WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
SECOND SESSION
1998

LEGISLATIVE ASSEMBLY

Wednesday, 21 October 1998

Legislative Assembly

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THE DEPUTY SPEAKER (Mr Bloffwitch) took the Chair at 11.00 am, and read prayers.

BILLS - INTRODUCTION AND FIRST READING

1. Pearling Amendment Bill.

   Bill introduced, on motion by Mr House (Minister for Fisheries), and read a first time.

2. Culture, Libraries and the Arts Bill.

3. Culture, Libraries and the Arts (Consequential Provisions) Bill.

4. State Records Bill.

5. State Records (Consequential Provisions) Bill.

   Bills introduced, on motions by Mrs Edwardes (Minister for the Environment), and read a first time.

6. Local Government Amendment Bill (No 2).

   Bill introduced, on motion by Mr Omodei (Minister for Local Government), and read a first time.

SURVEILLANCE DEVICES BILL

Report

Report of Committee adopted.

Third Reading

MR PRINCE (Albany - Minister for Police) [11.08 am]: I move -

That the Bill be now read a third time.

MR GRAHAM (Pilbara) [11.09 am]: I do not intend to delay the Bill. However, I need to make a couple of points, and the House needs to be clear on a couple of points. In the last two days we have had a senior government minister, the Minister for Police, making accusations across the Chamber that the Opposition has in some way delayed this legislation. That was reinforced yesterday by the Cabinet Secretary in the debate on the matter of public interest. Therefore, we are not talking about just comments and interjections across the Chamber; we are talking now about a concerted attempt by the Government to convince this Parliament that the Opposition has delayed this legislation. I will deal with that in a minute.

However, the explanation of how this came to pass and how this legislation was determined to have some urgency is to be found in the Minister for Police's response to a question from the member for Midland about the bikie thugs pushing the police out of the way at the murder scene and why no action was taken by the police on that. I will not deal with that again. However, the minister said two things in his response to that question: First, that he felt sorry for the bikies; and, second, that the Parliament, and the Opposition particularly, could do something to help the police deal with the outlaw motorcycle gangs and other forms of crime by passing this piece of legislation. In doing that, the minister gave a priority to this legislation that it had never had until that time. I make this point clearly. The Government had never until that time indicated that this was a piece of legislation that it felt could be used to combat the outlaw motorcycle gangs in Western Australia.

Mr Prince: I thought it was self-evident.

Mr GRAHAM: The minister says he thought it was self-evident. However, he wrote to us saying he wanted bipartisan support for legislation, and the Opposition said it would give it to him. The minister never put this piece of legislation forward as one of those until he was asked the question about the police doing nothing.

Mr Prince: I have not put any piece of legislation forward.

Mr GRAHAM: Exactly. Thank you, minister.

Mrs Roberts: I inform the member for Pilbara that I wrote to the minister requesting bipartisan support; the minister did not write requesting it.

Mr GRAHAM: I accept that. When the then Minister for Police, the member for Darling Range, introduced the legislation over a year ago, he attached no priority to it whatsoever. Nowhere in the minister's second reading speech did he say that

this was a vital piece of legislation that this House had to deal with quickly. Nowhere in the minister's second reading speech did he say that this was a piece of legislation that should be put through to deal with outlaw motorcycle gangs, and neither did the current Minister for Police until he was attacked in this place over police inaction on bikies. Then he and the Cabinet Secretary alleged that the Opposition had delayed it. Why did they do that? It was not an impromptu thing. I assume that on Monday Cabinet members discussed the bikie problem, agreed they had no action on it, agreed they had done nothing on it, and decided that the easiest way out was to attack the Opposition. That is fine; that is politics. However, if the Government is going to do that, it should have something with which to back itself up.

This piece of legislation was introduced and first read in October 1997, over a year ago. It sat for six days before the minister gave his second reading speech. The second reading was agreed to on 20 November 1997. It was then brought on for debate in this Parliament in this session. For the best part of a year this Government has been dithering with this legislation. What did the minister say our crime was on Thursday afternoon? This House spent an hour yesterday talking about one clause. We could have spent that hour a year ago if the minister's predecessor had pulled the legislation on, and surveillance devices could be on the bikies now. That is what could have happened, but it did not.

Mr Prince: During that hour we talked about one issue, and the question was that if authority is given to put a device in for a particular purpose, for example, drugs, should one be able to use the evidence obtained, for example, of motor vehicle theft. The member for Burrup had significant reservations about that. The point I was making was that if one has evidence of criminal activity howsoever obtained, it should be able to be produced in court. The member did not agree with that, and he talked about the rights of the public.

Mr GRAHAM: Is that not his right as a member of Parliament?

Mr Prince: Yes, of course it is.

Mr GRAHAM: Absolutely. Therefore, what is the problem?

Several members interjected.

The DEPUTY SPEAKER: Members, the problem is that there are too many interjections.

Mr GRAHAM: I can live with that. The problem is that the Government attached no importance to this legislation for one year. A member of the Opposition raised some of his legitimate concerns for one hour, and we are castigated by the Government for delaying the Bill.

Mr Baker: The concerns that the member raised were never embodied in a proposed amendment to that clause, though, were they?

Mr GRAHAM: I do not know and I do not care. This is a place for debate.

Mr Baker: I would have thought it was a crucial issue. An amendment would have been proposed; no amendment was proposed.

Mr GRAHAM: Is the member saying that he would have been happier if the member had moved an amendment?

Mr Baker: It would have evidenced the bona fides of his concerns if he had suggested an alternative phraseology for clause 20.

Mr GRAHAM: I am happy to have a chat with the member for Joondalup about parliamentary procedures. Maybe I am wrong and someone can give me some advice. However, I understood the committee stage was a stage at which members of Parliament could quiz the minister and his expert advisers to put their minds at rest about particular clauses.

Mr Baker: I agree. However, I am saying that he was not speaking to an amendment.

Mr GRAHAM: Is that not what the member did?

Mr Baker: Yes.

Mr GRAHAM: Did the member move an amendment subsequently?

Mr Baker: Not to my knowledge.

Mr GRAHAM: Obviously the minister and his advisers convinced him of their course of action, and that is what the committee stage is about.

This piece of legislation that the Government now considers to be urgent to deal with the bikie problem could have been dealt with a year ago. However, let us consider what happened. On Thursday the minister criticised the Opposition for delaying the Bill. However, we could have dealt with it last night. If it is the vital piece of legislation to deal with these bikie gangs that the minister contends it is, why did we go home early last night?

Mr Prince: Because we are having a trial of different sitting times, and 10 o'clock was the closing time.

Mr GRAHAM: In the five years the Government has been in power, it has never rigidly adhered to the sitting times of this House. The times have been changed to suit the Government's priorities. However, it did not do it yesterday. If the Government was fair dinkum about this being an urgent piece of legislation, it would have.

The second point I make is that yesterday - much as I object to it and find it abhorrent - this Government introduced into this Parliament a guillotine that allows it to do whatever it wants to do. This piece of legislation that it says is a priority to deal with the outlaw motorcycle gangs is not subject to the guillotine.

Mr Prince: It has been subject to the guillotine for two successive weeks. I have pulled it off each week because progress has been made, albeit very slow progress. We have been debating this for three weeks.

Mr GRAHAM: What the minister is saying in ministerspeak is that the Opposition has not obstructed the passage of the legislation, has it?

Mr Prince: Debate has been tediously slow and repetitious.

Mr GRAHAM: Has the Opposition impeded the passage of the legislation?

Mr Prince: It has been tediously slow and repetitious.

Mr GRAHAM: That is the nature of the Parliament. If the minister had wanted that system cut short, that could have been done in three ways. The minister could have approached the Opposition and said, "Notwithstanding the fact that we have done nothing about this for a year, we need this legislation through quickly. Will you give it bipartisan support?"

Mr Court: Do not beat around the bush. The Opposition could have got it through two weeks ago.

Mr GRAHAM: The Premier could have approached the Opposition and had this passed a year ago, yet he did not. He received a letter from the Opposition's spokesman stating that the Opposition would have given, not in specific terms, bipartisan support to the Government on the legislation. The Government did not and neither did the Premier. He did not even phone the Leader of the Opposition.

Mr Court: You were shamed into putting it through.

Mr GRAHAM: No. The Premier did not phone the Leader of the Opposition to say, "This is the only piece of legislation we have to deal with bikies. Help us." We would have said yes, but the Premier did not do that.

Mr Court: I think you will find the minister did.

Mr GRAHAM: I think the member for Midland has the letter.

Mrs Roberts: I am aware of that letter.

The DEPUTY SPEAKER: I remind members that the third reading is about the Bill, not the delays or things that have happened, but about the context, more so than in the second reading. We should be talking about the text of the Bill.

Mr GRAHAM: The minister could have taken that option, but he did not. He could have used his numbers in the House as he has done for five years to get it through, but he did not. Thirdly, he could have placed it under a guillotine, but he did not. He has just admitted he took it from under the guillotine because we were making progress. That being the case, the minister should not stand up in this House and accuse the Opposition of delaying legislation when it has not. The only legitimate delay that the minister can attribute to this legislation is that I have spoken for 12 minutes to point out that the minister was wrong.

Mr Prince: Because he has not spoken on it.

Mr GRAHAM: He has no factual basis whatsoever. This is the legislation which was introduced by the Premier a year ago. He is the person who says bikies are not wanted in this State and should be run out. The Premier does not have one piece of legislation to deal with it except the one he invented as a bikie piece of legislation. His crime committee has not met to discuss the matter. No budget has been allocated to deal with the increasing bikie problem and the commissioner is overseas. On this matter, he is an abject failure.

MRS ROBERTS (Midland) [11.22 am]: In the lead up to the 1993 election, the coalition parties indicated a raft of legislation that they said they wanted to put through if they were elected. Among that legislation was listening devices legislation. Unfortunately, four years went by with the Government having the majority in both Houses and it did not introduce the listening devices legislation. In January 1997 when I took over as Opposition spokesperson for Police, I looked at the promises made by both major parties in the 1993 and 1996 context. I also looked at what legislation should be expedited. I did research on the various pieces of legislation including the proposal for listening devices legislation. I have consistently asked questions about where the various pieces of law and order legislation are. I followed up on those

promised pieces of legislation by the Government. On numerous occasions in 1997 I asked when we would see listening devices legislation. Eventually we got this gobbledegook of a Surveillance Devices Bill which was all encompassing, but frankly it was a mess. Outrage was expressed by the media about some of the provisions. Outrage was also expressed by some other groups, including the mercantile agents.

The situation became too difficult for the Government because it exposed the fact that the legislation which it brought in was not up to scratch. It had to revise the Bill and put forward a large number of amendments to the Bill and insert a complete new part 5 dealing with the public interest. That is how the delay has occurred. I also remind the House that between last December when we last debated the first draft of the Bill and a couple of months ago we saw nothing from the Government - not one piece of action which would progress this legislation. It chose not to allocate any time or priority whatsoever during the autumn session. The claims now of an hour or so here or there are simply ridiculous. It is a pathetic attempt at political point scoring. At the end of last year I told the previous Minister for Police that I knew that some problems existed with listening devices and I knew also that they arose out of the Cocos case in the High Court. I asked him why he would not put the simple amendments that the police and the National Crime Authority in this State have been asking for for a long time through the House this year. That offer is recorded in *Hansard*, so it is there for all to read. However, the Government chose not to do that. It chose to get bogged down in far more complex legislation on surveillance devices and to take it away, not just over the Christmas break, but for the whole of the autumn sitting while it revisited it and introduced something new into the Parliament. Any attempt by the Government to blame the Opposition for these delays is ludicrous. The shame of the matter is that the legislation, even as it is and even as it will be passed with our support today, is still very clumsy and inadequate legislation. It will create huge problems for a range of people. Unfortunately, even when the legislation has passed through both Houses, I think it will need to come back for amendment a number of times. I have spoken only for four minutes at this third reading stage. For some time we have cooperated in order to get listening devices legislation through this place. The Government has no-one but itself to blame for the delays that have occurred over the past five years.

