrived, and that has led us to the further deregulation that we are seeing now.

My correspondent in his letter also advised —

This has nothing to do with how I operated in the Charter Vehicle industry.

The government now says we are all covered under one industry “On Demand” and I can now try to compete with Uber, but cannot compete with Taxis.

We will see this when we get to the detail of the bill. The letter continues —

Over recent years there has been a number of new operators enter the “On Demand” industry in competition to the taxi industry. Many of these operate through mobile apps and are based who knows where.

There are also thousands perhaps 10s of thousands Travel Agents across the world who take bookings and source services across the world.

Technology continues to evolve and autonomous vehicles are being trialled and will be providing services I offer and taxi services across the world.

Then he gets to the point, the key point I think he needs to make, when he says —

To suggest that in a rapidly declining market that I should subsidise an industry that has for many years struggled to understand how a service industry should operate, whilst trying to compete with a growing autonomous entrant. You cannot be serious.

He continues —

The suggestion that the current Charter Vehicle operators can afford to pay 10% for a rapidly declining income and ever increasing fees and charges, you are dreaming. Many of us Independent operators are only just surviving and are at or near retirement age. However, we continue to support our client base and not be a burden on the economy by retiring and drawing a pension. We also input a considerable amount to the economy by purchasing operating and maintaining our vehicles.

I seek your support in opposing the proposed bill.

To that gentleman and to others in like circumstances—I understand there are probably a good 50 or so of them —

Hon Stephen Dawson: Would you consider tabling that? That would help me in responding to it if it is appropriate.

Hon SIMON O'BRIEN: I can table it. If the minister is asking me to table it, I will table the document or I can provide it to the minister. Although I have referred to it, I would prefer not to table it without some matters being redacted.

Hon Stephen Dawson: Sure.

Hon SIMON O'BRIEN: What I can say to our correspondent in that case is, "I'm sorry; we're not going to oppose this Transport (Road Passenger Services) Bill because we have been told it is a take it or leave it proposal, and, frankly, something has to be done." My party has made the decision that it will not oppose the bill. However, despite what I have said in recognising that the government is not prepared to brook any changes or dismantle or gut this bill and its policy, and despite my assertion just now that a whole heap of complaints have been made about it, from a perspective that says there are a whole lot of shortcomings and listing them all, and my pointing out that those are questions for the government to deal with, I think there is something my colleagues and I can do in this house about what are now known as limousine and small charter vehicle operators. I understand there are about 50 or so of them. Perhaps we will get some departmental advice to confirm that or otherwise in due course. I have caused to be placed on the supplementary notice paper an amendment that is intended, in effect, to exempt this limited class of operator, currently the small charter vehicle operators, from the requirement to have the levy imposed in recognition of their business model whereby, typically, they do not always have despatch operators and for some of the reasons that are laid out in the document I have just referred to.

I have not sprung this on the government just now; I indicate that I have had discussions behind the Chair to let the minister and departmental advisers know that we wish to explore this prospect. We want to place our support for this sector on the record, so we are formally doing so and we will prosecute that. We all know that the Minister for Environment in his representative capacity in managing this bill, is a reasonable person, as are, indeed, the ministerial officers we have been dealing with. I said that this was presented in good faith and, I believe they will look at this amendment and see whether it can be accommodated.

I understand this is a bar 2 bill because it has been amended in the other place. The government acknowledged some changes were needed in relation to trips that start within the metropolitan area and end up outside the metropolitan area and vice versa and it has come to some accommodations there. If we can do it without destroying the model or it can be accommodated under the new model, I think the government will have a genuine look at that, so I approach the process of that amendment, not with confidence, but at least in good faith, which I think is shared by government members.

I will leave the government to respond to the other points raised because it is up to it to do so. I am aware of the government response to the Taxi Operators Legal Defence people and others, but I will leave it to the government to give its response to that sector of the industry. Before I move on from that point, I want members who have not been familiar with the taxi industry over the years to understand that there are different perspectives within the existing industry and they are irreconcilable, and that has always been the problem confronting people. There is the perspective of those who have bought plates as investors and have nothing to do with running a taxi. There are owner-operators, people who have taken out leasehold plates, and there are drivers operating on someone else's plates. The perspectives of those different parties and what they want to achieve out of any buyback scheme are completely irreconcilable with each other as we have found over the years from various reviews.

What substantive matters are taken care of in this bill? It is a very comprehensive bill that the government has introduced with its second reading speech, which I will not revisit because that would be tiresome. But I indicate that the opposition recognises that this is a rewrite of the relevant legislation. Some of the provisions are relatively well established but all of it is about dealing with a new regime, the likes of which have not existed before, so there is a lot of detail in the bill and some of that may well be teased out in the committee stage. In terms of the mechanics of the bill and whether it will do what the government says the bill it will do, the opposition is fairly comfortable with it all. It is certainly not our business to rewrite what in effect is the directive given by government to the departmental authorities to administer.

The one area, of course, that excites great interest in this bill is the taxi plate buyback provisions, because that is the matter of the moment. That is the matter that correspondents are trying to engage us in. It is something they are all waiting on. Will we have a buyback or not? Others are asking: what is the quantum? Others are asking when, so they can organise their affairs with some certainty over this financial year and the coming one. We have had all of that. We recognise that that is important and I think that is what we will pay most of our attention to because that is the significant issue of the day, one that will pass in due course and then we will be left with the substantive new act, the machinery to run a whole new regime and, hopefully, equip the Department of Transport with the machinery it needs to meet the challenges of the future so we do not end up in the situation that has existed for decades with a system that is broken but no-one can bring on the forces to change it.

You are probably about to notice the time very soon, Mr Acting President. I have some concluding remarks to make. Before I do that, I want to refer to some of the other things that have happened in the past and contrast the bill before us with the plans of former administrations. I refer in particular to a document called "Report on Review of the Taxi

Industry Regulatory Structure in the Perth Metropolitan Area” prepared for Hon Alannah MacTiernan, MLA, Minister for Planning and Infrastructure by Hon Graham Giffard, MLC. In its recommendations it states —

- **Recommendation 1: That the State Government not proceed with de-regulating the metropolitan taxi industry and that the total number of taxi licences (plates) made available in the market should remain capped.**
- **Recommendation 2: That the State Government not proceed with a compulsory buyback of taxi plates.**

Sitting suspended from 6.00 to 7.30 pm

Hon SIMON O'BRIEN: I will continue my introductory remarks. I do not think there is any need for me to summarise or recap at this stage. That will come much later.

Hon Michael Mischin: What was that bit after, “I am the lead speaker?”

Hon SIMON O'BRIEN: That was the one bit I did not actually say.

Just before we adjourned I felt it necessary to remind members of the history of this issue. I wish to compare and contrast that with the attitude displayed by Minister Saffioti in her letter to all taxi users, when she bewailed the fact that there was no plan for the future of privately owned taxi plates and that since coming to office, Labor had had to create policies and so on. That struck me as peculiar, because a lot of minds had been applied to this. I know that departmental officers had been working very hard on these matters for several years. They did so under the former government with the steady support of Ministers Nalder and Marmion and others, I am sure. It also struck me as incongruous to say that Labor had to create a policy, because that indicates that it previously had no position, yet on what basis did the ALP give undertakings to the industry, which it did at various stages before the change of government? It is only fair that rather than let the claims of the government stand in that matter, we remind it of somewhere that everyone has been on this.

Labor has an interesting record dating back many years. Before we rose for a break, I was advising the house about the recommendations prepared by Hon Graham Giffard, MLC, and presented to Hon Alannah MacTiernan, MLA, the then Minister for Planning and Infrastructure in the time of the Gallop government, and how it was going to fix everything. That government was going to take this industry by the horns and sort it out, by jingo. Then I was pointing out some of the recommendations that came forward. I mentioned recommendation 1—that the state government should not proceed with deregulating the metropolitan taxi industry and that the total number of taxi licences or plates available on the market should remain capped, which was something of a 180 degree turn. With a Labor government, we expect that when it commissions one of its backbenchers to do an inquiry, there is some sort of preordained outcome, but on this occasion, what was promised and what was delivered were quite different. So much for the ALP in government having the answers. Indeed, there were quite a few recommendations in that report. If members want to cast their minds back over that history, they can see that it was more a tinkering around the edges. In fairness, as I conceded earlier in my speech, when confronted with political reality, the only thing ministers of the day could manage to do was to try to manage the unfolding dysfunction that was the taxi regulation sector. But we are not done with that, of course. Mercifully, in due course, that government was defeated by its own hand, when it called a surprise election under Premier Carpenter in 2008. To his surprise, it was a surprise election because he lost it.

As transport spokesman from time to time, I remember dealing with a number of bills in this place that were brought forward through a succession of parliamentary secretaries to the then Minister for Planning and Infrastructure. We all remember our friend Hon Ken Travers, for example. He had that job for some time. He knew his onions, too. But, gee, as parliamentary secretary to the then minister, we could see him age before our eyes. I believe Hon Adele Farina was a parliamentary secretary in those days. I do not know whether she was before or after Ken, but, again, what a wonderful job it would have been to be parliamentary secretary to that mercurial minister. I think there were a few others, too. It is quite a rollcall of people. Was Hon Dr Sally Talbot one at one stage? No. Anyway, they have given way to a new generation of parliamentary secretaries to that minister. Who is the parliamentary secretary now? Hon Darren West! Perhaps his meteoric rise to ministerial ranks will be curtailed. She is like a jinx! Anyway, a new minister now has transport, but the overall Labor leopard does not change its spots.

As recently as 2016–17—more contemporaneously—there was further debate about this issue. This time, it was as a response to the changes in technology and practice in the on-demand transport area. The then opposition, the Australian Labor Party, Her Majesty’s loyal opposition, was doing what it does in opposition—that is, to try to inflict as much pain on the government as it could while pretending it was here to help. It promised the world to anyone it thought it might be able to glean a vote from, and then, on coming to government, it has of course delivered just the opposite.

In 2008, a deregulation proposal was mooted by the Labor government of the day—perhaps there are one or two people present who might remember that—for a \$225 000 per plate buyback. That is what the government of

the day was considering offering—a buyback at \$225 000 a plate. I do not know whether that was a public position, but it was certainly being discussed within government. How do we know that? The person who told another place about it in 2016 was the current Premier, Hon Mark McGowan, when he was criticising the former Barnett government. As it tried to wrestle with the situation he said, “You’re ripping off these taxidrivers. We would not! Back in 2008 we were considering giving them \$225 000.” If you cannot trust Mark McGowan, who can you trust? That is what he said in the Assembly on, I think, 8 September 2016. In fact, on that date the current minister, then in opposition, when dealing with a temporary financial assistance measure of \$20 000 for each applicant, which was being managed by Hon Dean Nalder as minister, moved that the financial assistance payment be changed from \$20 000 to \$162 500. We have also been told by many and various members of the taxi sector that immediately before the election it was generally being put about by ALP state members that Labor was offering as part of a buyback—if that is what it had to do—a minimum payment of \$200 000. That is what Labor was offering in the lead-up to March 2017. Constructed out of that was something called the Micro Business Party. In direct response to that undertaking, a political party was formed to put preferences towards the ALP and to put the Liberal Party last. I was a beneficiary of that. Thank you so much! Mind you, I am still here!

Hon Michael Mischin: Did they get what they paid for?

Hon SIMON O’BRIEN: That was only a brief synopsis of the sort of undertakings that were being offered, but I think the taxi sector is entitled to think that it has been right royally duded! What they were promised and what is being delivered is remarkably different. I think we are all entitled to ask some questions about how that was to be funded. It is easy to promise the world in opposition—or from the crossbench, I might point out—but the fact of the matter is that a government still has to find those funds. I was not then part of cabinet, but I know it was being mooted in Liberal government circles that part of the proceeds of a partial privatisation of Western Power could be applied to this very purpose to benefit those who had invested long-term in the taxi industry. However, the people did not vote for that, so we were not able to deliver it. The Labor government is not interested in such a policy, so it does not have that source of funds. Where was it going to get the money from for its \$200 000 offer? Was it going to find it growing on a tree somewhere?

Hon Colin Tincknell: It could’ve taken the other offer.

Hon SIMON O’BRIEN: It did not. Labor made another promise of no new taxes and no tax increases. I think that every client of the on-demand transport industry is entitled to ask how this new tax on consumers sits with the government’s pre-election undertaking of no new taxes. Why has the buyback amount been capped at a minimum of \$100 000 when, just before the election, \$200 000 was promised? That is a legitimate question. Why is the minimum amount being offered now not the \$162 500 proposed by the current minister during that debate in another place that I alluded to? All these questions are there for the new government to answer. Will it be able to address any of them? I do not know. I doubt it, but we shall see what we shall see. I think it is a pity that Labor successively bragged in the late 1990s that it would fix the problem but failed to do it, then bragged that it would fix it prior to the 2017 election. Then, of course, it was confronted by the realities of government. However, this government has at its disposal a circuit-breaker set of circumstances, which means that the system can be changed and built into a new system, which will, hopefully, be flexible enough to meet future needs. That is a testament to the outstanding work of the public officers in the Department of Transport every bit as much as it has anything to do with this brilliant government that has taken the Treasury benches.

I have mentioned a number of matters that are all relevant to the bill. I will summarise a couple of key points. The Liberal opposition realises that this bill matters to people and will affect the lives of very many people. I have previously outlined that we have received correspondence from a large number of people. It has quite often been formulaic or repetitive correspondence but, nonetheless, it is representative of several points of view. I have mentioned how those points of view are sometimes irreconcilable with each other, but we have noted everything that has been said. To the greatest extent possible, the office of our spokesperson, Hon Liza Harvey, is responding to each of those pieces of correspondence on behalf of the Liberal Party. I am placing the party’s position on the record in this place so that we can acknowledge what has been said. I have gone into some amount of detail about the specifics in several of those chains of correspondence. I have indicated that as a party in this house of review we do not have any particular issues with the mechanical portions of most of the bill. I expect there will be further debate about the buyback provisions of the bill. I have also indicated that we have been moved to place an amendment on the notice paper under my name on behalf of the Liberal Party to reflect what we think is the genuine and, hopefully, achievable goal of providing some relief to those now classed as limousine and small charter vehicle operators—that is, relief from being saddled with a levy in the future. Let us face it—those operators are not getting any buyback out of this, yet, in many cases, they have had to pay considerably more than taxi operators to equip their vehicles. We will see what happens in Committee of the Whole; I am sure that we will get to clause 244, which is the relevant one, very soon. I look forward to hearing what the government has to say about that clause. Although we have indicated that we will not oppose the bill and that we understand that the government, rightly or wrongly, in not so many words, has said, “If you don’t go along with this program, we’re going to throw up our hands and walk away. That’s it; you can all stew in your own juice!”, I think that the

government has certainly shown sufficient goodwill, particularly out of the public eye, to at least contemplate some reasonable amendments to this legislation. The government has already responded in that way in the other place, and, hopefully, we might be able to obtain some relief for those small charter vehicle operators when we get to Committee of the Whole. At least those operators will know that this house has given their issues a comprehensive and fair hearing.

As I draw my remarks to a close, I offer a gesture of goodwill across the chamber to the Minister for Environment representing the Minister for Transport. I have received good assistance in preparation for debate on this bill and I thank the Minister for Environment for those courtesies extended by the other minister's office and by departmental officers. As I said previously, the amendment put on the notice paper at very late notice was done so with a sense of goodwill and not to try to be difficult. With all that in mind, we will seek to move through the committee stage of this bill with reasonable expedition and that, briefly, is our position.

HON ROBIN SCOTT (Mining and Pastoral) [7.52 pm]: I have been really looking forward to making a contribution to the debate on the Transport (Road Passenger Services) Amendment Bill 2018 and the Transport (Road Passenger Services) Bill 2018. Unfortunately, I will have to repeat some of the comments and remarks made by the two previous speakers.

In the 1990s, my wife then was working as a volunteer for disabled people. Every night when she came home, she would complain that there were never enough taxis to pick up people with disabilities. At the time, my principal business was well-established, which allowed me to dabble in other things. I said to my wife, "How about we go and buy a taxi?" Before doing that, I obtained a taxi licence, which I still have today. It is a T endorsement on my driver's licence. I went to the Department of Transport's training grounds in Carlisle, where I spent three weeks learning to be a taxidriver. I found out that the taxi industry was well-regulated and well-governed by the government at the time, and I thought that it would be a good investment. We had some spare money—we were very fortunate that we did not have to borrow any money—so I bought a taxi. Its taxi name was Mac 31, but the real name for it was multipurpose taxi 2031.

I only drove it for a few weeks because being a taxidriver really was not for me; I looked at it more as an investment. For quite a few years, I made a really good return on my investment in that taxi. Every now and then when a driver wanted a few days off, I would stand in and have some fun in the taxi. That went on really well until the turn of the century, when I received a letter from the then transport minister, Hon Alannah MacTiernan. The letter said that the government wanted to buy my taxi from me because it was going to make some changes and offered me some money to return the taxi plates to the government. I wrote a letter back saying, "No thank you, ma'am. I am quite happy with the return I am getting from my taxi." About 12 months later, I received another letter saying, "We want to buy your taxi back. If you don't sell it back to us, we're going to release 100 MPT taxi licences for"—I cannot remember the exact figure, but it was for something like \$50 or \$100 a week. That was not even 10 per cent of what I was getting from my plates. I did the maths very, very quickly and decided that I would sell the taxi to the government. I was well compensated for that; the government paid me more than I had paid for the taxi plus a percentage.

Drivers today are not so lucky. What has changed so that the government thinks that it can chuck peanuts at these guys who have invested a lot of money? This will affect some of them really drastically. When I bought my taxi, I did it in exactly the same way as these guys in the public gallery today. They bought into a regulated, organised company hoping for a long-term career and looking at building a means of securing a good retirement. Some drivers mortgaged their homes and others borrowed up to \$300 000 to get into this well-regulated organisation. Most joined the industry looking for a long-term future as a taxidriver. These guys work a minimum of 12 hours a day. They normally swap over the day driver for the night driver. It is not easy money; it is long hours. These drivers joined the industry long before Uber and Ola came along. Some of these current taxi owners will face some really big strife. They will have mental stress, which means that they may not be able to work all the time, which will lead to other issues like bankruptcy and possible divorce. I want everybody to consider family break-ups. I am not just talking about mums and dads; I am talking about brothers-in-law, sisters, brothers, uncles and aunts, because some of these guys asked family members, "Can you lend me \$10 000? Can you lend \$20 000? If I get enough money together, I'll be able to buy this taxi. I'll be able to pay you back really quickly, because I will not have to pay too much bank interest." All of a sudden that money is gone and the drivers are getting a measly \$100 000 back, but they still have to repay their brothers, their sisters and the rest of the family. That has to be considered here. This bill will not be good for anybody; it is a disastrous bill.

There is a simple solution that has been made by the taxi owners. At the moment, approximately 1 000 taxi plates need to be purchased for \$295 000 each, which equates to \$290 million that the government should be paying back to taxi owners. Currently, 15 000 on-demand vehicles are operating in Perth. Multiplying 15 000 by \$75 a week results in \$58.5 million a year. If the government were to run that system for five years, every taxi plate owner would be able to get his \$295 000. The government could extend the \$75-a-week charge for another year, or even two years, to cover the interest that the government would have to pay on borrowing this money to meet demand. If the government used this system, there would be no cost to the public and no direct impact on future on-demand

transport users, because there would be no need for a 10 per cent tax on fares. As a result, taxi fare competition will no longer be set by the government. This system is fairer for taxi owners because they will get a return for their investment that will be funded by those who choose to participate in the on-demand transport industry. The people in the industry at the moment will have a choice of whether they want to continue in the industry. If they do not want to pay \$75 a week, they can just leave. It will be repaid in a reasonable time, and it will provide for a simpler and easier compliance model. At the moment, if these guys are borrowing \$290 000 at five per cent interest—they will be lucky if they can get it at five per cent—they are paying back, just on interest, \$14 500 a year, or around \$289 a week, so \$75 a week is very reasonable. This bill, because of the power the McGowan government has in the other place, has been rushed through without sufficient scrutiny. Hon Simon O'Brien said it was going to be a difficult bill. It is not a difficult bill, but it is turning into a difficult bill. It is not a funny bill either. I do not see any fun in making any kind of joke about the taxi industry.

I will conclude by saying that I hope the Premier, Mark McGowan, and Hon Rita Saffioti will accept the years of misery and hopelessness that will be left for these taxi owners, their families and their extended families. I suggest further discussion with the taxi owners, so that we can fix this wrong. This is one big wrong, and something has to be done properly. We have to consult with these owners, and the government has to take into consideration all aspects of the taxi industry. The government will not only chop the legs from under the taxi owners, but also upset their families and extended families, and that has to be considered.

HON TIM CLIFFORD (East Metropolitan) [8.02 pm]: I rise tonight to speak on the Transport (Road Passenger Services) Bill 2018 and the Transport (Road Passenger Services) Amendment Bill 2018. After a long consultative process, the Greens have come to the conclusion that we will support these bills. It is pretty much a take it or leave it situation, in which we are going to be dealing only with the bills that have been presented. Many parties, both those supporting and those opposing these bills, will be affected. It is time the reforms came through. Successive governments have dropped the ball. Uber disruptive technology, which Hon Simon O'Brien spoke about earlier, has come into place, and it is really time for change. The reforms are long overdue.

As has been mentioned before, the pre-Uber industry was very highly regulated and protected. The plates grew in value, which allowed for investment and for some individuals to own a number of taxis and lease them out to drivers. Also, owner-operators had to spend a lot of money. As mentioned before, the government neither anticipated nor moved quickly enough to adapt to the new technology. There was no way of countering it overnight. Uber came on quickly, but it hit other jurisdictions before it hit us, so we should have been monitoring it and talking about what effect this might have before it hit our shores. Looking back in *Hansard*, I find that Hon Alanna Clohesy was the first member in this place to speak about it, which I find very interesting. This bill is important for these reasons.

In considering this bill, I want to pay attention to a number of factors and ask whether the buyback levy is fair to drivers and customers. As Hon Simon O'Brien mentioned, there is a lot of talk in this place about the legislation itself, but not about the customers—the people who use this service. When Uber first came on board, people talked about the taxi industry and Uber came up with different reasons for supporting each mode of transport. People liked the Uber app feature, for safety reasons. There was a lot of fear in the community, particularly on the part of young women going home at night. They found Uber meeting their specific needs. On the other side of the argument, pensioners using the existing taxi service knew the drivers and trusted in that mode of transport, and they would use that mode of transport because it suited their needs. These bills go some way towards bringing all these parties together and finding a solution.

Will anyone be disadvantaged as a result of the changes in these bills; and, in particular, will people with disabilities be negatively affected? How will the changes affect those who can least afford a taxi? What about people in the regions? Will this legislation contribute to the take-up of ridesharing, so we can get cars off the road and reduce emissions? Transport is one of the largest contributors to greenhouse gases. Do these bills allow for innovation in the future? We have heard about autonomous vehicles and the like, as well as the existing taxi service potentially taking on apps and different modes of connecting with customers. There is a level of innovation here, and it is no different from what we have seen in the energy space, in which there is talk about apps being used to monitor people's bills and how they plug into different power suppliers. We are in the age of disruptive technologies and we must adapt to them and work together with these industries and ensure that they are better prepared for this disruptive technology.

The first and probably the most contentious issue is whether the buyback, and the levy charge to fund it, are fair to the plate owners and customers. A lot has been said already in the other place about the fairness of the buyback and the levy. There are losers in this, and a lot of people will be affected. There have not been any real winners in this whole process, but doing nothing is not an option. Many plate owners have contacted me and asked me to support getting these bills through, because of the hardship they are facing. In Kelmscott, for example, I spoke to owner-operators who get up late at night to drive their taxis. They have also bought plates at top dollar, mortgaging their houses and things like that. They have a single set of plates, and they are going through this stress. They have contacted me about supporting this bill. On the other side, there are people asking for the bills to be amended,

which we will get to later in the committee stage. Other people have asked me to consider alternative models for the buyback. Developing a model that is completely fair across the industry is fraught by the total monetary buyback. If this bill is delayed, what effect will that have? How many people are already hard pressed? If this legislation did fall over, what would the plates be worth then? With the rise of Uber, if there are no reforms, we would be compounding a broken industry.

It has been a very difficult decision. I have heard from plenty of taxi plate owners who are set to lose their superannuation and what they see as their future. They are still out there driving and putting in 70-hour weeks; it is devastating for these people. One plate owner, who owns a multitude of plates and has lost millions of dollars, wants the uncertainty gone so that he can make business decisions in a stable environment. These are the comments of one owner in the regions whom I spoke to in previous months. Right now he is in some kind of limbo. He is not happy at all about what is happening, but he is equally unhappy about being caught in this point of stasis whereby they just do not know what is going to happen. If the bill falls over, they are back to where they were before, but with no compensation mechanism at all.