MR PRINCE (Albany - Minister for Police) [11.27 am]: I thank members opposite for their contributions. I particularly acknowledge the assistance from the member for Midland, albeit perhaps in a bit of a tedious fashion in dealing with legislation for which no precedent has been set and of which nothing of its kind has been brought before a Parliament anywhere in Australia. This piece of legislation is being considered by other States because it leads the way. I trust that as a result of the extensive debate that we have had in this House, the matter will now proceed to the other place with a reasonable degree of dispatch. I received information a moment ago that the weapons Bill is being sent off to the Legislative Council standing committee, which is unfortunate. Perhaps this matter will be considered with more dispatch than other things in the other place.

Question put and passed.

Bill read a third time and transmitted to the Council.

PLANNING LEGISLATION AMENDMENT BILL

Second Reading

Resumed from 7 April.

DR EDWARDS (Maylands) [11.30 am]: I am pleased to speak on this Bill on behalf of the Opposition. The Bill has three separate outcomes. The first provides two new planning appeals, the second deals with local government fees and charges and the third deals with regional planning schemes. Undoubtedly the most controversial part of this Bill is the granting of an appeal right against a local government's refusal to initiate an amendment to its town planning scheme. After a lot of consideration and quite constructive debate within our party room, we have decided that we will be opposing the clauses that seek to initiate that new appeal right. We believe it is unreasonable for the minister to come in here and say in his second reading speech that he is thinking of doing this and that it is in the Bill but he will not proclaim it perhaps for a year to give local government the opportunity to get its act together. One either comes into this place as a minister, having made a decision, and brings in the law and proclaims it or as a minister one works outside the Parliament and seeks to resolve by conciliation and negotiation what is obviously the problem. We are also concerned that the minister has initiated a major review of all planning legislation but we have not yet seen it and we are getting yet more piecemeal changes. We have been promised for over a year a new planning appeal system but that has not eventuated either. Indeed, we were promised very strongly at the end of last year and early this year that we would see it in this spring session, but I doubt now that we will be seeing a new planning appeals system.

Mr Shave: You are trying to overturn the Government's mandate to govern.

Dr EDWARDS: The minister is a bit paranoid.

Probably the most important aspect of this new appeal right is that it completely undermines local government's power for making its own local government planning decisions. I will return to this point a bit later. I want to comment initially on

some of the more technical aspects of the Bill. The second new appeal right is a second right of appeal against WA Planning Commission decisions on subdivision applications. Already developers and proponents have a right following either the refusal of a subdivision application or on the imposition of conditions. The new appeal right is triggered later in the process at the stage when a developer is seeking endorsement of a diagram or of a plan of survey.

It has certainly been brought to my attention and obviously to the minister's that complexity can arise after that initial approval is given and that there may be some difficulties for a developer to satisfy down the track conditions that initially might not have been teased out. I understand that the need for this appeal right comes about because of a case in the Town Planning Appeal Tribunal in which the tribunal thought the law was not quite clear enough to reflect the current practice, and so we have this change before us today. We will be supporting it because all of the feedback that we have had is that it is a very sensible change and one that is needed to bring the practice into line with the law.

I turn to the clause that deals with local government fees and charges for planning services. I want to quickly go over the role that local government plays. In Western Australia, local government has quite a strong role in this area of land use and development applications. It administers the process, evaluates and assesses applications and consults and liaises with the parties involved. In a particularly complicated case there may be a lot of parties. Finally, it makes a determination or recommendation on an application. Local government carries out these tasks under two frameworks - under the framework of the Local Government Act and also the Town Planning and Development Act. Up to 30 other Acts can come into play as well. Local government is able to recoup the costs of some of the services it provides through either sections of the Local Government Act or sections of the Town Planning and Development Act. I suppose this is not surprising given that the State has so many councils - I think 144 excluding the island councils - but what has happened is a wide variation in fees. There is also some inconsistency in the methods which different councils use to determine their fees. Overall there is no agreed framework within which councils work out what they will charge. I will give some examples: The Melville council charges $180 for a restrictive covenant letter, which can be an impost on a development. I will compare some aspects that are the same. In Armadale there is $100 fee for a right-of-way closure. Similarly in a number of other council areas, for example Canning, it is $100 but it is $350 in Bassendean. This is one example of fees varying. In Gosnells there is a $70 fee for minor additions or extensions to premises. In Cockburn there is a $45 per hour fee for staff time for researching a proposal which is outside their normal work.

It has been of concern to me that some developers and builders have said that they have pigeonholes with potentially 140 different forms to meet the requirements of all the local government areas. The minister and other ministers have put together working parties to look at these issues. I am pleased that quite a lot of work is being done in the area because it really is an issue that needs to be tackled. With a developer, inadvertently people may fill out the wrong form and submit it to a council, and it will not be processed because it is the wrong form. It is really no fault of their own if they have to deal with so many different forms for so many applications. I am also concerned about some of the complaints that have been given to me, which are almost unbelievable, that when developers go to a particular council they often cannot write one cheque for all the parts of their development approval, but must write several cheques for different departments in the council. I urge local government to tidy up its act with respect to that because in this day and age of electronic funds transfer at point of sale and other transaction, such cheque transactions are redundant.

Turning to work that has been done in this area, in 1994, in response to these complaints, the then Minister for Planning requested the Western Australia Municipal Association to submit a new proposal on fees. WAMA consulted all of its council members and its associations and came up with a report in 1995 that set out its justifications for fees and some suggestions on the framework. As a result of that, the Ministry for Planning commissioned a study in March 1997 which reviewed all of the charges at that moment and examined the systems in other States and came up with some principles and recommendations for a system of fees and charges. It examined whether the fees should be introduced through a statement of planning policy or regulations through the Town Planning and Development Act. Obviously, as we are hearing today, the ministry opted for regulations.

One thing that interested me is what has been called the seven guiding principles proposed for this system of local government fees and charges. It is important to put these on the record. They were initially put forward by WAMA but have been reaffirmed in a planning bulletin that was released earlier this year. The first principle is that the regulations should adequately cover a legitimate fee structure to the extent of the quality of the service provided. That is important because the service that will be provided will vary depending initially on what it is and then on the complexity of the application in a particular area.

The second principle is that the fee structure should be clear and simple. That goes without saying. For ease of administration, fees for processing development applications should also represent the average cost of providing the service. Again, that is fair because at times some services will be outside the average but they should be averaged. It is also argued that there should be reasonable equity between the benefits gained by the applicant who is the service user and the benefits gained by local government which is the service provider. Again, equity is extremely important. That will come up in some of the other issues which I will raise later. It was also argued as a principle that the regulations should set a maximum fee structure; the argument being that local government can either charge the maximum or something less. I hope that not all

local government authorities go to the maximum. The fear always is that when a new fee schedule is brought in, people will go immediately to the maximum. I hope there will be flexibility.

An important part in the principles states that regulations should enable justification for a higher fee than the specified maximum if exceptional circumstances exist. Some examples given to me include where there is a need for an environmental assessment, which can add quite a lot of expense; or alternatively where there is a need for a heritage assessment where, again, employing consultants can cost quite a lot of money. It is quite clear that there has been a long history of people working together trying to sort out how these planning fees and charges should be established and we now have a framework with which there seems to be general agreement.

Clause 10 gives the Governor the power to make regulations to raise the fees and charges. It also spells out the levels of fees and charges and how the recovery is to be undertaken, and provides that limits will be imposed on local government authorities. We have a maximum fee structure. A bulletin of the Ministry for Planning released earlier this year stated that the system would include fees for subdivision clearances, a change of use, home occupations, development applications and town planning scheme amendments. Like everyone else, we are curious to see what will be in the regulations and how they will be framed.

Having given my support to those provisions, I will now comment on some controversial aspects that we will be watching to see how the Government resolves them. Perhaps the minister can respond to them when closing the second reading stage. Under the Local Government Act, will local government authorities be able to raise charges for anything associated with development, given that the regulations will probably specify only a range of fees under the planning legislation?

Mr Kierath: Will you elaborate on that?

Dr EDWARDS: Under the Local Government Act will other fees still pop up, despite the fact that we are introducing a schedule of fees through the Town Planning and Development Act?

Mr Kierath: I am not the Minister for Local Government and I am not familiar with that Act. I understand that the head power to do with the various applications is in this legislation. There may well be provisions in the Local Government Act that something else can be done.

Dr EDWARDS: Does that mean that planning issues should be covered?

Mr Kierath: I am not an expert on the Local Government Act, so I do not know what is in there.

Dr EDWARDS: I will ask the Minister for Local Government. My next concern relates to home occupation. Various government documents now point out that home occupation - that is in the sense that people are working from home - is a very popular activity. Some of the government documents talk about the need for these types of services to be in the suburbs and for developers to take account of this fact and set up the ability to telecommute and have cottage industries based on new technologies. The bulletin of the Ministry for Planning indicated that there will be a charge for home occupations, but the feeling amongst people who are putting in these applications is that they should be excluded. Some of the government documents - for example "Liveable Neighbourhoods: Community Design Code: A Western Australian Government Sustainable Cities Initiative" - tend to indicate that we should move away from that. We will be looking at that area.

I am also keen to see how an evaluation process will be set in train. Presumably fees will be reviewed. I am interested to know who will do that, how the fees will be reviewed and how often the reviews will be done. It is also important to know whether there are any benchmarks. Many different councils are doing similar activities. It is useful to know whether any of these have been benchmarked so that we can test one against the other and ascertain whether there is any basis for a complaint that the fees of one are much higher than those of another. In that regard I wonder how complaints on fees will be managed. Undoubtedly there will be some complaints. Does the Minister have in mind any dispute resolution processes, or are processes in place already into which arguments about fees can fit?

We will also be watching with some interest to see what happens in the government arena with private certification. I know developer bodies are very keen on private certification and we will be interested to see whether that has any impact on fees and charges. Although perhaps not relevant to this area yet, we are interested in that as a general principle. I have said previously that the structure of council fees and charges varies greatly within this State. Other States, for example, Victoria and South Australia, have developed maximum fee structures, so they have set a maximum fee schedule. It is argued generally that these are pretty well accepted and there seems to be greater consistency in the fees charged between councils.

The system is also said to be more simple and transparent which would be the case if maximum fees have been set. I have been told - I would appreciate feedback from the minister about this - that in those two States the calculation of fees is relatively simple, although I am not sure it is ever simple; I think it is a complex activity. By contrast there is a lot of variation across the other States, including New South Wales, Western Australia, Tasmania and, to a lesser extent, Queensland. Obviously the argument there is the same as the argument here; that is, there is a lack of clarity in justifying fees. I have demonstrated that by showing the wide variation between fees in Western Australian councils.