As I said, if the reforms are not put forward, the value of the plates will continue to decline. There was a lot of talk before about the proposed buyback and the monetary amounts in the pre-Uber days. I was not here for that, so I appreciated listening to Hon Simon O'Brien's contribution. It was pretty enlightening to learn a lot about the history of this issue in his time as Minister for Transport. The buyback would also mean that they could keep operating, but they would no longer have to pay \$2 000 to \$3 000 a year for registration, for example, and they would not have to pay lease costs for the cars. The reforms will really reduce the costs of getting into driving and offering a transport service. Looking back, the 2015 reforms were funded from government revenue and did not offer sufficient compensation. An industry-funded buyback makes the operators pay and shields the owner-drivers, while still providing a mechanism to raise revenue without dipping into government coffers. I should say that I have read the model and I had questions about pushing the levy onto the drivers out on the ground. I have had drivers contact me to say that if they were to be hit on the ground with the levy each week and they are already not making much money, \$75 is quite a bit of money. I am looking forward to listening to the contribution at the committee stage. I am interested in what that means and what the amendment will be when it is moved.

In regard to the transference prohibition, we will be keeping an eye on the rate of funds accrued through the buyback in the annual reporting process and monitoring the amount of money raised through the levy to ensure that the collection of this levy is done in an appropriate way. As I asked earlier: is the buyback levy fair to customers or passengers? Hon Simon O'Brien mentioned these people earlier. There has been a lot of talk about industry, but what about the customers and the passengers? I sincerely hope that, looking at cameras and such things, when these reforms go through, passenger safety will be more of an even playing field. I think we still need to look at how we can better ensure passenger safety and confidence in the industry.

I am still concerned on some level about the 10 per cent levy and how it will affect low-income families, especially in the outer suburbs. The alternative proposal—a flat fee on rides—would be worse for people, taking into account short rides. With the rise of Uber, I looked at the other mechanisms proposed by other states, such as \$1 or \$2 levies. I have spoken to customers of Uber and even of taxis. If they take any trip that costs less than \$10, a 10 per cent levy would be less than, say, a proposed set levy of \$1 or \$2. If it is 10 per cent, obviously an \$8 ride would have an 80c levy. It seems a lot fairer for low-income earners. As I said, as long as we continue to monitor this and the effect on people, we will get a better understanding of how it will be put through. Of course, the reforms are quite comprehensive and it is pretty much a shakeup of the whole industry, so we need to make sure that we are vigilant in its implementation across the transport industry.

Another question is: will the buyback levy changes from the bill impact on people with disabilities? We know that not enough cars are fitted with equipment for people with disabilities. This is the first thing that I thought about. As I understand, the taxi users' subsidy scheme will remain in place, so that is reassuring for people with disabilities. That will be maintained. I am pretty sure that there was an assurance that the government would look at how that might possibly be expanded. As I said before, there is a balance with this. We should not view technology as the absolute answer to everything, because a person with a disability or someone elderly might have a regular driver whom they trust. I have spoken to people who know drivers on a first-name basis. We are across many aspects of this bill, but for the general public who have just heard of these reforms, they think: how will it disrupt something that I already have going with, say, my local person whom I trust to drive me to the hospital or wherever else? There are assurances that those things will not change.

Country taxi operators and passengers, because they operate in a different system, also deserve an on-demand system that works for them and provides a trusted service. More importantly, a lot of those towns like public transport. I grew up in the country and people rely on their local taxidriver. Some towns have only one or two taxis. I have spoken to places such as the Bunbury co-op. A really small town might have only one taxi. From what I understand, these owner-operators will be exempt from the levy because they operate within a separate system and they probably do not have the means to introduce an accounting system to collect —

Hon Robin Scott interjected.

Hon TIM CLIFFORD: Credit to them—they worked hard and they had the proposed blanket levy removed, so the country operators are exempt.

Also, I have spoken to taxi operators who were pleased with the support; the \$500 grant helped them pay for cameras in their taxis. Having that brought forward has been reassuring, because from speaking to different operators with multiple taxis, I know that adds up very quickly in the regions. Especially for a small owner-operator, \$500 is quite an expense. We support that being brought forward.

Minister Saffioti in the other house talked about the creation of eight new inspector positions to conduct controlled exercises and monitor adherence to the new regulations. That is welcomed. However, looking forward, we want to make sure that if there are not enough inspectors and they do not meet the required needs of the transport industry, we can expand those roles.

I have also been informed that the service in the regions for monitoring unlawful on-demand activities is woeful and that the regions are grossly under-resourced. I ask the minister to consider placing more resources in the regions to support the rollout and also to adapt to the massive changes. I will be interested to hear in the minister's response what is being proposed.

It is heartening that the bill provides for innovation looking forward. It provides the flexibility required to allow for further changes in the market. We have learnt from rideshare disruption that this will happen again and again, and we need legislation that is robust and flexible enough to do the same. The bill allows for the expansion of rideshare to genuinely allow for carpooling, which has not been allowed. There are so many cars with one driver on the freeway. We need to fix this. I can see in the future people in the outer regions tapping into an app, logging in for a rideshare and, if they are going to a similar place, under this bill, that could potentially happen. In effect, we would take cars off the road and reduce driver costs and also provide another form of revenue or business for on-demand operators. Carpooling will not be penalised.

In the process, I met with some of the people running Swan Taxis and the like and they said that they understand that these reforms are needed. They were coping a lot of criticism. One person cited a complaint from a young woman who got off a train at 2.00 am and waved down a taxi and when the driver asked where she was going, she said that she was going two blocks, so the taxidriver drove away. This was a few years ago, but they were citing some complaints. They welcome having more accountability in the system.

Hon Robin Scott: There's always been accountability. A taxidriver isn't allowed to refuse a fare.

The ACTING PRESIDENT: Member!

Hon TIM CLIFFORD: I am just saying that —

Hon Robin Scott interjected.

The ACTING PRESIDENT: Member! When I call members to order, I would like the chamber to come to order. Hon Tim Clifford, please continue your remarks.

Hon TIM CLIFFORD: Further on in that discussion, it was said that this was a minute number of people, but one or two people gave the industry a very bad name. They were looking to get more trust in the system by proposing green taxis, whereby they might have hybrids or electric vehicles so that people can plug into an app and choose to take a taxi service that does not use conventional fossil fuels, or having a pink taxi system that picks up young people at night. These are things that were put to me and they are very heartening.

I was looking forward to the committee stage to put forward an amendment to exempt wholly electric vehicles from the levy, but I understand that there might be an undertaking to put that in regulations. I look forward to see what happens in that space during the committee stage.

In conclusion, I have been presented with a bill to provide for an overall buyback levy. The Greens had to look at this bill as it has been presented, because having the bill fall over is not an option. I understand that people have said that they will lose a lot of money and that there is a lot of hardship, but having the bill fall over would be devastating. A lot of people have also said that they want the reforms. As I said before, there are people who are opposed to it. Dealing with the bill in front of us has left us in a position in which we are dealing with what has been put down on a bit of paper. That is what we are dealing with. We support the bill. I have outlined some of the reforms in the bill. There has been a lot of talk about the compensation, but I would like to hear more about what the reforms will do. I would like to hear the contributions of other members on the reforms, how they will apply and how they will better serve the community. I will listen to what goes on during the committee stage and I will look to see what amendments come through. I look forward to working with other members in the chamber on what they put forward. I look forward to seeing what happens and I look forward to any commitments put forward by the government to maintain the scrutiny of these reforms. The Greens will scrutinise the effect of this legislation; and, if there are any issues, we will address them. The way that the Uber experience of disruptive technology has affected the transport industry in WA is a forewarning of how it could affect other industries and other departments within the state. We need to be adaptive and we need to move quickly, because it is not good enough to wait for

years. It is not good enough for us to be debating this legislation years after the introduction of a ridesharing service—a disruptive technology like Uber—when it should have been dealt with a lot quicker. As I said earlier in my contribution, successive governments have let down the transport industry and the public, and now we are dealing with the legislation in front of us. I look forward to the contributions of other members and I look forward to working with everyone else.

[Interruption from the gallery.]

The ACTING PRESIDENT (Hon Robin Chapple): Before I give the call to Hon Rick Mazza, somebody in the public gallery has a mobile phone that is vibrating or ringing. Could you make sure that your mobile phone is turned off, please? Thank you.

HON RICK MAZZA (Agricultural) [8.28 pm]: I rise to make some remarks on the Transport (Road Passenger Services) Bill 2018, which provides for the regulation of the road passenger transport industry and the repeal of the Taxi Act 1994 and the Taxi Drivers Licensing Act 2014, and makes consequential amendments to the Transport Co-ordination Act 1966 and other acts; and also the Transport (Road Passenger Services) Amendment Bill 2018, which subsequently imposes an on-demand transport levy to fund the government buyback scheme.

This situation has been brewing for a number of years. It has been let go to a point that we now have this bill before us. Although I am all for free and fair competition, I think the ridesharing industry was allowed to come into Western Australia unfettered and compete with the taxi industry, which of course had constraints on licensing and all the other things that go with that. The government has been left with the proverbial sandwich in trying to deal with this and sorting it out. We have all received emails about it. It is a very difficult time for taxi plate owners and operators. Hopefully, it will go some way towards finalising the situation, although I think a lot of people will be hurt over this.

I will talk about some of the issues regarding that level playing field a little later. At this point I am pleased to see that the bill will bring all operators under the one act, providing some clarity for those who are governed by it rather than the hotchpotch system we have at the moment. It will cut away some areas of red tape and promote competition, meeting the ever-changing consumer needs in that space. We were told that the reforms in this bill will provide customers with more choice of providers, with improved security features. I must say that I am pleased about that. A year or two ago a couple of constituents who contacted me told me that they were very uncomfortable with a late-night ride when the photo on the rideshare vehicle did not match the photo of the driver. That made them very uncomfortable. I believe that safety measures are now in place whereby those drivers are qualified and there is some scrutiny of who is driving that vehicle.

The bill will provide drivers with more flexibility in where they work. It will provide fleet managers and booking services with more freedom and flexibility in what they do, to name a few. There are also some provisions for country operators. I understand from the advisers that there are no owned plates in the country; it is more a licensing system in which country operators have a licence to operate. They will have a bit more freedom in that they will be able to move outside specific zones to compete in the market. That will also eliminate country operators from having to provide a 24/7 service.

The legislative reforms impact current owners of taxi plates in major ways. Part of the reform is to deregulate the taxi industry with this government buyback by offering a compensation package to those affected. There are a couple of ways to look at this. Obviously, being in business is a risk. Everybody understands that a risk is involved when going into business. Many small business people who have bought businesses have paid a goodwill component, whether it was a newsagency, coffee shop, or hairdressers—whatever the case may be. Changing circumstances can sometimes affect the viability of those businesses through technology. It could be through a change in planning. If members cast their minds back to when Elizabeth Quay was constructed, a number of businesses were greatly affected by the construction process and they were offered some relief or compensation for the losses suffered. In the business community generally there are always risks, and there are certain situations in which the goodwill component can evaporate in a heartbeat.

There is also the other side of it. The taxi industry has been a government-sanctioned monopoly. The government has received substantial payments for taxi plates over the years. On that side of the coin we are looking at a private property right that has been eroded by the fact that the government has not acted on the rideshare situation over time. The government regulated the industry. The government allowed another competitor to enter the market without any rules affecting those who did everything by the book.

It needs to be acknowledged that the WA government has tried to ease the pain a little with some hardship payments. In the last term of government, hardship payments of \$20 000 were made; funding of \$1.5 million was provided to the Small Business Development Corporation to assist plate owners and licensees to adjust and transition their business models; and a \$20 million transition adjustment assistance grant consisted of \$20 000 per conventional Perth-owned plate, which I spoke about earlier, and \$6 000 for each restricted Perth-owned plate. Although the amounts have already been received by taxi owners, I understand that the compensation payment will be deducted from the amounts that were paid in advance.

An information sheet on buyback examples was put out by the government. It shows some examples of the different amounts of compensation that taxi owners will receive. Those who have held their plate for many years, back to March 2000, will be paid about \$180 000. I have a problem with the column “Estimated Monopoly Profit Earned since purchase”. I do not see how that has anything to do with it—that is, the length of time the plate has been held and the profit that may or may not have been made during that time. A person who runs a business makes a profit. It is hoped that the goodwill component will increase in value over time, not decrease in value. I am a little perplexed how this calculation of the estimated monopoly profit earned since purchase has any relevance. “Other payments received” in this case is \$20 000. The “Net Gain or Loss on purchase” is minus \$154 475 and the “Buy-back eligible amount” is a \$100 000 floor. The taxi plate owner gets \$100 000.

I know that a number of taxi owners bought multiple plates because of their confidence in the system. Some bought three or four plates for a retirement package. Of course, the value of that now has greatly diminished. I can understand the pain. I have received all of the emails, as many others have. I have received a few in which people want this bill to go through. Obviously, they bought their taxi plates more recently.

Another example is given in which a taxi plate was purchased in June 2015. That must have been right about the time that the rideshare industry entered the Perth market. The plate purchase price was \$262 000. Obviously, it was worth a lot of money at that point. There is the estimated monopoly profit earned since purchase. Again, I question that calculation. They also received a \$20 000 payment. They made a net gain of \$210 000 and will be paid \$210 815.

Example 3 is “plate purchased recently at peak price and received a hardship payment”. In February 2014, the plate purchase price was \$320 000. Back in 2014, a taxi plate was obviously a very valuable asset. The estimated monopoly profit earned since purchase was \$56 390—again, a \$20 000 payment was received. The net gain was \$243 610. The buyback eligible amount is a net loss of \$243 610. They have received a \$92 300 hardship payment, so they will get \$151 310. It goes on with these calculations.

I have some difficulty with that. I would expect that an asset held over time would go up. As I pointed out earlier, there have been many cases in which goodwill has been affected by changing economic and technological circumstances. In this case, this was government sanctioned. Now these people who own these plates are going to suffer a substantial loss. The calculations are obviously based on the individual circumstances of taxi plate owners, how long they have held the plate and how much monopoly profit the plate has earned over time. I still do not know why that would come off the value. This will allow those who are affected the most to receive the most support during the difficult transition time.

There was comment in the other place that about 72 per cent of taxi plate owners will receive the minimum of \$100 000. Most taxi plate owners will receive the minimum. The remaining taxi plate owners will receive above \$100 000 per plate, as per the calculations I read out earlier. For the average person, \$100 000 might seem like a considerable amount, but if they have already paid out \$250 000 to \$500 000—maybe \$1 million if they bought three plates, or it could be more if they bought four or five plates—\$100 000 compensation is really devastating when it comes to the assets that they had. In an ideal world the government would fund a full buyback scheme to compensate taxi owners for the situation they have been forced into through no fault of their own. Unfortunately, we find ourselves in a far from ideal situation and, of course, realism comes into play. Notwithstanding that this package will affect a lot of taxi plate owners, it is my understanding that it is still superior to the situation in both Victoria and South Australia, where plate owners received a lower package.

The money for the taxi plate buyback is to be raised by an industry levy over the next four years under the Transport (Road Passenger Services) Amendment Bill 2018, which is due to commence early next year. The levy will be 10 per cent and is to be a maximum of \$10 per fare. It is anticipated that \$120 million will be raised over four years to provide that compensation. It will apply only in the Perth metropolitan area and the districts of Mandurah and Murray; regional taxi car and charter operators are exempted. I must admit, I am a little perplexed as to why charter vehicles have been lumbered with this levy. Yes, charter vehicles carry passengers but they seem to be very specialist transport operators. I understand that exemptions may be in place for charter vehicles that do weddings and other jobs that are not related to going back and forth to the airport. I am surprised that they have been included in this. It is good to see that the levy will become payable only after the relevant passenger transport service booking has been completed. It is also good to see that the levy is limited to on-demand passenger transport services and vehicles that are equipped to seat no more than 12 people, including the driver. Small bus tourism operators will not be affected. There was discussion in the other place as to whether there would be a sunset clause in this legislation to ensure that the levy stops once the compensation package has been fully paid out. That is maybe something we can ask about during Committee of the Whole House.

One does not have to be a mathematician to know that the government has the numbers in the house for this legislation to pass, so whether I support the bill or not, it will not be critical today, although some of the amendments, if they get up, could make a difference. The legislation has also been described to me by the government as an all-or-nothing offer, which I think is pretty heavy-handed, but that is how it was expressed to

me. I will support the Transport (Road Passenger Services) Bill 2018 and the Transport (Road Passenger Services) Amendment Bill 2018. I certainly do not want to risk the possibility of an all-or-nothing situation arising, which would be very brutal; the government would be very brave to do that. In any case, the numbers are there, and I will be supporting the bill.

HON TJORN SIBMA (North Metropolitan) [8.42 pm]: I rise to make a brief contribution to the cognate second reading debate on the Transport (Road Passenger Services) Bill 2018 and the Transport (Road Passenger Services) Amendment Bill 2018. From the outset, I want to say that I have been impressed by the calibre of contributions from every member in the house, regardless of their differences on this legislation. While respecting the position of my party room, it is after great consideration and with great reluctance that I have personally elected, as a member for North Metropolitan Region, to not support this bill, for reasons that I will go into and for reasons, with the greatest respect to Hon Colin Tincknell, that are different from his party's position, although I understand that position.

This legislation has its merits. I will not descend into a partisan exchange about those merits or about the capacity of previous governments to deal with the taxi industry and the arrival of digitally disruptive on-demand transport services. I do not think that kind of contribution would be any contribution at all. It is interesting because this is where the microeconomic reform rubber hits the road. It is all very well for people to talk in the dry language of economic theory, unfettered competition and deregulation, but if we do that, I think we have to also be cognisant of the consequences of that kind of policy approach. We are talking about real people who have made investment decisions. Personally, I would hate to be in the position they are in. I want to recognise the stress and the anxiety of those owners. I also wish to give forewarning of what I am about to say next. There may be some here who find what I say difficult to understand or accept.

For at least the last 50 to 60 years, the taxi industry in all Australian jurisdictions can be fairly categorised as a quasi cartel; there is a certain privileged group of early investors and a government, and their interests feed off one another. Reform focused on the availability of services or the quality of customer and passenger services, although not amongst the first or second-order political issues discussed in Australian political life over the last few decades, nevertheless resonates from time to time. Governments of all persuasions—be they Labor, Liberal or National—in every Australian jurisdiction have grappled with the political realities of a highly regulated taxi system. Efforts to shift the dial and to introduce some measure of modest deregulation focused on the needs of the customer and the broader needs of business, commerce and the general community have, generally speaking, run into walls of resistance. Those walls of resistance have been built, brick by brick, out of regulations.

I will return to that dynamic later. I also want to be clear: if I am going to take the radical and, I hope, very rare step of departing from the perspectives of my party colleagues, whom I deeply respect, I should give a broader justification for why I am doing so. In so doing, I want to explain exactly my reasoning and what I do and do not believe. First of all, I agree with the general sentiment expressed by just about every speaker here today that governments bear culpability for this situation. In some instances—not rare instances—they have encouraged the purchase of plates. People have been induced into the system and have taken as guaranteed a permanent and unchangeable government disposition towards regulation in the industry.

My disputation in respect of the compensation paid to owners does not turn on whether they deserve compensation; I really believe they do. I have heard and understood that in their considered view, the quantum and adequacy of the compensation offered by this government does not meet their expectations. The explanation for why they have the expectations they do has already been well canvassed by both my colleague Hon Simon O'Brien and my colleagues in the other place. My problem is that this is not an industry levy; this is a passenger levy. Although 10 per cent of a fare to a maximum of \$10 per ride might not sound like much, it is an inequitable and frankly lazy approach to take. It is unfair on those residents of the metropolitan area who live beyond 10 to 12 kilometres of the CBD. I am speaking for the population of the north metropolitan area. I look at what is being proposed and I think it is unfair that anyone who avails themselves of this service who lives north of the Powis Street, Cedric Street, Reid Highway and Warwick Road exits are more than likely to pay more for a service. I find it unfair that the people who live in Warwick, Greenwood, Kingsley, Woodvale, Beldon, Connolly, Joondalup, Edgewater, Burns Beach, Clarkson or Mindarie have to pay more for a service. That is inequitable. We also need to reflect on the realities of life as it is lived by people. A husband and his wife who want to go out for a night hire a babysitter. They are going to go out and they are going to drink. They should not drive so they are going to take a transport service. Those special occasions, particularly for people with young children, are something that they live for and really need, to be frank, to gain some clarity of mind the next day, because sometimes they are very close to losing it so they need that outlet. But why should a couple like that pay an additional \$20 for that privilege when incomes have not grown very much and when they are dealing with the reality of increased cost-of-living expenses?

I also want to say that I have absolutely no personal affinity for or prejudice toward any particular provider. I have been using taxis for 25 years and I have been using on-demand services of a kind for maybe the last two or three years. On Friday night, when I went out to Burswood to attend the Liquor Stores Association of Western Australia annual awards night, I took an Uber in and I took a taxi back. Although it is a microcosm and

a personal experience, that gives me some indication of where this industry overall should be headed. Yes, we need a level playing field. Yes, I think there is scope for a plurality of service providers, but although I can see that those service providers require an understandable and clear regulatory framework, they also need to be focused on the customer value proposition. I do not want to make gratuitous remarks about an industry, but it is fair to say that the taxi industry in Western Australia is a storied one and that in the last 10 or so years that I have been back in WA, I have on occasion contemplated what I thought to be an unhelpful and almost defensive response to any government's attempts to deregulate that industry. I worried about that for a number of reasons. Firstly, I thought they missed the point that it is a service industry that is providing a service to paying customers; customers deserve a value for that service. The other thing I worried about is how long that kind of brinkmanship could possibly endure. Before the time 10 years ago that we had supercomputers in our pockets and a couple of geared up venture capitalist tech nerds put together a company called Uber in San Francisco in 2009, generally speaking the taxi industry in Western Australia could dictate the terms to governments and it very much did dictate the terms to customers. That is my personal lived experience of living in different states in this country and coming home for Christmas, waiting for 90 minutes or two hours at the airport taxi rank, or being denied service when I was obviously carrying bags and had no other option. Unfortunately, as humans we have that tendency to reflect on the more negative experiences that we have and we do not, whether it be evolutionary or not, automatically make recourse to our positive experiences. That is unfortunate, but that is the truth. It is unfortunate that when that tech bubble burst, when the agents of disruption came, the taxi industry and its business strategy were vulnerable in a way that it had not previously contemplated. That is the reality.

I will not get into the dry discourse of Harvard business professors, except to mention one, who on occasion I find very useful in dealing with issues such as this. It is a gentleman by the name of Professor Michael Porter. One of his contributions to business strategy has exemplified what he calls the five forces analysis. His mission was to find out what makes an industry more attractive than another. What are the dynamics that make one industry, say the airline industry, less profitable than another one such as auto-manufacturing? Effectively, there are five forces in general that apply to any business or industry simultaneously at different effects. It is about relativities of power. There are relativities in the power that a supplier or a customer has. There are relativities in the threat posed by new market entrants. There are relativities in the threat quantum posed by substitutable services or commodities. Then there is the sort of culture of the industry itself and how given it is to competitive rivalry. Until Uber's arrival, all those forces were effectively deflated, but they were deflated primarily by an exceptionally high regulatory wall that forbade new market entrants and the arrival of competition. The problem is that that model applied in the twentieth century and it did not foresee the kinds of innovations that the early twenty-first century has brought. I have said before that this chamber is going to be dealing with these kinds of issues for the rest of its foreseeable future. I must say I am not in a position, I am not inclined and I do not think it is fair to reflect upon the nimbleness or the adequacy in previous government's responses to the Uber issue. I know I can be accused of some measure of defensiveness because I am a Liberal; that is not my point. I am a new member, I have not contributed to the legacy that I have inherited, so I will leave its defence to someone else, but it is my observation that every government and every jurisdiction around the world was troubled by the arrival of Uber and other like platforms, and each of those jurisdictions responded in different ways at different levels of effectiveness. I want to pay credit to my colleague the member for Bateman who, before well-understood events, was the Minister for Transport. He was at least at the beginning of attempting to process this through the bureaucracy and it was very difficult. I remind members that in their auditing process, Department of Transport officials attempted to book rides on Uber, and Uber, effectively, blacklisted them. I remarked earlier that I have no ingrained affinity for nor prejudice against any particular service provider and it is the same for Uber. I think it is a corporate bully.

Hon Sue Ellery: That's its business model!

Hon TJORN SIBMA: It is a business model founded in the unsophisticated social awareness of Californian tech billionaires. The Liberal Party is a broad church, but I am on the conservative political side. I am not on the libertarian crash-or-crash-through side. My own political trajectory took some time. I reflect on the remark made by Christopher Hitchens. It might surprise members opposite that I read a fair bit of Hitchens as a younger man. He made an observation about libertarianism in the United States in particular, which I will paraphrase. He thought, "Isn't it sweet that Americans look at libertarianism and think, 'We're still not selfish enough!'" That is my personal view of libertarianism. As an ideology it has great value, but it must be applied in the real world. My experience is that it often fails or it tramples people, but that is the reality. Uber did not jump over the wall; it just went around it. That is a very sad thing, but it is where we are. In the end, in a service industry the customer is king or queen and Uber provided what customers considered to be a superior service. I understand, frankly speaking, that the drivers probably get the wrong end of that business model and I think that is lamentable, too. However, as long as customers see value in Uber that is superior to other providers, they will go with it, Shofar, Ola or any of that panoply of other providers that may flourish in this jurisdiction.