In South Australia there is private certification for building approvals. It has been argued quite strongly that as a result there has been a decrease in the schedule fees by up to 30 per cent and that following the fall in the fees for building approvals, council planning fees have dropped also. I will be interested to follow up that area. If planning fees drop and councils are still doing their work efficiently and effectively, all of us as consumers benefit and industry benefits as well. In Victoria the fee structure is set by the planning and environment legislation. It is a slightly different system. I am pleased to report that I have been told that some councils in Victoria charge the maximum fee, but some charge much less. It is said that, in general, the fees for large projects in that State are less than they are here. We are pleased that this Bill provides a head of power for the Government, through the Governor, to make these regulations. We will support clause 10, which covers these issues, but will watch the regulations with great interest to see what is in them.

The Bill also deals with amendments to the Western Australian Planning Act to support the introduction of country regional schemes. As members will be aware, a number of country regional schemes are currently in the process of being prepared. Certain planning powers are associated with these schemes that the Planning Commission must have available. Essentially the Planning Commission must have powers that can be made available in the metropolitan area, but currently these powers are not available in country areas as these planning schemes are started. The issue on which I have received most comment concerns interim development control and, in particular, the regional orders. The minister has some amendments on the Notice Paper about the regional orders and I have some questions on those, but I will leave them until we get to the committee stage.

I turn now to the most contentious part of the Bill; that is, the proposed new right of appeal relating to the refusal by a local government authority to initiate a town planning scheme amendment. In the Bill it is proposed that where local government refuses to initiate such an amendment or where the developer is unhappy with the conditions applied to that amendment, there be a right of appeal to the Town Planning Appeal Tribunal. The appeal is not to the minister. The minister is involved in that process further down the track, but he is excluded here. As I said previously, in the second reading speech the minister stated that it is appropriate for proclamation of these provisions to be deferred.

The Opposition rejects that view. As I said previously, either it is done now, or it is not done. It should not be left.

Mr Kierath: If we did it now, would you support it?

Dr EDWARDS: No; we would not do so for a number of reasons. It is not good government to say, "This will be law and we hope to put it through Parliament. Get your act together or else we will bring it in in a year's time." That is not how to develop a good relationship with local government. One should not threaten local government with a sword hanging over its head by saying, "If you are good, we will not proclaim it."

Mr Kierath: It is not a threat. It is an accommodation for part of their concerns.

Dr EDWARDS: It sounds like lies, damned lies and statistics. It is a threat. It will be proclaimed if local government is naughty. The minister is the parent and local government is the child - that is the message.

Mr Kierath: It is interesting that you would defend people blackmailing others. I never thought your party would support that.

Dr EDWARDS: I will come to that point. I look forward to any quote the minister may make in that regard.

This proposal is inappropriate in the State Government's communications and relations with local government. Local government has its planing role, and it needs to work closely with the State Government. Considerable changes have been made in the planning arena in the past few years. Local government rightly feels that it has given up considerable powers. It negotiated, particularly with the former minister, and accepted certain changes which it did not really want. Powers were centralised, and this Bill will continue that process. Local government is feeling bruised from the actions of the former and current ministers. I give the example of the model scheme text. The first draft required local government to conform to the form and content of that text. Local government felt it had not been adequately consulted. As it is the level of government closest to the people, we need to ensure adequate consultation occurs before imposing change with which local government is uncomfortable. Local government accepts that the State has a role in planning, and that is why it agreed to some of the changes over the past few years. Equally, it has argued extremely strongly that it is the level closest to people and can respond to community wishes. This Government through these changes will take away local government's power to be responsive and to make planning decisions at the local level.

Having said that, I do not say that problems do not exist. I am sure the minister was referring to those problems. The problems are best spelt out in a submission from former Minister for Planning Hon Richard Lewis to the Commission on Government. In 1996, he wrote about the accountability of local government in the planning process. He made a number of statements, the first of which read -

> It is imperative that any decision made by a government agency, State or Local, in the land use planning system be open and able to be tested for reasonableness.

It is good that the former minister made that statement. However, as he exited the portfolio, he made many contentious decisions which did not fit with this statement. The ministerial planning approval appeals were not open and able to be tested for reasonableness. It was the pot calling the kettle black. I am fascinated that he used that argument when it appears that he did not operate in that manner. Only since the current Minister for Planning made changes - documents were made available through the Freedom of Information Act and the planning appeals process was reviewed - has the system become more open. The second issue raised by former minister Lewis was as follows -

> It will therefore be noted that the only stage in the whole land-use planning process where there is inadequate accountability and a possibility for the system to be corrupted is the initiation of an amendment to a local authority town planning scheme.

He then said that at that stage local government could refuse to initiate an amendment. He spoke about what he saw as the demands the authority might impose on a developer. He said that the demands could be legitimate or illegitimate. Problems may exist. Depending upon to whom one speaks, problems are perceived. However, I do not know whether this proposal will fix that problem. More needs to be done to properly address the issue. If people think corruption is involved in a decision, they should take that matter to the relevant authority. I was disappointed that people said that they suspected corruption but did not take it to the relevant authority as they feared that it would damage their relationship with that local government. Corruption is either involved or not involved. If people suspect corruption but do not raise their concerns, they become part of that corruption taking place.

Mr Kierath: It was when they had that absolute power. As many said to me, if you rock the boat, they can get you back later on. That is their worry.

Dr EDWARDS: Even if one assumes that is true, a new planning appeal right does not address an extremely serious structural problem in local government. It needs to be addressed by implementing the recommendations of the Royal Commission into Wanneroo, which considered planning matters. It concerns me that people have said that much is wrong with the system, but when they are challenged, they cannot produce cases to back up their claims. Alternatively, if they think there is corruption, they are not prepared to take it to the right authorities. A number of avenues are available to anyone who suspects corruption. If corruption is not found, people have little to lose. If there is corruption, it will be exposed, which will be a very good thing - this can change the system. People need to put action to their mouthing and follow up allegations of corruption.

Another argument raised with me is that people feel that councillors represent only a small proportion of the community and are open to sectional influence. The core problem is that sometimes people are elected with only a small percentage of the vote. Some local government elections have only a 10 or 15 per cent turnout; therefore, some merit can be found in the argument that councillors may represent only a small number of people in the community. The system of how councillors are selected must be considered with a view to have more people voting. Structural issues require consideration. If one is concerned about that matter in planning, one should be concerned about it in other areas as well. Some positive changes have been made. The turnout for postal votes in some areas is now up to 50 per cent, and such councils are much more representative than others.

I had difficulties defining the problem. The clearest available example of problems with the development industry - which the changes the minister proposes would have helped - involved the City of Stirling and an application by a developer to place a service station on a busy road. The developer went to the council planning offices and the relevant authorities, and the proposal seemed like a good idea. Unfortunately for that developer, it was rejected by council. A letter I received from the Urban Development Institute outlined that "later advice suggested there was a connection between key councillors and the owner of the existing service station". The argument was that presumably the owner of the existing service station in the vicinity was the person referred to in that letter. I have said to them that if they think that sort of improper connection was involved, it can be pursued through various channels; namely, with the council, its CEO, the Department of Local Government or the Ombudsman. If they think it is corruption, they can take the matter to the Anti-Corruption Commission.

The reason for my concern is that although I know anecdotally that there are problems, no-one has been able to give me a document that spells that out, and no-one has been able to give me an example that is in my local area, or one that he or she has been prepared to put on paper. It is a very sorry state of affairs when people believe that local government is so dreadful that they will be forever tarnished if they do come up with these examples. However, I doubt whether that is the explanation, given the robust nature of some of the people in the industry.

I was interested that the submission that was made by Richard Lewis to the Commission on Government listed 10 shires in which decisions had been made. The tenth item in that list contained a number of examples that had occurred in the City of Wanneroo. That does not surprise me, given some of the arguments that came out during the Royal Commission into the City of Wanneroo. The other metropolitan example that he gave was Rockingham. However, that occurred in 1982. The remaining examples occurred in country areas.

I have found it difficult to obtain evidence about the problem. I have also found it difficult to define the problem. I have

received conflicting stories about the number of town planning scheme amendments that have been refused. I have been told by some people that it is not a common occurrence, and I have been told by other people that it is a common occurrence. I do not know where the truth lies, because I have not been able to obtain figures about the number of amendments that have been refused. Although I have engaged in wide-ranging consultation over a number of months, I have not been able to get a long list of examples of refusals to initiate town planning schemes.

The area where the heat has come on is probably the conditions that are being placed on developments in the country. This is borne out by the comments that were made by Richard Lewis in his submission to COG, which related more to the country than to the metropolitan area. If that is where the problem lies, the minister should do something about it. However, I do not believe this Bill is the appropriate mechanism.

Local government has recognised that there is a problem, and about a year ago it established a planning peer review panel. That panel comprises four practitioners from various fields, who are drawn from a list of state government representatives; members of local government who are either elected or retired and have some expertise in planning; local government planning officers; and private planning consultants. When a particular issue is raised with a council, it can pull together a representative from each of those categories to provide advice. That is a valuable process, because it provides councils with a measure of peer review; and given that the complaints are against councils, it is obviously necessary to have peer review. I agree with the minister that the planning peer review panel should be allowed to operate for a period of time. However, this panel has not sold itself appropriately to the community, developers and people who can make good use of this process. The panel should be sold better to developers and the community in general, and it should be allowed to run effectively and efficiently, and then evaluated and the lessons that have been learnt passed on to the councils.

Queensland and New South Wales do not have the right of appeal that the minister is seeking to establish in this Bill. The Government of the Northern Territory does what we regard as local government planning, but the Northern Territory has no right of appeal when the Government refuses to initiate town planning schemes. South Australia and Victoria have slightly different systems, but they do not parallel what we are talking about today. The system that the Government is seeking to introduce is an inappropriate way for government to manage its relationship with local government in this sensitive planning arena.

Mr Kierath: I have been advised, and I will get some further information, that New South Wales, Victoria and South Australia have similar, or more stringent, provisions, which may involve a call in power, or whatever, where the minister can call in the matter and deal with it. This Bill does not do that. It puts it off for someone else.

Dr EDWARDS: That is the advice that I received from the eastern States.

I will now give a practical example of why we do not support this part of the Bill. I refer to the proposal by the owners of Wunda Y, a farm in Chitty Road, Toodyay, to construct a class 4 waste facility on their farm. That farm, like many farms in the Shire of Toodyay, has large, empty quarries. The categories of waste range from class 1, which is innocuous waste, to class 5, which is intractable waste. Class 4 waste is low level hazardous waste that needs to be stored safely away from where people live. The residents of Toodyay are not impressed with that proposal and do not want that waste in their shire. The proposal to fill in that large quarry with class 4 contaminated waste was put out for public comment in August of this year, and the Minister for the Environment determined that a consultative environmental review should be undertaken.

It is Liberal Party policy to establish a class 4 landfill within 100 kilometres of Perth, so clearly the Liberal Party supports this proposal. I am not certain whether it is National Party policy; and given the activities of the member for Avon, it is probably not. On 26 September, the Minister for the Environment announced, at the commencement of a conference on waste management and recycling, that the Environmental Protection Authority had suspended its assessment of this proposal. It is very unusual for the EPA to suspend its assessment, and it usually occurs only when the proponent has given it a good reason that the proposal should be deferred. In some ways it is a great pity that this assessment has been suspended, because some serious environmental issues need to be clarified; and now that the assessment has been suspended, they will not be clarified.

I was amused to read why the EPA had decided to suspend its assessment. The Chairman of the EPA, Bernard Bowen, was quoted as saying that it was clear that the Toodyay council would not rezone the land to allow the project to go ahead. Therefore, he had asked the DEP not to proceed with the environmental impact assessment, because the project simply did not have legs at the moment. However, if what the minister is proposing were in operation, and if the Shire of Toodyay refused Wunda Y's proposal, Wunda Y could appeal to the planning appeals tribunal, which would almost certainly let the proposal go ahead on planning grounds.