I will return briefly to the subject of compensation. If I had bought my plate in 2015 and I had been given assurances throughout an election campaign that my payout may be up to double what it ends up being, I would be angry. However, I am also mindful of the need to ensure that no person in Western Australia pays more for that

compensation scheme than they should. I do not want to reflect on the adequacy. I can certainly understand the anger and upset. Unfortunately for a bill like this, I think the calculations that have been provided are material for endless disputation, which is why I do not think it is timely now to consider alternative models of compensation such as my colleagues in One Nation provided earlier. My concern about paying not enough is matched by my concern with potentially paying too much.

The final point I wish to make is that in a highly regulated monopolistic environment, operators who are privileged are in the position of extracting value rather than reinvesting that value. My personal view is that in the main it has been a value extraction model, which has not led to superior levels of customer service. If it had, perhaps the threat posed by Uber and the like could have been somewhat blunted. As a consequence, I think that governments previously charged too high a price for an asset class that had returns that outperformed just about every other asset class in Australia over the last 10 or 15 years. The quantum put on that asset has been over-inflated and we are now seeing an unfortunate but, sadly, inevitable sharp contraction in that asset value. I am not a businessperson, so I do not want to make any gratuitous or insensitive remarks to any people in the gallery tonight. This is their bread and butter. However, the government owns this. It has delivered its ultimatum. There is no scope for the opposition to govern from opposition. We cannot re-confect this model or put it back together again. My considered perspective is that we have gone on far too long and that if we delay resolution of this issue in a way that does not prevent suitable consideration, the value of plate owners' assets can only decline further. That is something else that I am committed to avoiding.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [9.06 pm] — in reply: I thank all members who have made a contribution to the second reading debate on the Transport (Road Passenger Services) Bill 2018 and the Transport (Road Passenger Services) Amendment Bill 2018. A range of views have been expressed and we are all coming at this from a range of viewpoints. It is my intention to address many of those points canvassed or questions that have been asked of me this evening. I am aware that a number of amendments are on the notice paper, so there will be an opportunity in the Committee of the Whole House stage to ask me further about issues that members think I have not addressed to their satisfaction.

The debate on this legislation has been interesting. I thank the opposition for its indication of general support for the bills. As a member with former responsibility for the industry, I appreciate Hon Simon O'Brien's candid and practical view that the industry needs a fresh start and that, by and large, the bills before the house tonight provide a good foundation for going forward. The government acknowledges that members have concerns with the buyback proposal being offered to Perth taxi plate owners and the impact this might have on the levy. I hope to address some of those concerns tonight and elaborate more, if necessary, during the Committee of the Whole stage.

The member for South Metropolitan Region, Hon Simon O'Brien, mentioned an alternative proposal for a taxi plate buyback. It was developed by a consortium of taxi plate owners operating under the Taxi Operators' Legal Defence Fund. I am told that it is not the position of the global company that was instructed to prepare the submission for consideration by government and I think that is clear in the submission. The buyback scheme proposed by the government has been designed to recognise that not everyone is equal as a plate owner. People have bought into this industry at different times and for differing amounts. They have earned money from their investments for different periods. The alternative proposal that has been put forward does not take this into account at all. It states that everyone is entitled to the same amount, regardless of how long they have been involved in the industry. The government thinks that this is not a basis for an equitable buyback scheme. People who paid recent higher prices for their plates and have had little chance to derive an income from operating them should not be paid the same as someone who has held the investment and earned an income from it for many years. The government has been unequivocal in its rejection of a one-size-fits-all buyback proposal.

Hon Colin Tincknell also spoke about the proposed buyback put forward by the Taxi Operators' Legal Defence group. We believe that the proposal put forward by TOLD will burden drivers. The government's proposal places responsibility for the collection of the levy on booking service providers, not on drivers or passengers directly. This means fewer collection points for government to deal with and more streamlined administration. The government's model also encourages competition between booking service providers because they can distinguish their business models to customers by choosing to absorb the cost of the levy rather than pass it on to their customers. The government's proposed buyback scheme seeks to apply the principle of equity, which recognises the return a person has been able to realise on the purchase of a taxi plate during the time in which they have held that plate. We believe a buyback amount based on a single market price for all, as proposed by TOLD, is simply not equitable. The government is offering better than market price for the plates and this is the most generous buyback scheme in the country, as I think Hon Tim Clifford alluded to in his contribution to the debate.

I turn to Hon Rick Mazza's contribution. With respect to comment about why monopoly profits are taken into account in the buyback calculations, I am told that the income from private leasing of a plate is considered a monopoly profit in that it would not have been asked for if it were not for the fact that the plates were controlled in supply. Monopoly profits are profits obtained purely from their investment and can be

distinguished from business profits. Monopoly profits are the estimated profits that the government calculates could have been earned in a protected market while a person owned their plate. The calculation of monopoly profits is based on the shifts lease rate.

Hon Colin Tincknell, in his contribution, stated that the government proposes to pay \$100 000 to buy back plates. For clarification, \$100 000 is the floor price offered for each conventional owned plate. Some individuals will receive significantly more, up to about \$250 000, for a single plate. The amount offered will vary depending on individual circumstances, the original price paid, how long the plate has been held and the monopoly profit the plate has earned over time in a protected environment. This is a much more generous offer, as I said, than has been made in other Australian states.

In response to members' comments about the quantum of the buyback payments, as Minister Saffioti has said on the public record, no specific amount was promised prior to the election or, indeed, throughout consultation with industry. Dr Tony Buti, member for Armadale, and the minister's advisers also took care not to promise a figure in the first round of consultations undertaken following the election. There was a claim that the 10 per cent levy is not fair for the public, operators or taxidriver. The levy is applied to booking service providers, not to drivers or to the public. As I said, booking service providers may choose to pass on to customers some or all of the cost of the levy. This will depend on their business model and their relative competitive advantage. Funding for the buyback has to come from somewhere, and it is more appropriate that it comes from users of on-demand transport in the industry, rather than the general taxpaying public.

Questions were asked about how long the levy will run and when it will go away. The levy will be in place for only as long as it takes to recover the cost of the buyback. It is expected that it will be in place for around four years. If the amount required for the buyback is raised earlier, the levy will end earlier. Clause 257 of the bill provides for the levy to end on a specified date with a notice to be published in the *Government Gazette*. The levy revenue cannot be used for other purposes, and, therefore, once the moneys have been recovered.

Hon Tim Clifford and I think Hon Tjorn Sibma asked why it is a 10 per cent levy and not a flat rate, and about the impact the 10 per cent levy would have on higher or longer fares. We believe that a percentage levy is a fair way of calculating what someone should pay as it takes into account how long a trip is. It is less likely to impact on shorter trips undertaken by the infirm or elderly, for example. The \$10 cap will ensure that that 10 per cent calculation will not unfairly impact people who need to carry out longer journeys or who hire a vehicle at a cost of over \$100. Hon Tim Clifford rightly said that the taxi user subsidy scheme will remain in place under these reforms. I think it is important to place that on the public record.

In relation to the proposed amendment to exclude limousines and small charter vehicles from the levy, like taxi services, charter services, including those provided by limousines, involve the hirer determining the time as well as the start and finish locations of the journey. The charter sector has been competing with the taxi industry at an increasing rate in recent years, including as a result of the 2016 reforms under the former Liberal-National government, which sought to level the playing field between the sectors to facilitate such competition. At the time, these reforms included the removal of the \$60 minimum fare historically applied to charter vehicles and the removal of the requirement for charter vehicles to be in the luxury category. Exempting limousines and small charter vehicles from the levy would see services provided in those vehicles provided with an unfair competitive advantage compared with providers of pre-booked taxi services. It will result in an uneven playing field, which, as I said before, is contrary to the intent of the reforms. Hon Simon O'Brien's proposed amendment would see bookings for vehicles used to provide services in connection with key competitors with the taxi industry, including Uber, Ola and other new entrants. I am advised that as of the end of June 2018, 13 086 licenced charter vehicles were in operation in this state. Regulations will provide that booking services that exclusively offer weddings, funerals, balls, tours and other special event charter services in limousines or luxury vehicles will be eligible for an exemption from the levy on application to the chief executive officer.

Hon Colin Tincknell in his contribution suggested that there had been insufficient consultation. I have to say that I disagree. The on-demand transport green paper was released in July 2015 for public and industry comment over 12 weeks. The green paper was extensively promoted and received 5 831 responses by email, post, online survey and questionnaires held in shopping centres in Perth and five regional areas around the state. Submissions to the green paper presented, I have to say, divergent views of stakeholders within and users of the industry. The vast majority recognised the need for change and supported the simplification of regulations. Extensive stakeholder consultation on the proposed reforms was also undertaken between March and October 2015. I am advised that the government agencies consulted included Main Roads Western Australia, the Department of Finance, the Department of Commerce, WorkSafe, the Small Business Development Corporation and the Public Transport Authority; industry stakeholders consulted included on-demand transport companies such as Swan Taxis, Albany Taxis/Albany Transit and Uber; industry peak bodies such as the Australian Taxi Federation, the Chamber of Commerce and Industry of Western Australia, the Motor Trade Association of Western Australia and the Transport Workers Union of Australia were consulted; and also consulted were peak stakeholder bodies such as the Disability Services Commission, the RAC, individual taxi plate owners and individual on-demand transport drivers.

An on-demand transport advisory group was established by the previous government, under chairman Howard Croxon, to provide a mechanism for the exchange of information between stakeholders and the department in relation to early administrative and regulatory changes. Membership of that on-demand transport advisory group included representatives from across the on-demand transport industry and consumers, including people with disabilities. The industry and relevant stakeholders on the advisory group also contributed to early discussions around elements of the reform in this bill. As previously alluded to, Dr Tony Buti, MLA, was appointed the on-demand taxi and charter reform coordinator in March 2017, and he has met with many stakeholders since that time. Following Minister Saffioti's announcement of reforms on 2 November 2017, officers from the Department of Transport met with major potential on-demand booking services including Swan Taxis; Uber; Black and White Cabs; Shofer; BusWA, representing the tour and charter industry; the Motor Trade Association and taxi fleet management companies. More recently, DOT has undertaken further consultation with Tourism WA, the Western Australian Local Government Association, the Economic Regulation Authority and the Insurance Commission of WA.

Again, throughout the drafting of the bills, the Department of Transport has worked closely with a number of agencies, including the Office of State Revenue, the Department of Mines, Industry Regulation and Safety, the Department of Justice, the State Solicitor's Office, the Public Transport Authority, the WA Police Force, and the Road Safety Commission. There have been a number of meetings with regional taxi operators, either individually or through the Western Australian Country Taxi Operators Association, including a specific meeting to discuss options for regional support, which happened on 2 February. I am told this meeting was attended by WACTOA members from Broome, Derby, Karratha, Geraldton, Kalgoorlie, Mandurah, Bunbury, Busselton and Albany. There have also been follow-up meetings and ongoing email exchanges with a number of regional operators and the department since this meeting. I am told, too, that over 300 separate pieces of correspondence to the Minister for Transport have been responded to since 1 April 2017. Dr Buti and the minister's office have had over 60 hours of consultation with the industry, including taxi plate owners, notwithstanding the hours of meetings the current Minister for Transport had with industry members while in opposition.

I am very grateful to Hon Simon O'Brien for providing me, behind the Chair, with a copy of the letter from his constituent. This raised the issue of future competition with autonomous vehicles, which was also raised by Hon Tim Clifford in his contribution. Specific provision is not made in the bill for automated vehicles. However, the kinds of passenger transport services regulated by the bill will be captured, regardless of whether the motor vehicle used to provide the service is driven by a natural person or by an automated system. Importantly, people who provide vehicles for use in passenger transport services are subject to a safety duty under the bill, to take reasonable steps to ensure the vehicle is safe and will not cause harm or injury to any person.

On deregulation and the removal of the cap on metropolitan taxi plates, I notice that the 2003 Giffard report referred to by Hon Simon O'Brien was prepared well before more recent changes to the industry, including the arrival of new players such as Uber and Ola. I am told that in 2014 the Economic Regulation Authority published a report into micro-economic reform in Western Australia that recommended removal of quantity restrictions on taxi plates. That report found that artificial restrictions in the supply of taxi vehicles resulted, at the time, in taxi services being expensive, undersupplied and unreliable. The ERA estimated that removing the restriction on the quantity of taxis would result in a reduction in the price of taxi fares and generate a benefit to taxi passengers of around \$47 million per annum. The intent of the reform is to allow for free competition and for the market, rather than government, to dictate service levels. Hon Tjorn Sibma, in his contribution, made the point that for many years now governments have been dictated to by the industry, so this measure seeks to change that. It seeks for the market, rather than the government, to dictate service levels. Providing a cap on the number of vehicles authorised to provide taxi services is contrary to this intention. Charter vehicles are not restricted in numbers. Deregulation of the taxi industry is essential to ensuring that the taxi industry can better compete with the charter sector. Retaining a cap would preserve the taxi vehicle licence as a special category within the industry, which would then continue to have a value related to its scarcity. The Economic Regulation Authority indicated in its 2014 report that this approach drove up taxi fares to customers. The removal of the cap is a fair and simple way to ensure that all existing vehicle operators within the industry can continue to operate their taxi vehicles, including the taxi management companies, while preserving the intent for all passenger vehicle authorisations to have no special value for the holder, and for the market to decide the level of taxis needed.