This is a strong issue in the Toodyay area, and I have received numerous phone calls, faxes and letters about it. I was in Toodyay during the recess week, which was in the middle of the federal election campaign, and people were saying that this issue would influence their vote. Therefore, I find it amusing, and somewhat hypocritical, that a week before the federal election, the Government used the fact that the Opposition and the minor parties would oppose this part of the Bill to justify why the EPA had suspended its assessment. The Government got some mileage out of that in Toodyay, and I will be

interested to see what the member for Avon says about this Bill, given the strong comments that he has made in his local community.

The Opposition supports many parts of this Bill. We want the planning fees and charges issue to be sorted out quickly. We have some questions about the regional interim development orders, which we will take up with the minister in the committee stage. However, we vehemently oppose the clauses that deal with the new right of appeal against local government.

MR KOBELKE (Nollamara) [12.10 pm]: I wish to add to the contribution made by the member for Maylands, the opposition spokesperson on planning, and direct my remarks largely to the new appeals process which will allow the minister to have decisions of local government on planning matters overridden. I will then briefly comment on other matters. I first make some general comments about the planning process and how local government plays an important part in the planning procedures in Western Australia. Without some understanding of that, one cannot make a reasonable judgment as to whether one of the appeals processes put forward in this Bill is necessary or appropriate.

The whole matter of land use planning is crucial to the proper functioning of a modern economy in a State such as Western Australia. It is also fundamental to the quality of lives in suburbs and towns across Western Australia. Without proper land use planning, quality environments cannot be provided and the built and natural environments will be below that which is hoped for by the citizens of Western Australia to enable them to live their lives to the full. The planning issues are very broad and they cut across a range of professional areas and human activities. They must take into account that very complex mixture of interests and needs. One of the key elements is the ability to resolve conflict about land use, so that people who own or have a financial interest in land can see that their interests are protected and that they can use, enjoy or develop their land to derive benefit from it. Without a system of rules that are seen to be fair and workable, those conflicts can get out of control and give rise to a range of other issues. A primary purpose of planning law is to establish a workable system for resolving conflicts about land use. In addition, it is clearly necessary to ensure that the processes establish the highest possible quality built and natural environments. In doing that, a range of technical, engineering and cost considerations impinge very directly on the planning process. This amendment relating to an appeal process takes up the considerations of costs and profit that go with the utilisation and development of land.

The system that works in Western Australia and the legislation sought to be amended, delegates a range of powers to local government authorities with respect to planning. That has not been openly questioned; however, this move by the Government strikes at the very roots of a democratic local government being able to play an important role in planning decision making. Democratic local government authorities play a most important role in decision making relating to planning. That is right and proper because many decisions need to be made at the local level. It would be ridiculous for the central government to dictate minor variations on roads that might have a planning aspect and the development of parks and other parts of the suburban infrastructure which clearly relate to planning matters. It is appropriate that a range of planning powers be delegated to local government authorities. It also means that when people wish to make inquiries or submit applications, they have access to that at the local government authority offices in their areas. It would require the State Government to put in place a far more extensive network of offices if it were to take over a much greater range of planning provisions which currently rest with local government.

There is the question of the costs of not only establishing the administration for planning, but also the construction of the various utilities and parts of the infrastructure and its maintenance. If local government is involved in the planning, it is in a position to ensure the planning is efficient and will not impose large cost burdens on the local government authority in years to come when it must maintain that infrastructure. Because local government is responsible for maintaining much of the local infrastructure, it is important that it make the right planning decisions. It is another clear reason that local government should be involved in planning in the way that it currently is. The minister's tone suggests that somehow or other there is corruption or impropriety in the local government area with regard to planning issues, although he did not use those words. This Bill does not seek to address that issue, and I am not suggesting that it should. However, it should not be suggested that planning matters are being handled badly at the local government level and that therefore, another level of intervention is needed to fix that. That is not an issue in this Bill, and I want to put that aside immediately.

The amendment to allow this appeal will interfere in local government decision making which seeks a balance between various interests that will be affected by a particular planning decision. The local government council is in a prominent position to consider the views of the local ratepayers. If our community believes in democratic local government, it must take cognisance of the clearly expressed views of local ratepayers. I am not skirting over the fact that it can cause problems. In a suburb or small development, a certain group of people, particularly a very vociferous group, might be opposed to a particular planning initiative. There might be a view at the state government level, or even within the local authority level, that the broader interests of the whole community would be served by one decision but the action group may want the opposite or a different decision made. Those matters must be resolved, but we should ensure that the resolution of that decision is made at the local level. An appeals process is already in place. The proposed appeals process threatens to undermine the autonomy of decision making at the local level. Local government must pick up the cost responsibility for many of the things that flow from planning decisions and, if a decision is made centrally to allow a major subdivision to go ahead, the council may need to borrow millions of dollars to provide the road infrastructure, parks, paths and so on that are

required. If the council cannot afford that and cannot obtain a contribution from the developer, the subdivision or development is likely to be of an inferior standard. This Parliament must weigh up the interests of the landowner and potential developer, who seek to profit from the development of the land, with the long-term interests of the council and the thousands of ratepayers it represents. The resolution of those conflicts is not always easy. However, this amendment will enable the minister to dictate that councils will do what the developer wants. This appeal will shift the balance in favour of the developer, and local government authorities have been rightly worried about that.

The Government will now have the power to put in place regional schemes which are outside of metropolitan Perth. That is an excellent move. The minister stated that action was being taken to progress that, and his second reading speech states -

> A coalition commitment for the current term of office is to pursue, through the WA Planning Commission, a program of preparing statutory region schemes for major regional centres.

The Opposition will seek to obtain information from the minister on how that is progressing and, in particular, how it will be funded. The minister and the central government planning authorities have considerable power already to put schemes in place in metropolitan Perth. For example, the metropolitan region scheme dictates to local authorities what can or cannot be in their local town planning schemes. By law town planning schemes must conform to the regional scheme, so councils already have to fall into line on that account.

In addition to that the current legislation requires that local government authorities must review their town planning schemes every five years. That provision has been in the Act for many years, although there have not been effective enforcement mechanisms, and we found that, in extreme cases, town planning schemes sat for 15 or 20 years before they were reviewed. That is no longer the case. Amendments passed in 1985 provide the minister with a range of mechanisms to ensure that town planning schemes are reviewed every five years. Why should the minister also require the power to dictate to a council that it must undertake an amendment to the town planning scheme, when one may have been completed only two or three years previously?

The requirement for a review of a town planning scheme every five years is enforceable by the minister. Therefore, the maximum period for which a landowner or developer would wait before a proposal was considered as part of an amendment to a town planning scheme would be five years. That is a considerable period to sit on an investment. However, if the rules are clearly laid down, and if one purchases land or has an interest in land, one can check with the local council when the next review of the town planning scheme must be undertaken. One would then be in a position to move for the amendment to be incorporated into that review of the town planning scheme.

During the review process the minister of the day can dictate what will be in that town planning scheme. Although the process is initiated by the council and the council has the carriage of the matter in undertaking the consultation and the technical and development work that needs to be done, the town planning scheme does not come into effect until it is signed off by the minister. The minister has considerable powers in the process of amendments made to town planning schemes.

The costs of that process are met by the council. Only some of the cost can be passed through the various fees to those who are involved. However, the council picks up the considerable costs involved with major reviews of town planning schemes. The minister holds the whip hand when deciding what the outcomes might be.

The minister's proposal for an extra appeal mechanism so that people can proceed with a request for an amendment to the town planning scheme is a threat to local government authorities to either fall in line and move quickly in areas in which the minister sees a need to support a developer, or, alternatively, have the minister take action against them. The minister makes that threat clear in his second reading speech when he states that he will not necessarily enact this appeals provision if the local government authority behaves and acts in a way which meets the expectations of the minister. That sort of threat does great damage to the relationship between the State Government and local government authorities. The Government should work cooperatively with local government authorities to improve situations in which the minister has concerns. Local government should not simply be told like schoolchildren that they will do what the minister says or he will hold over them the threat of enacting this amendment. The minister made a major mistake when he included the provision for an appeal process in the Bill, and then indicated that he would hold that over the heads of local government.

This is not new for conservative Governments. In about 1981 a former conservative minister, June Craig, introduced planning legislation which gave her the power to direct in planning matters. That power to direct was never enacted, and it was not until 1995 that it was finally removed from the statute books of this State. That legislation was put in place by a conservative Government but for 14 years was not proclaimed, and its potential enactment was simply used as a way of threatening local government authorities whose behaviour did not meet the requirements of the Government of the day.

It is inappropriate that we should be considering legislation in this House which will simply be used as a threat, so that the minister can cajole or force local government authorities into acceding to the requests of a developer whose particular proposal does not conform with the existing town planning scheme and for which he needs an amendment. The minister in his second reading speech said -

> This right of appeal in practice will control unreasonable demands upon landowners in the land development process and, as a consequence, will facilitate the provision of land required to accommodate the growth of the State.

That is unreasonable. Local government authorities regularly try to balance conflicts of interest, and generally do so in a good way. The concern of ratepayers about bad planning decisions over the past five or six years has been directed at conservative Ministers for Planning, who have a bad record of not making good decisions on matters referred to them on appeal. Although there are grumbles in some areas about local government authorities, the dissent and concern regarding bad planning decisions at the local government level pales into insignificance against the appalling planning decisions made by this minister and his predecessor. It is a bit like the pot calling the kettle black to suggest that local government needs to lift its game in respect of planning decisions. It is the conservative ministers in this Government who have a very poor record in respect of appeal decisions on planning matters. To suggest that the requests made by local government have been unreasonable is simply to accept one side of the argument.

Local government authorities realise that if they proceed with an amendment to a town planning scheme that will allow a subdivision or a range of subdivisions to go ahead, they could incur huge costs for their ratepayers. It could result in authorities in high growth areas on the urban fringe having to raise money through a debt process involving millions or tens of millions of dollars. That must be weighed up against the fact that local government authorities generally want development because it increases their rate bases. They see growth as an advantage to the area and to the council. When they establish obstacles or impose requirements on the development approval process they are trying to look after the interests of the ratepayers. That does not mean there have not been instances when they have got it wrong and perhaps have been greedy in what they have tried to extract from a developer. However, if we turn the table 180 degrees, developers will be able to make money and the ratepayers will have to pick up the bill for the next 10, 20 or 30 years. This House should not countenance or support that.

Land developers are a varied group and this is a complex issue. It is critical in making a judgment about the quality of an urban development to consider its size and time frame. If a major developer is committed to an area for three, five or 10 years, it is in its interests to produce a quality development. That developer will have established houses and be interested in selling more blocks. Many of our major developers should be given full credit for the wonderful quality of developments we have in so many areas of Western Australia. Many, if not most of them, are developers of longstanding who are involved in major projects or projects that will be developed over a considerable period. They know that their reputation and the return on their investment is very much connected with producing a quality development. That involves a complex range of issues that they know how to handle very well. Other developers are in it simply for the quick buck. They will be happy to walk away from their project after a few months or a year, pocketing the maximum return they can and leaving the local government authority and ratepayers to deal with the problems that will arise as a result of the poor quality of the development. If this amendment is passed it will provide a greater opportunity for that small number of unscrupulous developers who want to develop land and make money without regard for others to ride roughshod over the requests and clear interests of local government authorities. That is why we should not countenance this type of appeal.

As I have indicated, the minister has suggested that the Government will be proceeding with regional schemes. There is no mention in the legislation of how those regional schemes will be funded. I hope the minister will comment on that. I thought it might be included in the Bill.

Mr Kierath: No, it is not.

Mr KOBELKE: So, it is not my oversight; there is nothing in the Bill.

Mr Kierath: No.

Mr KOBELKE: We have a major problem because this Bill provides the necessary tools -

Mr Kierath interjected.

Mr KOBELKE: How much?

Mr Kierath: The current budget includes $3m for acquisitions. I will get the exact amount, but further down the path it is $5m or $6m.

Mr KOBELKE: Will that money go into a special fund, or will it be provided on an as needs basis for specific projects?

Mr Kierath: It will come from the consolidated fund.

Mr KOBELKE: I understand that. However, will it go to the department to be used for designated projects rather than to a holding fund such as the metropolitan improvement fund?

Mr Kierath: It will go to the Planning Commission and be used on a similar basis, but it is not sourced from the same area.

Mr KOBELKE: I understand the sourcing. Is it going into a longstanding fund for these purposes or will it be allocated as designated for particular regional schemes?

Mr Kierath: It will be a consolidated fund allocation.

Mr KOBELKE: The minister appears to be avoiding my question, but I will leave it.

The legislation does not contain any taxing mechanism to give a sound financial basis for regional schemes. It is a concern that we do not see from where the money will come. The amount involved could be very large. The regional planning scheme might not be taken on properly or it might be thwarted in its intent if funds are not available to pay for land required for major roads, parks, reservations and so on. The previous minister acknowledged that this was a major problem and said that he was working on it. The current minister appears still to be working on it and filling the gap for the moment with funds from the consolidated fund.

Mr Kierath: I have obtained the Treasurer's approval to provide it through the consolidated fund. We looked at a range of options and I must admit that this is not my preferred option.

Mr KOBELKE: I am not criticising the minister for finding funds to meet some of the immediate needs of regional schemes, but that is a stopgap measure. As regional schemes are put in place and the number increases, the costs involved will be very large. If the minister keeps going back to the consolidated fund for the money, he has a problem. However, that is not a matter for debate today.

I raise this issue because we have within the Bill a provision to control the fees that councils can charge. I do not have a problem with that because, as the member for Maylands outlined, there has been a huge variation between the charges imposed by councils. That is not appropriate; there should be some uniformity in the fees levied for various planning processes. This Bill gives the Government the power to control that and to set standards centrally. While the minister said it imposes a maximum, the Bill does not specifically state that. His intent is clear as clause 10(4) states -

> A local government shall not impose a fee or charge for a service in relation to a planning matter that is inconsistent with a fee or charge prescribed under this section.

That leaves the power with the Government and the minister to prescribe maximum fees. It is a complex structure, and I do not have a problem with leaving it open. However, we are assuming that it will be used to establish maximum fees. Whether local government authorities will find them acceptable, is another matter. I hope it will be done on a cooperative basis with the Western Australian Municipal Association rather than the Government's dictating to local government authorities. In a range of ways over the past five years, this Government has shifted responsibilities to local government authorities without discussing the issues first. The State Government refused to work cooperatively with the Commonwealth Government on coastal management and said that local government authorities could pick it up. The State Government was involved only in minor grants. Local government authorities were also expected to pick up the cost of environmental assessments. A range of decisions has been made to load the cost of processes on local government authorities without working cooperatively to establish the best way of proceeding and getting them to accept that it is in their interests to pick up these responsibilities and come to some accommodation. When the fees are prescribed for local government planning there must be thorough consultation to ensure that whatever limits are imposed - there is a need for limits - they will be workable. Local government authorities must be able to recoup the costs involved in the various planning processes that they are required to administer on delegation from the State Government.

MS MacTIERNAN (Armadale) [12.39 pm]: I will make only a couple of comments only because the matter has been extensively canvassed by the members for Maylands and Nollamara. I am so appalled by one aspect of this proposed legislation that I feel it necessary to rise and comment on it; that is, the question of the proposal to introduce a right of appeal against a council's decision not to commence the consideration of a rezoning procedure. As the member for Nollamara did, I will read the justification given by the Minister for Planning in his second reading speech. He said -

> This right of appeal in practice will control unreasonable demands upon landowners in the land development process and, as a consequence, will facilitate the provision of land required to accommodate the growth of the State.

This fails to recognise what a town planning scheme is, how it is approved and how it is reviewed. This legislation proposes to give the right of appeal against a decision by a council that it wants to adhere to the provisions in its town planning scheme. It is not suggested that the council is making a decision arbitrarily or exercising its discretion in some way but that it wants to adhere to the land use patterns set down in its town planning scheme. That is what the minister is describing as an unreasonable demand.

Let us look at the process of how town planning schemes are developed. They are developed after very lengthy consultation processes with local communities. The processes that must be gone through before a land use regime can be implemented are set down in the statute. This is the regime that all local authorities have followed. Once the land use is determined, a draft plan is drawn up that goes out for public comment again. It comes back, those comments are considered and a final scheme is drawn up and signed off by the council. That is not the end of the story. The scheme is packaged up and it goes off to the Minister for Planning for approval. It does not even become a town planning scheme until it has been approved by the minister and gazetted. Therefore, this is the document and this is the regime that we are saying is an unreasonable

demand being imposed upon landowners. It is a document that has been drawn up after extensive consultation with the community, approved of by the elected representatives of that community, signed off by the Minister for Planning and gazetted.

Not only does that occur but the legislation also provides that after five years the town planning schemes must be reviewed. Every five years the whole process is gone over again so that we do not get town planning schemes which are fossilised and which do not take into account the changing social, economic and geographic circumstances of a community. Every five years the landowners who want a rezoning can go to the councils. Within that process, they can make submissions on the new zoning requirements that they want for their particular area and, if they are not satisfied with the result from the local authority, at that point they can go to the minister and ask him not to approve the proposed town planning scheme. Therefore, there is ample opportunity for input into these land use planning decisions.

However, if the right of councils to determine that they want to give credibility and consistency to their decisions by allowing those decisions to adhere to the town plan is taken away by allowing the minister to override that decision, we will remove any status from the town planning scheme. We will be saying that the lengthy process that they have gone through of consultation, gaining approval of the Western Australian Planning Commission and the minister and having it gazetted means nothing; no longer will this land use regime have any standing. It will be subject to the whim of others to overturn as if it were a decision being made on an application for a permitted use within an existing town planning scheme.

I will elaborate on that point. There are land use zones within an existing town planning scheme. Within those zones there will be a range of uses, some of which are permitted by right and some with certain approvals; sometimes a special approval is needed which requires an absolute majority of council. If the council makes a decision to reject an application for a particular land use that is permitted within that town planning scheme, a proponent has the right of appeal to the minister or to the Town Planning Appeal Tribunal. That is proper and we do not object to that. However, by granting a right of appeal on the basis of the zonings - not the uses that are permitted within the zonings - we will be removing any status in reality that these zonings have. We will be reducing the status of those zonings to mere possible or permissible uses within an existing zone.

It is a somewhat technical but important point, Madam Acting Speaker. Do not quite nod off on it! It goes to the hierarchy of certainty that we are entrenching within our town planning scheme. The town planning scheme is an instrument that must be determined after a great deal of public consultation, approved by the local authority and the Planning Commission and then approved by the minister. To then characterise the land use regimes that are set out, as this minister does, under such an instrument as unreasonable demands is extraordinary. I ask the question: If the land use zoning being imposed is unreasonable, why on earth did the minister ever approve it? How did it ever get through the Planning Commission? How did it ever get through ministerial approval to become a gazetted town planning scheme? It is important to remember that we are not talking about schemes that are set in stone. The legislation is very clear; every five years a total review is necessary. At that point, landowners who believe that they have a legitimate case to have their zoning reviewed have an opportunity for input into that process. If they do not like the view of the council, they can go directly to the minister and ask him not to gazette the council's proposed plan.

Another point is often made quite misleadingly by the minister. It does not appear in his second reading speech but when he talks about this to various fora he claims that all this legislation will do is compel councils to commence the process. It does not compel them to make a decision to agree to a rezoning, but it will compel them to commence the process. That process involves extensive advertising and so on. As the member for Nollamara pointed out, that has cost implications. However, more importantly, it means that the council loses control of the process because as soon as it is set in train, the advertising sought and a decision made by council as a result of the advertising and submissions it receives, that decision is subject to appeal. Under the current law, as soon as the local authority commences the proceeding, it will grind on regardless of the council's wishes and is subject to appeal.

Basically, a council's zoning regime can be challenged on appeal. It is wrong and misleading for the minister to attempt to characterise that as only requiring councils to advertise and to begin the process, because once the process begins it is out of a council's control and an appeal on the merits of a case is possible. It is extraordinary that we are seeking to take from local authorities power to make decisions on matters to which they want to adhere - that is, their town planning schemes. We are contemplating saying to a council, "No, we will not let you decide to adhere to your town planning scheme; we will review it notwithstanding that we have signed off on your town planning scheme." That will remove all certainty from town planning and reduce the status of zones within town planning schemes to mere discretionary applications of permitted land uses within a zone.

Of course, that is contrary to the devolution of power that the Government has claimed on many occasions it has achieved in relation to local government. An extensive rewrite of the Local Government Act purportedly recognised that local government needed greater autonomy over its affairs, yet there is now a preparedness to move from even a basic right of local government; that is, the right to decide that it wants to stick with the town planning scheme on which the minister and the State Government have signed off. That is unjustifiable and of course it has rightly angered local authorities. Again,

it shows the power of developers and the real estate industry under the present Government. It is a Government not for the many but for the few. If someone has the dollars, money talks. The Government is prepared to turn important planning and local government principles completely on their heads.

MR TRENORDEN (Avon) [12.52 pm]: It is important to address some matters relating to the Planning Legislation Amendment Bill. Some members might be aware that in the Shire of Toodyay, which is in my electorate, there is an issue over a class four toxic dump site. I will relate a cameo of the history of the matter to put my comments in context.

A company wished to use an existing clay pit for a class four toxic dump site, so it applied to the Shire of Toodyay for a rezoning of the land to allow that use to occur. Toodyay council refused to allow the rezoning. That decision killed the likelihood that the dump site would go ahead, much to my pleasure and that of many other people in the Avon region. The Bill puts a different aspect on the planning process. Currently, the Shire of Toodyay is not prepared to change its decision on the rezoning, so development of the site cannot go ahead because of the zoning provisions, which gives comfort to Toodyay ratepayers and other people living in the Avon Valley.

The legislation allows for a change in circumstances. I was concerned about the provisions - to an extent, I am still concerned - so I asked for a briefing with the minister. The second reading speech does not spell out the procedure that will need to be gone through after the passage of the Bill. The procedure would be that, having reached the first step at which the Shire of Toodyay has refused the amendment, the proponent could then appeal to the tribunal. The tribunal would put the appeal out to public notice, and then there would be a period in which the public could put its case to the tribunal. The tribunal would consider the case, but it would not have power to overturn the council's decision. It would make a recommendation to the Shire of Toodyay. If the recommendation were negative, that would be the end of the matter, but if it were affirmative - that is, that the tribunal believed that development should proceed - and the shire again refused, the matter would then go to the Western Australian Planning Commission. The whole process would be repeated. If the commission agreed with the proponent, it would recommend that a decision be made by the minister. The minister would go through the whole process again, except perhaps the advertising, and then make a decision. That is an elongated process. One would not be able to go through the process in less than 12 months and probably not even in less than 24 months. It would be an extremely long, drawn-out process.