Hon Tim Clifford asked whether the bills supported innovation. The removal of restrictions on operations will support innovation, as operators will be free to operate in a way that best suits them. The bill will focus on the regulation of safety of services provided. We also hope that the \$500 taxi camera grant that the member referred to will provide support to regional taxis. As a regional member in this place, I have had that issue raised with me by my constituents, who are very supportive and happy with that contribution. I know that a number of parties have been involved in discussions with the government on this issue. It is an improvement that many people in regional Western Australia will support. Eight inspectors in the business unit will be supported by compliance officers in another area of the department, as well as by the regional services unit in country areas. It is not only that eight; there will be further support from a range of other staff in the department, including in regional Western Australia. Regarding the proposed

amendment to exempt wholly electric vehicles from the levy, I understand that the Minister for Transport has undertaken to give effect to the intent of the proposed amendment via regulations to be made pursuant to the bill. I acknowledge the good contribution made by Hon Tjorn Sibma. I understand that he has considered this bill very closely, and I appreciate his contribution, and the way he put it to the house.

With those comments, I commend the bills to the house.

Division

Question (Transport (Road Passenger Services) Amendment Bill 2018 to be read a second time) put and a division taken, the Acting President (Hon Adele Farina) casting her vote with the ayes, with the following result —

Ayes (22)

Hon Ken Baston	Hon Stephen Dawson	Hon Laurie Graham	Hon Martin Pritchard
Hon Jacqui Boydell	Hon Sue Ellery	Hon Colin Holt	Hon Samantha Rowe
Hon Robin Chapple	Hon Diane Evers	Hon Alannah MacTiernan	Hon Alison Xamon
Hon Tim Clifford	Hon Donna Faragher	Hon Rick Mazza	Hon Pierre Yang (<i>Teller</i>)
Hon Alanna Clohesy	Hon Adele Farina	Hon Michael Mischin	
Hon Peter Collier	Hon Nick Goiran	Hon Simon O'Brien	

Noes (2)

Hon Charles Smith Hon Colin Tincknell (*Teller*)

Question thus passed.

Bill read a second time.

Question (Transport (Road Passenger Services) Bill 2018 to be read a second time) put and passed.

Bill read a second time.

TRANSPORT (ROAD PASSENGER SERVICES) AMENDMENT BILL 2018

Committee

The Deputy Chair of Committees (Hon Adele Farina) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

Clause 1: Short title —

Hon SIMON O'BRIEN: We are talking about the amendment bill. Is that bill 91–1 or 90–2?

The DEPUTY CHAIR: It is 91–1.

Clauses 2 to 4 put and passed.

Title put and passed.

TRANSPORT (ROAD PASSENGER SERVICES) BILL 2018

Committee

The Deputy Chair of Committees (Hon Adele Farina) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

Clause 1: Short title —

Hon SIMON O'BRIEN: I am loath to say that I have on the supplementary notice paper an amendment to clause 244, because we will probably have forgotten that by the time we get to it. It is not the intention of the opposition to hold up the passage of this bill, but in connection with clause 1, it is customary to range over any general concerns, and I cannot think of a better place to ask this question than under clause 1. At several places in the second reading speech, reference is made to a voluntary buyback scheme. What is voluntary about it?

Hon STEPHEN DAWSON: I thank Hon Simon O'Brien for the question. I am told that the plate owner will decide whether to participate in the buyback scheme. If the vehicle to which the plate is attached at the time of transition is not subject to a taxi vehicle authorisation made under this bill, it will cease to be authorised for any hire and reward work.

Hon SIMON O'BRIEN: That does not sound very voluntary to me. It says that if they want some money, we will give it to them, but either way they are not having plates anymore. There is no option in fact.

Hon STEPHEN DAWSON: The option is to participate in the buyback, if they decide to participate in it. If they choose not to, obviously as I said, the vehicle to which the plate is attached at the time of transition is not subject to a taxi vehicle authorisation made under this bill, so it will cease to be authorised for any hire and reward work.

Clause put and passed.

Clauses 2 to 5 put and passed.

Clause 6: Regular passenger transport service —

Hon SIMON O'BRIEN: Clause 6(1) is a description of what sort of service is a regular passenger transport service, which is fairly recognisable. It is a scheduled bus or train service that operates at preordained times according to a timetable over a set route. But then it also holds out the possibility of adding to that definition —

(b) a service or other thing that the regulations provide is a regular passenger transport service.

I would have thought that a regular passenger transport service is easily enough defined. What would the minister anticipate might need to be included via regulation; and, if he can conceive of anything, why do we not put it in the bill?

Hon STEPHEN DAWSON: I am advised that at this stage it is not proposed to make any regulations pursuant to clause 6. The passenger transport industry is innovative, as we know, and rapidly evolving, and with this comes the need for the government and future governments to quickly and effectively respond to changes in the industry. The regulation-making powers in this clause will assist in this regard. Essentially, it is futureproofing the legislation. As the member knows, bills often take one to two years to be drafted and enacted, so the ability to make regulations for certain matters will ensure that the regime is flexible and can be efficiently changed if needed. Both this government and the previous government have been hampered by existing laws, and when new industry participants entered the market, there was no flexibility in the legislative regime for their effective regulation. This lack of flexibility contributed essentially to the current situation that we find ourselves in whereby the key players in the industry are not regulated on a level playing field with their competitors. The flexibility offered by the regulation-making powers in this clause is important to ensure that this kind of situation does not arise again in the future. It will enable governments to move quickly with regulations to ensure that those intended to be regulated are, in fact, captured, and to put beyond doubt the status of services that were not intended to be captured.

Hon SIMON O'BRIEN: Thanks for that. That sounds reasonable. Even though it might be difficult to contemplate hypothetically what sort of regular passenger transport service might apply in due course, we similarly probably did not conceive of an Uber-type thing 10 years ago. That is fine.

I have another question on this clause. If we were asked to identify and give an example of a regular passenger transport service, we could say Public Transport Authority buses and trains; some private bus lines' regular services between set destinations, as long as they fit the description here; Transwa services; and the like. What about PTA ferry services?

Hon STEPHEN DAWSON: The bill applies only to motor vehicles, so ferries are not captured by it.

Hon SIMON O'BRIEN: The minister has just dealt with my next question, so moving beyond the next question to the next, next question, how would boat-based passenger transport services be regulated in the future? Could we not conceivably see a similar regime being needed to apply to those?

Hon STEPHEN DAWSON: I am told that commercial vessel services are regulated by the commonwealth government.

Hon SIMON O'BRIEN: Is the minister saying that the South Perth ferry is regulated by the commonwealth government?

Hon STEPHEN DAWSON: We will have to check on the specific issue for Hon Simon O'Brien, but certainly the commonwealth has the powers. It has legislated that commercial vessel services belong to its remit, but in terms of the ferry, we will check that and provide the member with a response tomorrow.

Hon SIMON O'BRIEN: I thank the minister for that. That is quite acceptable, because these things are not within the ambit of the bill. Madam Deputy Chair, I appreciate that you will probably want to report progress in a moment, so perhaps we will come back to this tomorrow. I look forward to the minister's advice, because it is not only the South Perth ferry. What about Swan River ferries and ferries that go outside the Swan River onto another river or a lake elsewhere in the state? It might be interesting to find out how they are regulated, particularly if they are state owned, of course.

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

INTERNATIONAL PREGNANCY AND INFANT LOSS REMEMBRANCE DAY*Statement*

HON DONNA FARAGHER (East Metropolitan) [9.45 pm]: I rise tonight to briefly acknowledge International Pregnancy and Infant Loss Remembrance Day. The day is recognised internationally, as well as in New South Wales and Tasmania, and I understand from John De'Laney today that a motion was successfully moved in the Parliament of Victoria, which indicates that, hopefully, they will soon join our state in recognising this day.

This day is to remember babies lost through miscarriage or stillbirth or shortly after birth. I thank Hon Alanna Clohesy for the words she gave earlier today as part of the ministerial statement in recognising this day. Whether or not Hon Alanna Clohesy wanted to, she has effectively taken on the role that I had when I was in government, and I am delighted that she has done so. She has ensured, from what I can see, that this day is appropriately recognised in both houses of Parliament. I thank her for keeping me informed and for ensuring that the day went very smoothly.

It is an important day. It is a day when we can all stop—some for longer periods—to remember little ones who did not quite make it. It is also a day for us to reflect and to think about parents who must deal with the grief of losing a child. It is not something that someone will simply forget about over time; it will be with them for the rest of their lives. It is also really important that we recognise the doctors and other health personnel and those who work in support and grief services and thank and acknowledge them for the support that they provide to parents and families at an incredibly difficult time, particularly in those first few days, weeks and months but, as I say, potentially over a lifetime. We cannot underestimate the role that they play.

I also acknowledge the comments made by Hon Alanna Clohesy about John and Kate De'Laney. They are certainly the driving force in Western Australia. They are the ones who wanted to see this day recognised. I remember very well that Kate wrote a letter to the then Premier, Hon Colin Barnett, requesting that the day be recognised. I do not think she had told John that she had done that. I was the Premier's parliamentary secretary at the time that we received the letter. Kate will correct me if I am wrong, but he wrote a letter to her just before Christmas and I think they received it on Christmas Eve, and it was the best Christmas present they could have received.

I always enjoy seeing both John and Kate. Members see them every year, and they always make sure that they are in both houses to hear the ministerial statements that are made. I also particularly enjoy seeing their gorgeous little daughter, Mary-Jane. She is a very confident little girl who I claim now to be a very good friend of mine. We always enjoy our catch-ups. She is growing up very quickly and her parents are very proud of her.

I want to thank you, Madam President, for agreeing, along with Mr Speaker, to light up Parliament House last night. Madam President may recall that last year I put the request to her with a couple of hours' notice and she was able to deliver. I subsequently made a more formal request and I am very pleased that Madam President agreed to ensure that Parliament House is lit up on the day, for now until the end of this Parliament, but I am quite sure that that will now occur forever. I want to thank Madam President for that. John was delighted with the number of buildings around Perth that were lit up. I must say that Perth Stadium looked absolutely fantastic. Yagan Square, Elizabeth Quay, bridges, hotels and a range of other sites were lit up blue and pink.

With those words, I thank members for continuing to acknowledge this day. It is an important day. It is a difficult day for many people, but it is an important day on which we talk about, remember and think of those little ones who did not quite make it and their parents who deal with the grief of losing a child. We also think of the health professionals and support staff who provide a great deal of care during a very difficult time.

POLICE OFFICERS — MENTAL HEALTH

Statement

HON CHARLES SMITH (East Metropolitan) [9.51 pm]: I rise to make a few brief remarks concerning the death of a serving police officer at Cockburn Police Station. I am incredibly angry that we—that is, my fellow brothers and sisters in blue—have lost yet another police officer to what appears to be a suicide. I have gone on and on in this place about the police, about their numbers and about their mental health. Ever since the start of this fortieth Parliament, I have gone on and on about the mental health of police officers. I have told the McGowan government time and again how police are struggling, how overwhelmed they are in their job and how they cannot cope. The government is failing to listen to me as it failed to listen to the police union. When is the McGowan government going to wake up to this crisis within the Western Australia Police Force? I extend my condolences to the family of First Class Constable Igglesden. May he rest in peace.

EQUAL OPPORTUNITY ACT — REVIEW

Statement

HON ALISON XAMON (North Metropolitan) [9.52 pm]: I rise tonight because I want to make a few comments about the state Equal Opportunity Act. It has been the subject of quite a bit of discussion over the last week. I will say that I welcome the announcement by the Premier that the Law Reform Commission of Western Australia is going to undertake a comprehensive review of the act. The act was enacted 34 years ago but it has been reviewed only once, and that was back in 2007. We are talking about over a decade ago. The findings from that review are now completely outdated. Importantly, the vast majority of those recommendations were never enacted. It is imperative that this much-needed review is broad and comprehensive.

The Greens are particularly concerned about section 73 of the act, which provides an exemption for religious schools that, amongst other attributes, allows them to discriminate on the basis of sexuality and/or gender history.