If a Government wished to allow a toxic site as recommended by the proponent in this case, it would be capable of bringing a Bill to the House and pursuing the matter through the traditional methods with which we are all familiar. It is extremely unlikely that it would go through the process enunciated in the Bill. It would almost certainly bring forward legislation which allowed development of such a site. We have seen such a process in this place from time to time.

My concerns were somewhat allayed after my briefing with the minister. It is important to note that the process will be drawn-out and bitterly disputed. The public will have at least three opportunities to become heavily involved in the mechanisms and will be able to put extreme pressure on the Government of the day on three occasions. That is why any Government, if it wished to develop the site, would bring forward only one Bill and therefore go through the pain once. The Bill does not reduce current controls. Any Government of the day could do what it liked in bringing a Bill to the House.

There will still be pressure on my electorate. Unfortunately for us, there are numerous holes in the ground from which brick companies from the metropolitan area have extracted clay for many years. A few granite quarries in the Toodyay area are also targeted as environmental holes in the ground. These should become issues of the past. As little as possible should be put into the ground. One of those sites has already been used as a state tyre dump. I understand it takes in excess of one million tyres a year, although I have not checked that figure for some time. However, that dumping site was the subject of a bitter fight.

This is the third occasion since I have been the member for Avon on which I have had to fight from somewhat of a rearguard position on a serious environmental matter. I greatly appreciate the openness of the Minister for Planning and the Minister for the Environment on this issue. I am sure they understand the emotions involved when people have these intrusive decisions made which affect their places of residence. The Avon Valley has been identified by both sides of the House as a growth area.

Mr Graham: I have grown considerably from visiting it.

Mr TRENORDEN: The member for Pilbara is very welcome. He is one person who enjoys coming to the Avon Valley, and it is good to see him visiting. Some other members in this place tell me they are the real member for Avon. The member for South Perth has a property in Toodyay, and Hon Norman Moore from the other place also has a property in Toodyay. They both tell me that I am subservient to them because they are the real member for Avon. However, I welcome them into my electorate. Both of them have chosen properties in a very beautiful part of the State, and I wish them well in their experience of that part of the world. However, putting people and the planning process, including the agricultural process, into conflict when dealing with toxic sites is a conflict that can be solved only by the planning process.

In my electorate office next Monday I am meeting with the councils involved. We will be putting together a living plan for

the area by listing what we believe are the planning issues involved in Avon Valley. As the minister is aware, the Avon ARC group is also putting together a planning process proposal for the Avon Valley. We will present those to the Department of Environmental Protection and ask it to be sharper in its planning process and less reactionary in looking for solutions to serious environmental issues in the metropolitan area.

The issue of environmental actions in the Avon area is important. The shire is immediately outside the metropolitan area. However, because there are pressures in the metropolitan area to solve some of its environmental problems, the tendency is to use the Avon Valley as a dumping ground. We object vehemently to that. Any decision to dump in that area should be made on a logical, planned platform - as I informed the minister, we will undertake that process in the Avon Valley - and not on a reactionary basis that solves the problem in the metropolitan area but which delivers one to the Avon area and which is inappropriate to the plans we have for the region. I will not take any more time of the House. I appreciate the briefing that was given to me by the staff of the minister's office, and I thank him for that.

MR GRAHAM (Pilbara) [1.04 pm]: Parts of this legislation shift the decision-making processes of local government from the local community representatives to faceless bureaucrats and appointed officials; parts of this legislation shift the decision-making and the power for decision making from elected people to appointed people; and parts of this legislation shift the decision-making processes from country regions of Western Australia to the city. Parts of this legislation totally undermine local governments' negotiating position with developers. However, having said all that, some parts of this legislation are worthy of support and will be supported by the Opposition. The parts that I object to the most are the parts that shift the appeal processes, as they have been described, away from local councils to a city-based appeal mechanism.

As a member of Parliament who represents some of the most remote areas in the State, I object to that on principle. I know that you, Mr Acting Speaker (Mr Baker), as an active local councillor from the Port Hedland Town Council, will vote against this, on your past history, and that you will be supporting your past constituents in the Pilbara. I look forward to that display of support and solidarity from you. However, I raised a serious concern with the minister in the briefing that we had in May. That concern arises from developers claiming, and from his comments, the current minister supporting, that local councils blackmail developers and extort payments from them. I have yet to see the evidence to support that case. As the member for Maylands said in her speech, if evidence of those things exists, it should be dealt with.

That is significantly different from a local council negotiating with a developer on the arrangements under which a change will take place. That is not extortion and it is not blackmail. It is simple negotiation, with one side having the planning power and the other side having the development dollars. It is not an unusual situation. It is in fact a healthy situation, and it is healthy in that the local council is elected by the local people to operate in the interests of those local people, not to operate in the interests of the State. None of us would accept a local government authority's acting in some treacherous way against the major interests of the State. However, if a developer wants to develop things, it will negotiate with the Federal Government when that is required, it will negotiate with the State Government when that is required, and it will negotiate with the local government when that is required. While we have a three-tiered system of government, that is as it should be. That is not unusual or unique to Western Australia or Australia; it is the international experience.

Coming from a resource-based electorate, one thing that has always amused me during all the years of my involvement is the way in which the multinational companies point out something extraordinary about having to go through those processes in Western Australia when they go to Third World countries and do exactly the same thing. To use the classic example, to get the hot briquette iron plant off the ground in Port Hedland, although it had to talk to many people, the mining company or the developing company had to deal with one level of government - the State Government. I have been in Chicago and seen steel mill developments there. The people who owned the steel mill pointed out to me that to get the steel mill in Illinois off the ground, they had to negotiate with 57 different agencies, because in the United States many different agencies have taxing powers, not just the Federal Government or the state and local governments. The local school board, the local water board and the local clean air society may also have taxing powers. Therefore, the developers were required to negotiate with a vastly different and vastly increased number of authorities than they would ever be required to do in Australia. That is not to say that those negotiations are always easy; they are not. Sometimes local councils that act in the local interest will not agree, and that is their right. I see nothing wrong with the process which involves goodwill by the council and the developers. The developers have put forward their proposal, the council has properly assessed it, considered it and rejected it because the council does not want that type of development in its community. That is the local authority's right. The minister will argue that it is in the State's interest for that development to proceed. He may be right. However, it is in the State's interests, not in the local authority's interests. The State has an obligation to find a site that matches the developer's interests and the State's interests.

The previous Labor Party Government went through the industrial development processes, identified a series of industrial estate sites, put those in place and supported them. The incoming Government has continued with those processes and industry is developing in those industrial sites. That is a good, sensible planning process which was worked out between the Government and the local authorities in each instance, and from which the developers benefited. It is more difficult to do that with residential planning, but not impossible.

I and the local authorities in non-metropolitan Perth that have contacted me are concerned that this legislation will involve the shifting of the decision-making process from the bush to the city. That is why I am fundamentally opposed to those parts of the legislation. There is a difference between metropolitan and non-metropolitan lifestyles, people and processes. They are different because of different demands and desires.

This Government has lifted Canberra-bashing to an art form. Could you imagine, Mr Acting Speaker, what would happen if the Federal Government introduced a system whereby the power was taken from state government ministers to make final decisions and their decisions were made subject to an appeal by bureaucrats in Canberra? There would be absolute outrage. I can imagine the Premier commissioning reports and studies, doing media interviews and stamping his feet at Premiers Conferences and walking out saying that this is clearly unacceptable - and it would be. That is the picture that country Western Australians see with this legislation; they see a transference of power from the people in the bush to the faceless bureaucrats in the city, put in place by a centralist Government. That is indisputable. The cuts in government services and funding to the regional areas of this State are quite extraordinary and are substantiated by the budget papers. They are not pie in the sky stuff. This is part of the process of shifting power into the city. It is ironic that if the term "WA Inc" had not been invented and used previously, this type of legislation would trigger its invention and use.

The aim of this legislation is to benefit the developers. That is not always a bad thing. I am not arguing an anti-development view, but it does facilitate development for the developers. It removes what may be a legitimate obstacle. A system should not be in place which allows a developer to develop simply because he or she wants to develop; that is not the way our system works. We live in a community in which other people are and should be able to have an input. I will give a factual example from a council in a semirural area, but close to Perth. Part of the shire council is zoned semirural; located on it are hobby farms, small wineries, wild flower growers - protea farms and boutique flower farms. The area has some desirable features; it has plenty of flat land which makes it suitable for industrial development, good supplies of water and electricity and it is on major transport routes. It is very attractive for an industrial developer. That land is not suitable for industrial development because of the types of people who live there and the type of lifestyle that they have adopted. It may be that someone wants to expand or develop a steel mill in the region. That is clearly in the State's interest. However, it is clearly and demonstrably not in the interests of that area. Why then should an elected council that rejects such an application have its decision reviewed by someone who is not accountable to those people in any way? That development should not be allowed to occur. While the developer or the proponent will be very upset that it cannot use what is an ideal site, it is not a suitable site given that the people there are doing things that are at odds with the development wanted by the developer. It is not an environmental argument in the purest sense; it is not an economic argument in the purest sense; and it is not an industrial development argument in the purest sense. However, it has elements of all those aspects. It is a planning decision and we have a responsibly elected local government acting in the interests of people who elected it. Elected people should do that. I do not think their decisions should be open to being over-ruled by someone with no interest. It is a difficult and significant point to convey to developers that other people's views must be considered, and sometimes those views receive greater weight.

I was extensively lobbied by the local councils in my electorate about those parts of the legislation that do these things. I agree with them. I am not famous for agreeing with people in my electorate simply because they ask me to. I agree with them on the basis of merit, equity and democratic principles, in the way that people who are elected to act should act, and those people who are elected to act should always have superior powers in their law-making ability than people who are appointed. I accept that as a principle that should remain.

I received also a facsimile from the Western Australian division of the Urban Development Institute of Australia. I will not go through it in detail other than to say this, and if I do not send the institute a copy of my remarks, the minister will because I am about to have a go at the institute: My mind can be changed in many ways in politics, but to write me judgmentally stating that my actions have been the cause of enormous frustration to the land development and planning industries as well as to the State Government, whose regional imperatives have been ignored by what are in many cases narrow local interests, is not the way to change my mind. Bill Clinton said was right when he said, "All politics is local." The institute further states that many candidates are elected to councils by a very small proportion of the electorate. That may be true. There are changes to that and it varies significantly and infinitely. I remember some good local government elections in a number of towns in which a very high proportion of the population has voted. It further states that this reflects community apathy towards local government. The institute says this also fails to provide a clear mandate to councils to dictate to the community on those matters. This is a load of nonsense. That is not how lobby groups will ever change my mind. Nobody has suggested that councils have a clear mandate to dictate to the community. Local councils have a mandate by virtue of their office and their election to act in the interests of their community. If developers can show otherwise, they can do what they have done and do very well; that is, they can run their own candidates in local government elections, have them elected and then get their plans through. When this process is adopted by the developers, they never complain if those people do not have a mandate to act.

I am strongly opposed to those parts of the legislation that shift decision making away from the local community. It is ironic that this Government would be doing that when all of its rhetoric is about shifting authority back to local communities to

act in their own interests. I am opposed to those parts of the legislation that shift power from elected people to appointed people. I am vehemently opposed to those parts of the legislation that shift the power to make decisions in remote communities away from those remote communities to the city. I will not, but I could go on at great length about the planning disasters which occurred in the 1960s, the 1970s and the 1980s and which are happening today caused by city-based bureaucrats who do not understand the effect of their decisions on remote areas. I say two words to anyone who knows anything about town planning and who is interested in city-based decisions for the bush - they are the legacy of city planners. Those two words are "South Hedland". The minister should go and have a look.