We know that some schools in WA discriminate against staff who are unmarried parents or who are living together out of wedlock, or who are lesbian, gay, bisexual, transgender, intersex, queer. Members are aware that in June I introduced a private member's bill, the Equal Opportunity (LGBTIQ Anti-Discrimination) Amendment Bill 2018, to remove that outdated and discriminatory provision. The bill serves to remove the ability of religious schools to lawfully discriminate against people on the basis of their sexuality and/or their gender identity. I note that it also has the additional positive effect of preventing discrimination by religious schools on the basis of other attributes listed in the act, such as marital status or pregnancy, thereby upholding the human rights of many other members of our community as well and providing them with a remedy if discrimination occurs.

It has been very interesting to hear the general outrage about this in the community over the past week. It would appear that the community is very clear about this. It wants less discrimination against LGBTIQ people, not more. They especially do not want to see taxpayer funds spent in religious schools that discriminate in this fashion, particularly when they are providing a public service. I have been particularly heartened at the outpouring coming from a whole range of churches saying that they do not want these provisions either, including the Catholic Church as well as a whole range of other churches and individual religious schools. I think it is very heartening that there has been a very big shift in attitude around this.

I asked a question today about the government's recent announcement of the review of the Equal Opportunity Act. I note that it was said that there is no intended time frame for the review. I am going to point out that we, as a Parliament, have the opportunity to remove these particularly discriminatory exemptions now. We know that review processes are long and drawn out. As we have seen over the last week, even the federal Liberal Party is looking to take immediate steps to limit some of these exemptions. Aside from the very clear and immediate need to remove these exemptions, the review of the act is required to examine the broader framework of the act. I am not one of the people who gets to be consulted about the terms of reference, so I am going to give my two cents worth here. Despite its name, the current act focuses on anti-discrimination rather than promoting equal opportunities. It prescribes certain actions but it does not actually address inequities. The review should look at how to put an onus on the provision of reasonable accommodation of people's circumstances, whether it be employment accommodation or the provision of goods and services. Another significant failing of the current act is that there is no recognition of the fact that discrimination is exacerbated for certain groups because of the intersectionality of grounds, such as an Aboriginal person with a disability. Currently, the act only allows for each ground to be considered separately.

The review should also look at ways of making the act more accessible, including being written in plain English. It was always intended to be a jurisdiction by which people could bring matters potentially without having to pay for legal costs. As well as that, a consideration of whether new grounds should be introduced, such as a relevant criminal record and medical history, should be included within the scope. However, I am going to ask members what good changing the act will do if the government fails to appropriately resource the very body that is charged with promoting the act and also addressing and conciliating discrimination and harassment complaints. I have read the Equal Opportunity Commission's most recent annual report. It details some very concerning trends. Staff numbers have reduced by 12 since 2014, leaving the commission with a very modest staff of 20. These reductions are impacting the ability of staff to undertake outreach activity. The reductions in staff in 2018 also resulted in reductions in the service that is being delivered. For example, no-one is being rostered on to take inquiries on two mornings a week. The length of time taken to resolve complaints, which is supposed to be within six to 12 months, has increased compared with the same time last year due to the complexity of the issues as well as the reduction in the number of conciliation officers who are available within the commission. Budgetary constraints have meant that managers have not undertaken important formal training this year—for example, in occupational health and safety and injury management. At the same time as we have seen these reductions in service, the number of complaints made to the commission was up 10 per cent, from 430 in 2016–17 to 472 in 2017–18. Notably, these figures include a doubling in the number of sexual harassment complaints. In 2017–18, 27 per cent of complaints related to impairment, 18 per cent to race and 10 per cent to sexual harassment. We know, of course, that only a small number of incidents of discrimination are formally complained about, so these figures do not even reflect the true scale of the prevalence of discrimination occurring in our community.

I am very concerned that the commission's core tasks of preventing and providing redress for unlawful discrimination across Western Australia's very diverse and widely dispersed population are monumental, yet we seem to be expecting more and more of it from an ever-decreasing pool of resources. It is simply not sustainable. I am pleased that the government is going to review the act, and I call on it to take the opportunity to also examine the broader framework of the act. However, undertaking a review does not detract from the need to pass immediate reforms now because people's lives are being impacted upon now; neither does it detract from the need for sufficient resourcing of the commission to undertake its fundamentally important work. Put simply, these issues cannot wait. From the answer given to my question earlier today, it is quite clear that no clear time frame is in place, so I call upon the government to ensure that it does as much as it can in the short term, as well as taking a longer-term view.

House adjourned at 10.01 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

CROWN LAND LOT 9789 — ALFRED COVE**1611. Hon Alison Xamon to the minister representing the Minister for Lands:**

I refer to the portion of Lot 9789 that the City of Melville required in order to facilitate the Wave Park proposal at Tompkins Park in Albert Cove, and I ask the Minister if that land has been sold or otherwise provided to the City of Melville for this purpose?

Hon Stephen Dawson replied:

No portion of Lot 9789 has been sold or provided to the City of Melville.

TREASURY AND FINANCE — MASTER MEDIA CONTRACT**1612. Hon Martin Aldridge to the minister representing the Minister for Finance:**

I refer to the awarding of the State Government Master Media Contract, which commenced on 1 August 2018, and I ask:

- (a) will the Minister provide the list of companies that tendered for the contract;
- (b) which company was awarded the contract;
- (c) how much is the new contract worth per annum and when does the contract expire; and
- (d) will the Minister table the State Government Master Media Contract, which commenced on 1 August 2018?

Hon Stephen Dawson replied:

- (a) Information available on TendersWA indicates there were five (5) responses received to the Request. As provisioned by the Request conditions for this contract, the identities of those five (5) respondents are:
 - (1) Adcorp Australia Ltd
 - (2) Carat Australia Media Services Pty Ltd
 - (3) Initiative Media Australia Pty Ltd
 - (4) Optimum Media Decisions (WA) Pty Ltd
 - (5) Wavemaker Australia Pty Ltd
- (b) The Contract was awarded to Carat Australia Media Services Pty Ltd and Initiative Media Australia Pty Ltd.
- (c) The total contract award value is estimated to be \$300 million, including GST or \$60 million per annum, over the potential five-year term of the contract.
 The Contract commenced on 1 July 2018 for a period of three years with two one-year extension options available.
- (d) Details of the contractors, pricing and pricing structure and services available under this contract are available through the ContractsWA website (www.contracts.wa.finance.wa.gov.au).

TAFE — STUDENT ENROLMENTS**1613. Hon Alison Xamon to the Minister for Education and Training:**

I refer to student enrolments across the TAFE campuses, and I ask the Minister to provide:

- (a) student enrolment numbers for semester 1, 2017 for each TAFE campus and a summary for each TAFE college;
- (b) student enrolment numbers for semester 2, 2017 for each TAFE campus and a summary for each TAFE college;
- (c) student enrolment numbers for semester 1, 2018 for each TAFE campus and a summary for each TAFE college; and
- (d) student enrolment numbers for semester 2, 2018 for each TAFE campus and a summary for each TAFE college?

Hon Sue Ellery replied:

The VET enrolment data collection is not designed to support term or semester based reporting as each collection point represents a standalone year-to-date snapshot of activity. The Department of Training and Workforce Development only reports validated enrolment activity at periodic intervals that reflect enrolments recorded from the start of the calendar year.

- (a) Publicly funded course enrolments (CE) as at 30 June 2017:

North Metropolitan TAFE

Campus	CE
Acacia	20
Balga	2,826
Bandyup Womens Prison	20
Boronia Pre-release Centre	23
Casuarina Prison	13
East Perth	1,372
Joondalup	2,267
Karnet	4
Leederville	1,950
McLarty	1,043
Midland – Lloyd Street	2,102
Mount Lawley	1,363
Oral Health Centre of WA	325
Perth	7,929
Prison Delivery	9
Trades North – Automotive	150
Trades North-Clarkson	649
Wooroloo	10
Total	22 075

South Metropolitan TAFE

Campus	CE
Armadale	789
Australian centre for Energy & Process Training (ACEPT)	407
Bandyup Womens Prison	34
Bentley	2,121
Boronia Pre-Release Centre	33
Bunbury Regional Prison	60
Carlisle	2,423
Casuarina Prison	62
Fremantle	2,093
Fremantle E-tech Centre	176
Fremantle Maritime Centre	399
Henderson	134
Jandakot	646
Karnet	42
Kwinana Automotive Technology Training Centre	375

Murdoch	1,825
Peel Regional	1,572
Rockingham	3,195
SMT Online	6
Tamala Park Recycling Facility	13
Thornlie	5,098
Total	21 503

North Regional TAFE

Campus	CE
Broome	1,580
Derby Centre	340
Fitzroy Crossing TAFE Centre	194
Halls Creek	220
Karratha	502
Kununurra	623
Minurmarghali Mia	81
Newman	36
Pundulmurra	515
Roebourne Regional Prison	89
Tom Price	25
West Kimberley Regional Prison	158
Wyndham	43
Total	4 406

Central Regional TAFE

Campus	CE
Batavia Coast Maritime Institute	22
Boronia Pre-Release Centre	33
Carnarvon	161
Casuarina	12
Cue Telecentre	2
Eastern Goldfields Regional Prison	1
Exmouth Technical Centre	65
Geraldton	2,631
Kalbarri Telecentre	5
Kalgoorlie	1,311
Karnet	50
Meekatharra Technical Centre	7
Merredin	267
Moora	352
Morawa Telecentre	23
Mullewa Technical Centre	60
Muresk	10

Northam	971
Northampton TAFE Centre	1
Perenjori TAFE Centre	16
Shark Bay Telecentre	10
Three Springs	3
Walkaway TAFE Centre	79
Wiluna Technical Centre	5
Wooroloo	84
Total	6 181

South Regional TAFE

Campus	CE
Albany	2,165
Albany Regional Prison	108
Bunbury	2,549
Bunbury Regional Prison	57
Busselton	298
Collie	126
Denmark	125
Esperance	278
Harvey	92
Katanning Technical Centre	303
Manjimup	253
Margaret River Education	298
Mt Barker Technical Centre	40
Muresk	85
Narrogin	266
Pardelup Prison Farm	128
Total	7 171

Total Enrolments	61,336
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- (b) Publicly funded course enrolments (CE) as at 31 December 2017:

North Metropolitan TAFE

Campus	CE
Acacia	40
Balga	4,245
Bandyup Womens Prison	47
Boronia Pre-Release Centre	52
Casuarina Prison	73
East Perth	1,986
Hakea	23
Joondalup	3,307
Karnet	34

Leederville	3,086
Mclarty	1,640
Midland – Lloyd Street	3,341
Mount Lawley	2,055
Oral Health Centre Of WA	492
Perth	9,046
Trades North – Automotive	153
Trades North-Clarkson	836
Wooroloo	40
Total	30 496

South Metropolitan TAFE

Campus	CE
Armadale	1,186
Australian Centre For Energy & Process Training (ACEPT)	651
Balga	26
Bandyup Womens Prison	52
Bentley	3,013
Boronia Pre-Release Centre	67
Bunbury Regional Prison	124
Carlisle	3,784
Casuarina Prison	95
Como TAFE Centre	14
Fremantle	2,865
Fremantle E-Tech Centre	191
Fremantle Maritime Centre	542
Henderson	163
Jandakot	902
Karnet	86
Kwinana Automotive Technology Training Centre	646
Murdoch	2,794
Peel Regional	2,107
Rockingham	4,157
SMT Online	9
Tamala Park Recycling Facility	24
Thornlie	7,165
Total	30 663

North Regional TAFE

Campus	CE
Broome	2,864
Derby Centre	769
Fitzroy Crossing TAFE Centre	441
Halls Creek	569

Karratha	1,005
Kununurra	1,181
Minurmarghali Mia	126
Newman	116
Pundulmurra	1,202
Roebourne Regional Prison	270
Tom Price	62
West Kimberley Regional Prison	352
Wyndham	136
Total	9 093

Central Regional TAFE

Campus	CE
Abrolhos Islands	35
Batavia Coast Maritime Institute	178
Boronia Pre-Release Centre	54
Carnamah Technical Centre	8
Carnarvon	257
Casuarina	45
Cue Telecentre	2
Eastern Goldfields Regional Prison	54
Exmouth Technical Centre	130
Geraldton	3,886
Kalbarri Telecentre	6
Kalgoorlie	1,773
Karnet	98
Meekatharra Technical Centre	60
Merredin	574
Moora	517
Morawa Telecentre	70
Mt Magnet Technical Centre	96
Mullewa Technical Centre	123
Muresk	10
Newman	48
Northam	1,550
Northampton TAFE Centre	6
Perenjori TAFE Centre	22
Shark Bay Telecentre	38
Three Springs	3
Walkaway TAFE Centre	132
Wiluna Technical Centre	26
Wooroloo	309
Yalgoo Technical Centre	19
Totals	10 129

South Regional TAFE

Campus	CE
Albany	3,806
Albany Regional Prison	230
Bunbury	3,968
Bunbury Regional Prison	163
Busselton	490
Collie	213
Denmark	252
Esperance	666
Harvey	160
Katanning Technical Centre	498
Manjimup	488
Margaret River Education	572
Mt Barker Technical Centre	91
Muresk	122
Narrogin	525
Pardelup Prison Farm	206
Total	12 450

TOTAL ENROLMENTS**92,831**

- (c) Publicly funded course enrolments (CE) as at 30 June 2018:

North Metropolitan TAFE

Campus	CE
Acacia	17
Balga	2,602
Bandyup Womens Prison	7
Casuarina Prison	25
East Perth	845
Joondalup	2,040
Karnet	12
Leederville	1,838
Mclarty	680
Midland – Lloyd Street	1,616
Mount Lawley	940
Oral Health Centre Of WA	150
Perth	4,706
Trades North-Clarkson	396
Wooroloo	8
Total	15 882

South Metropolitan TAFE

Campus	CE
Armada	899
Australian Centre For Energy & Process Training (ACEPT)	856
Bandyup Womens Prison	11
Bentley	2,451
Boronia Pre-Release Centre	26
Bunbury Regional Prison	11
Carlisle	2,431
Casuarina Prison	36
Fremantle	706
Fremantle Maritime Centre	371
Henderson	113
Jandakot	582
Karnet	32
Kwinana Automotive Technology Training Centre	444
Murdoch	3,732
Peel Regional	1,425
Rockingham	3,273
Thornlie	5,140
Total	22 539

North Regional TAFE

Campus	CE
Broome	1,526
Derby Centre	461
Fitzroy Crossing TAFE Centre	204
Halls Creek	227
Karratha	825
Kununurra	669
Minurmarghali Mia	121
Newman	38
Pundulmurra	988
Roebourne Regional Prison	199
Tom Price	45
West Kimberley Regional Prison	155
Wyndham	49
Total	5 507

Central Regional TAFE

Campus	CE
Acacia	2
Bandyup Womens Prison	1
Batavia Coast Maritime Institute	223
Boronia Pre-Release Centre	30
Carnarvon	63

Casuarina	44
Eastern Goldfields Regional Prison	15
Exmouth Technical Centre	33
Geraldton	2,125
Kalgoorlie	873
Karnet	19
Meekatharra Technical Centre	20
Merredin	95
Mingenew Telecentre	9
Moora	222
Morawa Telecentre	72
Mt Magnet Technical Centre	1
Mullewa Technical Centre	47
Newman	50
Northam	1,036
Perenjori TAFE Centre	8
Shark Bay Telecentre	21
Walkaway TAFE Centre	55
Wiluna Technical Centre	4
Wooroloo	109
Total	5 177

South Regional TAFE

Campus	CE
Albany	2,032
Albany Regional Prison	63
Bunbury	2,249
Bunbury Regional Prison	144
Busselton	240
Collie	106
Denmark	142
Esperance	278
Harvey	90
Katanning Technical Centre	167
Manjimup	197
Margaret River Education	322
Mt Barker Technical Centre	33
Muresk	19
Narrogin	320
Pardelup Prison Farm	110
Total	6 512

TAFE TOTAL	55,617
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It is important to note that the comparability of 2017 and 2018 enrolment numbers reported by North Metropolitan TAFE has been impacted by processing delays associated with transitioning to the new Student Management System. The delay in entering enrolments has since been addressed by North Metropolitan TAFE.

Enrolments that missed the end of June reporting cut-off will be reflected in the cumulative end of year 2018 data.

- (d) Full year validated data as at 31 December 2018 will be available in mid-April 2019.

PREMIER — MEETINGS — SOUTH METROPOLITAN REGION

1614. Hon Nick Goiran to the Leader of the House representing the Premier; Minister for Public Sector Management; Federal-State Relations:

I refer to the email from the Premier's office, dated 4 September 2018 and received at 5:36pm from your 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:

The Premier attended the opening of the Southern Plus East Fremantle Aged Care Centre with Lisa O'Malley MLA. Excluding travel time the event was scheduled to last approximately one hour.

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

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

MINISTERIAL OFFICES — STAFF — SOCIAL MEDIA POLICY

1615. Hon Tjorn Sibma to the Leader of the House representing the Premier; Minister for Public Sector Management; Federal-State Relations:

- (1) What policy, procedure, or workplace agreement applies to staff employed in all ministerial offices regarding their use of social media especially during business hours?
- (2) If there is a policy, procedure, or workplace agreement governing social media use by ministerial staff, then what are its details and how are these arrangements monitored or enforced in practice?
- (3) Are there any exemptions to these arrangements, for example, are exemptions for those staff designated as communications directors, digital and social media advisers, senior media advisers, media advisers and what is the nature of this/these exemption(s)?
- (4) Does the policy, procedure, or workplace agreement prohibit some or all ministerial staff communicating political messages or engaging in political commentary especially during business hours?
- (5) Has there been any breaches of this social media policy and, if so, what were the details and the consequences for the staff concerned?

Hon Sue Ellery replied:

- (1)–(4) The Department of the Premier and Cabinet's Information Communications and Technology Acceptable Use Policy and Code of Conduct guides all Department employees, including those working within a Ministerial Office on the use of social media sites during business hours.
- (5) As at 12 September 2018 the Department of the Premier and Cabinet is not aware of any breaches of the Code of Conduct or Information Communications and Technology Acceptable Use Policy with relation to the use of social media.

DEPARTMENT OF FINANCE — GOODS AND SERVICES PROCUREMENT AUDITS

1617. Hon Tjorn Sibma to the minister representing the Treasurer; Minister for Finance; Energy; Aboriginal Affairs:

Can the Department of Finance provide a copy (or copies) of the most recent round of goods and services procurement audits as submitted to the State Supply Commission, including relevant findings and recommendations?

Hon Stephen Dawson replied:

The audits were applicable to all public authorities with partial exemptions as issued by the State Supply Commission in accordance with the *State Supply Commission Act 1991*.

In 2016–17, 99 Agencies were to complete audits; of which 94 audits were received by the Department [See tabled paper no 2065.].

Findings Summary

Three (3) agencies advised purchasing is undertaken by the supporting agency (Law Reform Commission, Swan River Trust and Western Australian Planning Commission);

Two (2) agencies did not submit an audit (Western Australian Electoral Commission and Western Australian Meat Industry Authority);

Audits from 22 agencies indicated zero (0) non-compliances;

Zero (0) audits identified systemic or high risk departures for any agencies; and

Audits from 72 agencies indicated some minor non-compliances or resulted in minor findings:

Outdated procurement policy manuals and exemption/approval registers;

Insufficient information in letters to unsuccessful tenderers;

Inadequate records for some contract award decisions and variations on Tenders WA;

The sample of procurement activities was insufficient; and

The audit findings section of the template was incomplete.

Note: the 2016–17 audit period commenced pre-2017 Machinery of Government changes.

HEALTH — QUADRIPLLEGIC CENTRE

1635. Hon Alison Xamon to the parliamentary secretary representing the Deputy Premier; Minister for Health; Mental Health:

I refer to plans to close the Quadriplegic Centre, and the ongoing need for respite or transitional care, and I ask:

- (a) how many admissions were made to the Quadriplegic Centre for respite or transitional care in 2016 and 2017;
- (b) what number of patients received respite or transitional care in 2016 and 2017; and
- (c) what plans are in place to ensure that respite/transitional care remains available after the centre closes?

Hon Alanna Clohesy replied:

I am advised that:

- (a) In 2016, there were 25 patients admitted for respite (17 patients) or transitional care (8 patients). In 2017, there were 40 patients admitted for respite (31 patients) or transitional care (9 patients).
- (b) In 2016, 41 patients received respite (17 patients) or transitional care (24 patients). In 2017, 51 patients received respite (32 patients) or transitional care (19 patients).
- (c) Work is currently being undertaken to identify alternative respite and accommodation options that can be utilised once the Quadriplegic Centre has closed, to ensure that accessible accommodation in the metropolitan area is available to those who need to travel to Perth for medical and rehabilitation support. It is planned for these alternative options to be in place by the time the Quadriplegic Centre closes.

CHILD PROTECTION — CHILDREN IN CARE OF THE CEO

1636. Hon Alison Xamon to the Leader of the House representing the Minister for Child Protection:

I refer to children in the care of the CEO, and I ask:

- (a) how many children in the care of the CEO are currently in Banksia Hill Detention Centre;
- (b) how many of these young people are in custody because there is no suitable accommodation available for them to be released on bail or on supervised release orders;

- (c) does the Minister intend to take any action to address the issue of young people in the care of the CEO being held in custody because there are no viable accommodation options available;
- (d) if yes to (c), what action; and
- (e) if no to (c), why not?

Hon Sue Ellery replied:

- (a) As at 1 October 2018, there were 25 young people in the CEO's care in Banksia Hill Detention Centre.
- (b)–(e) All young people remanded in Banksia Hill are there as a result of charges associated to their offending behaviours. The Department of Communities works closely with the Department of Justice to support young people in the care of the CEO whilst they are in detention including sourcing appropriate services to support their safe release into the community.

Of the 25 young people in the CEOs care, two have been granted bail however, they remain in remand due to the Magistrate at the time rejecting the accommodation options presented by the Department of Communities.

The young people in Banksia Hill have some of the most complex needs and often require specialised care to support their safety and wellbeing, as well as meet community safety expectations.

The creation of the Department of Communities has provided a unique opportunity for former Housing, Child Protection and Disability Services staff to work more cohesively together to provide a coordinated solution for these young people.

The continued implementation of Department of Communities' Out-of-Home Care Reforms will also support improvement in this area, focussing funding on a coordinated and flexible service system that will better meet the needs of children and young people in contact with the out-of-home care system.

HEALTH — SPINAL COMMUNITY NURSES

1642. Hon Alison Xamon to the parliamentary secretary representing the Deputy Premier; Minister for Health; Mental Health:

- (1) I refer to the *Spinal Cord Injury Model of Care* released in 2015, and proposals to improve community outreach services, and I ask:
 - (a) how many FTE Spinal Community Nurses were allocated to community outreach in 2015;
 - (b) how many FTE Spinal Community Nurses were allocated to community outreach in 2016;
 - (c) how many FTE Spinal Community Nurses were allocated to community outreach in 2017; and
 - (d) how many FTE Spinal Community Nurses were allocated to community outreach in 2018?
- (2) Are there further plans to increase numbers of Spinal Community Nurses?

Hon Alanna Clohesy replied:

I am advised that:

- (1)
 - (a) 2.5 FTE
 - (b) 3 FTE
 - (c) 3 FTE
 - (d) 3 FTE
- (2) Yes. This Service will expand to 8 FTE during 2019/20.

PAYROLL TAX — STATISTICS

1644. Hon Robin Scott to the minister representing the Treasurer; Minister for Finance; Energy; Aboriginal Affairs:

- (1) For the most recent period of twelve months for which figures are available to the Minister, will the Minister table a geographic breakdown of the sources of payroll tax, whether by region or by electorate or by tax zone or on any other geographical basis?
- (2) For the most recent period of twelve months for which figures are available to the Minister, will the Minister table a list of the 100 largest payers of payroll tax, showing the amount paid by each?
- (3) For the most recent period of twelve months for which figures are available to the Minister, will the Minister table a list of the 1,000 largest payers of payroll tax, showing the amount paid by each?

- (4) For the most recent period of twelve months for which figures are available to the Minister, will the Minister table a list of all payers of payroll tax, showing the amount paid by each?
- (5) For the most recent period of twelve months for which figures are available to the Minister, will the Minister advise the total of payroll tax paid by businesses employing 100 or fewer employees?
- (6) For the most recent period of twelve months for which figures are available to the Minister, will the Minister provide a geographic breakdown of the sources of payroll tax paid by businesses employing 100 or fewer employees, whether by region or by electorate or by tax zone or on any other geographical basis?

Hon Stephen Dawson replied:

- (1) The Office of State Revenue is unable to provide a breakdown of payroll tax received based on employment by geographical location with any level of accuracy, as data is not collected to that level of detail.
Furthermore, it is not possible to derive an accurate geographical breakdown of sources of payroll tax by location of employment based on the location of the taxpayers' business addresses, as there are employers who operate across multiple regions within Western Australia.
 - (2)–(4) Section 114(2) of the *Taxation Administration Act 2003* prevents the Commissioner of State Revenue from disclosing taxpayer information that could reasonably be expected to lead to the identification of any person to whom it relates.
 - (5)–(6) Employers are not required to provide the Commissioner of State Revenue with the number of employees who are employed by their business.
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