MR KIERATH (Riverton - Minister for Planning) [1.22 pm]: I thank the members for their supportive comments. I will address some of their individual concerns in a little while. I want to put on the record comments about the current system and appeal rights. There is a lot of confusion. I have heard different terminology used. The member for Nollamara said that this was affecting subdivision. Subdivision is not being imposed on councils. The people who make the final decision are in the Western Australian Planning Commission. There is currently an appeal right on subdivision decisions. The issue that the member for Nollamara referred to in that narrow sense is not applicable in this case.

There are really three distinct stages that I want to touch on. It is important that all of those stages should be open and accountable. At the moment there is no right of appeal on the rezoning issue. If a council makes an unreasonable or unfair decision, there is no way of addressing it. I must place on record that I think the majority of councils in this State are reasonable. This is not aimed at the responsible ones. If one turns the argument around and says that councils are making the right decisions, as I have heard members say, together with wanting more evidence, they would have nothing to fear from an appeal right. The appeal is not a right to have the Town Planning Appeal Tribunal make the decision about zoning. It is not a right to change the zoning. It is simply a right to go through a proper public process in which people can have their say. Let me give an example of an individual landowner who has a falling out with a neighbour who happens to be a local councillor, and a very persuasive one. Every time the landowner tries to get a rezoning up the councillor uses his influence to prevent it going ahead. The landowner is damaged financially and has no right of appeal at the moment to test the validity of the claim.

Mr Kobelke: He could go to the Department of Local Government on a conflict of interest.

Mr KIERATH: The Local Government Act provides for conflict of a pecuniary interest. The decision may have no effect on the councillor's pecuniary interest but may have an effect on the landowner's pecuniary interest. He has no access to appeal if there is a bad decision. I have been in politics long enough to know that the Opposition is always saying it wants systems that are fair, open and accountable and that bodies should not have exclusive power. This is an exclusive power. There is nothing open or accountable about it. If the council refuses planning permission, no justification is required. It simply has the right of refusal. I would have thought that as a matter of principle the Opposition would be supportive of any provision that makes a decision-making process open and accountable. It may be that on this ground the Opposition has shifted, and we can argue the reasons for that.

As I say, it is not an appeal right to have the tribunal make a decision but to have it test the reasonableness and fairness of the council's decision-making process. The member for Nollamara used the example of a landowner whose application does not stack up because it is not in the community's interest, that would not get to base one because it would still require planning merit to proceed. I imagine that if the landowner appealed to the tribunal and there was no planning merit, he would not even get the right to take the next step. He would not even be able to test it. On the other hand, if he were unfairly dealt with, he would get the chance to test it. He may well have been unfairly dealt with but it may be that the general views of the community and the submissions to the council override that unfairness. That is again a case of the elected representatives and the community getting a chance to have their say. It takes it from only one stage to the next, which is to advertise.

Ms MacTiernan: What is the point of having a town planning scheme that is reviewed every five years if you will not allow any certainty or any standing whatsoever for the town planning scheme?

Mr KIERATH: I will take the member up on that five years. The member might have completely misunderstood it. Under the legislation, one has to start it but one does not have to finish it. Is the member aware, for example, that despite that five years, Wanneroo has a town planning scheme review that has existed for 26 years? Wanneroo has started it but has not finished it. In practice that five-year provision does not do what it is intended to.

Ms MacTiernan: Why do you not change that legislation and put in an obligation to review the town planning scheme?

Mr KIERATH: A discussion paper is about to be released shortly. We will discuss that position then.

Is it not interesting that on rezoning there is no right of appeal, yet on the issue of subdivision there is? On the issue of planning and development approvals there is a right of appeal. The member is saying that in all those other stages it is fair that there should be an appeal against a bad, unfair or unreasonable decision. That is okay, but she will not have it for the rezoning. That is the logic of her argument.

Let us go to the other end of the process and refer to the required planning approvals. People have a choice. Around 800 people a year choose to appeal a decision, of whom about 730 people appeal to the minister and the rest to the Town Planning Appeal Tribunal. I have some statistics on the situation with the current and former ministers, and roughly half the applications are rejected and half appealed. It is within a few per cent either way; I simply give an indication. Therefore, at best, 400 of 800 applications will succeed. I do not know whether anyone has compiled accurate figures on how many planning decision are made a year by all local authorities. Nevertheless, I use the figure of 100 000 decisions, even though a greater figure could apply, with possibly 200 000 or 300 000 such decisions made annually across the State. I take the 100 000 figure for ease of use. Therefore, about 0.5 per cent of 100 000 decisions end up succeeding on appeal. I cannot accept the logic that giving an appeal right at the first stage is taking planning powers away. In effect, if one uses an existing situation, a matter will not go that far as the tribunal will stop many people from proceeding -

Ms MacTiernan: There will not be as much graft and corruption involved in the appeals.

Mr KIERATH: No graft and corruption will be involved as they will appeal to the tribunal to test the process. If I accept those figures cited, 99.5 per cent of planning powers are still exercised by local authorities, and no-one else. Therefore, this appeal right will be used nowhere near as frequently as the appeal right to the minister, and we will probably end up with 99.9 per cent of planning powers at that first stage still residing with local government. It is simply wrong to claim that this proposal will take planning powers away from local government. It does not stack up.

I heard members say that no consistent evidence has been provided as people have not come forward with examples for consideration. To be fair, I have talked to the industry and raised this same issue. I have spoken to it as a group and people individually. Most developers say that if they came forward with a claim, except in the most extreme circumstances, they would be victimised as they would still need to deal with those authorities in the course of their business. Consequently, they end up making a commercial decision to either drop the proposal altogether or make some compromise and give in. I experienced one such matter following my time as Minister for Housing. This matter related to some Homeswest developments in the Manning-Karawara area. The council demanded a new community centre worth $600 000, and some of the councillors demanded that the developers pay for an environmental officer to conduct environmental reviews. They attempted to apply outlandish and outrageous conditions. It was only the threat of an appeal to the Minister for Planning which caused some commonsense to prevail. As a result of the right of appeal, those involved knew they could go only so far in negotiations, but could not hold out -

Dr Edwards: You're rewriting history.

Mr KIERATH: The member should be careful - one of her people spoke to me and we negotiated a deal.

Dr Edwards: I think you are rewriting history.

Mr KIERATH: I will talk to the member off the record.

Dr Edwards: Please do.

Mr KIERATH: We agreed with one of the member's people that the whole thing became ridiculous.

Dr Edwards: You can name the person if you wish - we all know who you're talking about.

Mr KIERATH: No. The person came to me in confidence, although no doubt the councillors know about it. That person brokered a deal to try to have some commonsense applied. In the end everybody agreed that something should happen, but a Mexican standoff occurred.

Dr Edwards: The corruption occurred before the city made the decision.

Mr KIERATH: I did not say it was corruption - I said it was outrageous.

Dr Edwards: People have argued that the process was corrupt. A deal was done before the town planning scheme was finalised.

Mr KIERATH: Interestingly, Governments in this State have a history of trying to modify exclusive powers, through whatever mechanism, be it a court system or a tribunal, so that the exclusive powers become more accountable and fair.

A former minister gave examples of a council requiring $1 200 a lot as a levy for unspecified community facilities. That is wrong. One council withheld an advertisement until the landowner gave a written undertaking on matters pertaining to future subdivision of the land. That is clearly wrong. A council refused to grant approval unless a landowner entered into an agreement to realign and construct a road outside the rezoning area. In planning terms, that is definitely wrong. A developer advised that the council required the payment of $280 000 to change the boundary of a shopping centre area to a commercial-type zoning. That is bordering on blackmail or extortion. A council put an obligation on another developer to grant the council two lots of a 40-lot development as a basis of gaining the rezoning approval. The council subsequently sold the lots, which was simply another way of gaining a cash contribution. A council included conditions in an amendment

to rezone land relating to various unspecified community facilities and road upgrading, which is the purpose of a council's powers. A council CEO publicly stated that it would establish commercial arrangements with developers to bypass ministerial scrutiny at the time of considering final approval on rezoning. That is outrageous.
If the appeal mechanism does get up, I hope it will never be used. Appeal rights already apply on subdivisions, planning and development approvals. We talk about applying the same standards and justice. Every member who has spoken against this measure has written to me in my role as appeal minister seeking that I, on behalf of one of their constituents, look after those interests. Every member who has spoken today has provided words of advice to constituents to use the ministerial approval system because it was felt that the constituent had been unfairly dealt with in the process, either by a council or the WA Planning Commission. If members need an example of why an appeal right is needed, they should stop and think about the letters they write to me on occasions.

I would be the last person to say that there should not be an appeal right. By and large, the decision making is good as very few decisions end up on appeal. One only worries about the bad decisions which are appealed. What does one do if one has no appeal right to a bad decision? Will people lose that right to a fair or reasonable decision? Members opposite will condemn them to suffer bad decisions without a right of appeal. That is disgraceful.

The member for Maylands referred to the proclamation of this Bill. I did not want this proclamation process to apply, and I would have preferred to have the power included in the legislation. I tried to give a concession in my discussions with the Western Australian Municipal Association. In those discussions I said that if the Western Australian Municipal Association wanted to - I did not mind - I would do it straightaway. If it would give WAMA certainty, I said that I would give an undertaking not to have the legislation proclaimed immediately. I do not know why the member made a big deal about that. She is saying that she thinks I was wrong in trying to make a compromise with WAMA. I do not agree with that, but accept that had I not tried to accommodate that group, the provision relating to another proclamation date would not be in the Bill.

The issue is quite simple: We either believe in the appeal right, or we do not. If we do, it should be in the Bill. It is there to try to accommodate some the points of view of WAMA.

Ms MacTiernan: Then make it for two years.

Mr KIERATH: I am not talking to the member for Armadale, I am addressing the comments of the member for Maylands. The review of the planning legislation is coming.

Dr Edwards: So is Christmas.

Mr KIERATH: That is dead right.

Ms MacTiernan: This is going to be like the Wanneroo Shire Council town planning scheme. It will take 26 years!

Mr KIERATH: It will happen a lot sooner than that. I have a draft of the Bill relating to the appeal system. Every now and then I run into problems with drafting priorities. The Government has given law and order legislation top priority, and the drafting of some of the legislation in my portfolio - for example, the heritage legislation and the appeals legislation -

Ms MacTiernan: Colin is not doing the right thing by you.

Mr KIERATH: That is not right. I agree that the law and order legislation has top priority.

Ms MacTiernan: That's because you were trying to roll him at Christmas time.

Mr KIERATH: I am just saying that when that sort of decision is made, difficulties occur due to the drafting priorities given to other pieces of legislation.

Dr Edwards: Perhaps we might outsource it.

Mr KIERATH: Is the member suggesting that we outsource parliamentary drafting? I will make sure parliamentary counsel gets that message, and that we have the member's support. The member for Maylands also said that there would be some undermining of the power of local government authorities in planning decisions. I think I have answered that fully, even though the member might disagree with me. I am glad she supports the appeal right and the diagram of survey.

The member for Maylands asked what would be in the regulations about fees and charges. When finally resolved those regulations will come before both Houses and it will be up to each House to disallow if it does not like them. We will see the regulations fairly soon. It is my wish to try to put them out for public comment.

Dr Edwards: What about the councils' budgetary process? Will it be resolved to have it included?

Mr KIERATH: I do not understand what the member means when she refers to the councils' budgetary process.

Dr Edwards: Councils will need to know their possible income streams as they set their budgets.

Mr KIERATH: Ultimately a maximum fee will be set and it will be up to the councils to do what they like about that, but they will not be able to go past the maximum fees. The member asked whether local government authorities would be able

to raise charges under the Local Government Act. We believe that for these functions they will not. My understanding is that there was some legal uncertainty and this provision has been included specifically to overcome any uncertainty. The view was that it was not intended, but this makes it clear that councils cannot do that for the same service. That does not stop the councils charging additional fees for other services, but they are not able to change for these areas.

Whether a charge is made in relation to home occupation will be up to the councils. This will put some obligation on the councils if a fee is charged - some service must be provided. If a process does not require much in the way of consideration, councils will not be able to charge an exorbitant fee. How often the charges will be reviewed has not been decided, but I expect a review of fees and charges will be conducted perhaps annually or every second year, as is the case with other government agencies. If the charges are not updated, they fall behind. Much will depend on whether the maximum fees set are within the ballpark figure, or whether they are way ahead. If people are charged a lot less, a review may not be done for an extended time. For the management of complaints, dispute resolution procedures will be within the regulations.

I do not think private certification will have any impact. Consultants can be used to develop the rezoning, but no serious proposition has been put to me that private certification should be able to approve rezoning. Most of the areas of private certification to which the member referred have been to do with building approvals where the building codes are pretty straightforward. Some councils have been doing the wrong thing. I do not think we will see a major increase in the fees in that area. I am advised that the calculation of the fees will be very similar to those in the Victorian scheme, and the member should be reassured by that.

The member for Maylands expressed concern about lack of consultation on the model scheme text. I find that unusual because the model scheme text has been put out for consultation. I do not understand how people can say there has not been consultation. It was put out as a draft model for consultation so that we could get the views of all the stakeholders and then modify it accordingly. I have assured WAMA that changes have been and are being made to the model scheme. The member for Maylands made the comment that more must be done to address the problem of corruption.

Dr Edwards: Assuming it exists.

Mr KIERATH: I think I have already answered that. It is not solely about corruption. A whole range of issues can be included. Along with corruption, there can also be ineptitude and incompetence; often people might feel that for some reason or other, the council is being bloody-minded and they are not be treated with fairness. This provision tests that suggestion. If I were serious about all the member's worries in relation to the minister taking this power, this right of appeal would have been to the minister. It certainly would not have been given to the tribunal. The right to make the decision would have rested with the minister, rather than being covered by certain procedures. We are trying to give the very minimalist appeal right we can, taking into account the views of local government that we do not give the minister new powers and do all of the things that have been raised in the arguments. I must say that this is a minimalist approach. It is the smallest right of appeal that can be given when we are doing something like this. We are putting it at arm's length, with the minister not making the decision, but simply allowing the process to proceed, for which there are obligations on the parties.

The member for Nollamara raised the issue of subdivision. Currently that is the responsibility of the Planning Commission. No costs or obligations have been placed on local government in that regard. People often get confused between rezoning, subdivisions and planning and development approvals. I have already covered the fact that councils must fall into line with the metropolitan region scheme. Some councils find it almost impossible to complete the reviews they initiate. When I was told about the case of the review of the Wanneroo Shire Council, I thought it was an absolute disgrace. I do not care what the reason is, but no authority should have a review of its scheme going for 26 years. It makes a mockery of everything for which councils and the Western Australian Planning Commission, and everyone else involved, stand.

The member for Maylands mentioned that bad planning decisions are made by ministers on appeal. That is an argument for another day, and one we will have when the appropriate appeal legislation is brought in to the House. I do not think this is the appropriate way to cover that issue. To begin with, I do not agree with the premise that ministers make bad appeal decisions. Ultimately all people who make decisions are bound to make a wrong one; however, in the vast majority of cases, people try to make correct decisions. They do not sit down deliberately to make a wrong decision. We will have that debate at another time. In the proposal I will bring to Parliament, the minister will be taken out of those appeals, except where the minister is prepared to put up his hand and take all the responsibility and be accountable for it. That will bring some accountability to the process. In many ways, we will know the minister's intention before he starts.

In summing up those two main comments, the appeal will be to the tribunal based on planning merits. Amendments need not necessarily proceed if there is no merit. In fact, we believe they will not proceed. Appeals will be on the failure to proceed with the amendment or the unreasonableness of the decision. There is to be no additional decision affecting the subdivision, as mentioned by the member for Nollamara.

I have touched on the Wanneroo situation. The important issue is that individuals have the opportunity to seek an independent review of decisions that have been made.

I am advised that in New South Wales, the minister has the ability to approve a prohibited use; and that in Victoria, the minister has a call-in power to deal with a matter. That is stronger than what we propose in this Bill. In Queensland, all land use is a discretionary use; therefore, there is a right of appeal.

The member for Pilbara raised the issue of decision making going from regional areas to the city. That view may technically be right. If the Town of Port Hedland wanted to develop a town planning scheme, it would need to go through the process of advertising, and the Planning Commission and the minister would have a say. If they did not have that say, the member would probably have a valid argument, but because there is that say, his argument does not stack up.

I have commented on why it should be possible to overturn the decisions of an elected council. Elected representatives sometimes make bad decisions. The elected representatives in this place sometimes make bad decisions and need to fix up legislation that they have got wrong. I do not think anyone in this place could say that elected representatives get it right all the time. They get it right most of the time, but on the occasions when they get it wrong, people need to have a right of appeal.

I dealt with some planning appeals this morning, and I always think when I get to the end of a planning appeals session, "Thank heavens there is a right of appeal for people who have been wronged." Sometimes people hold to a bureaucratic line which has no sense of fairness, and some compassion can be shown to the person who has been wronged by that decision. Members may not agree with all of the decisions that I have made, but at least the people who have been wronged and have had that decision corrected have been glad that they had that right of appeal.

Ms MacTiernan: The wrong can occur on the other side too. The rest of the community can feel very wronged by a decision.

Mr KIERATH: I am glad the member for Armadale made that comment, because I said while she was out of the Chamber that I do have the power to overturn a decision. The right of appeal does not allow the tribunal or the minister to rezone. All it does is allow the matter to be advertised so that the community can have its say. If a really bad decision were made and the community were strongly against it, that would become very obvious from the public submissions, and the council would look at those public submissions, take a position on them, and put the matter to the Planning Commission, which would put that to the minister for signing off if it had been agreed. In most cases when a hostile decision had been made which should not proceed for planning reasons, that decision would not proceed. It is important to understand that we are talking not about an appeal right to overturn the decision but about a right that is related to the process.

I am delighted with the support of members so far. The matters about which members want further information will be dealt with at the committee stage. I thank members for constructive debate.

Question put and passed.

Bill read a second time.

PORT AUTHORITIES BILL

Committee

Resumed from 20 October. The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Omodei (Minister for Local Government) in charge of the Bill.

Clause 10: Remuneration of directors -

Progress was reported on the clause after the following amendment had been moved -

Page 8, lines 20 and 21 - To delete the words "in the case of that director".

Ms MacTIERNAN: We have labelled this "the Russell Allen clause", because it will allow lawyers and leading industrial relations experts, albeit not with any expertise in shipping, to be paid $400 an hour. This clause deals with the capacity to make differential payments to board members. The chairman of the board has traditionally been paid a different rate. However, we have found from our investigations into this matter that it is not normal for differential payments to be made to non-executive directors. The minister has undertaken to provide some further information about the current situation in the various port authorities and about whether, putting aside the chairman, the ordinary directors are paid uniform amounts.

Mr OMODEI: I have received advice that in line with current practice, it is necessary to allow for differential payments so as to provide for the remuneration of the chair of the board. Clause 10 is intended to be read in conjunction with schedule 3, which contains the rules governing the constitution and the proceedings of boards. The current practice is to pay all members of a board, other than the chair, at the same rate; and the chair is paid at a higher rate than the other members. This provision is intended to reflect the common commercial practice and to allow the boards to act in similar ways to other commercially focused bodies.

[Questions without notice taken.]

Mr RIEBELING: The minister said that there was a need to be able to pay directors different rates because that is what occurs in private industry, and for that reason we should follow that line.

Mr Omodei: No. I said that there needs to be a differential because the chairperson is paid at a differential rate.

Mr RIEBELING: That provision already exists. I thought that the minister said earlier that the chairman is paid at a different rate from that of the directors.

Mr Omodei: That is right. The directors are paid the same.

Mr RIEBELING: That is right, but the minister wishes to change that system. The clause allows the minister to pay differently. As I understood the minister's explanation, there was a huge imperative to do that because that is what happens in private industry. For the life of me, I cannot see why we should change the rule if it is to cost the State more. The minister has not said that under the old system we could not attract directors to such boards, so why is there an imperative to pay people presumably more than others?

Mr Omodei: The difference will be between the directors and the chair. The directors will be paid the same, which is normal practice in the private sector.

Mr RIEBELING: Clause 10 gives the minister power to pay directors whatever rate he thinks fit. It allows him to determine the correct remuneration in each case.

Mr Omodei: It is drafted in that way to allow a differential payment between the directors and the chair.

Mr RIEBELING: Why does it not say that?

Mr Omodei: I am not parliamentary counsel.

Mr RIEBELING: I can clearly see that.

Mr Omodei: I am trying to explain the matter.

Mr RIEBELING: Will the minister explain where the chairman is mentioned in clause 10? Clause 10 mentions directors and the minister's ability to pay them whatever rate he determines is necessary.

Mr Omodei: There must be a facility to allow for differentiation between ports. In other words, the directors and the chair at Fremantle could be paid differently from others at Bunbury or Esperance.

Mr RIEBELING: Yes, but that is not what the minister is telling me the clause is all about - that is, paying a differential rate to members of the board, one of them being the chairperson of the authority. That is the current position as I understand what the minister has said - that is, the chairman of the board is paid more than the members are paid. Whether the minister likes it or not, the clause states that the minister will have the ability to pay directors at whatever rate the minister determines to be appropriate, then it goes on to state -

> Remuneration is not to be paid to a director who holds a full-time office or position that is remunerated out of moneys appropriated by Parliament.

Presumably, a government employee is prohibited from receiving additional funds if they come from the minister. Bearing in mind the non-mention of the chairperson, which the minister says is there - perhaps there is a hidden meaning - and if that is the intent of the clause, why is it not clearly spelt out?

Mr OMODEI: I explained that point earlier, but I will repeat it. The chairman would also be a director of the organisation. In line with current practice, there is a need to provide for differential payments so as to provide for the remuneration of the chair of the board. Clause 10 is intended to be read in conjunction with the provisions of schedule 3, which contains the rules governing the constitution and proceedings of boards. Current practice is to pay the same rate to all members of any board other than the chair. The chair is paid at a higher rate than other members. The provision is intended to reflect common commercial practice and to allow boards to act in similar ways to other commercially focused bodies. It also means that there will be a difference, obviously, between some port authorities, depending on the financial activity and the size of the boards. Therefore, there is a requirement to have the facility to pay that differential.

Mr RIEBELING: Perhaps the minister can tell us what page contains the relevant information.

Mr Omodei: Perhaps it should have been clause 2 of schedule 4.

Mr RIEBELING: That does not cover it, either. It does not cover what the minister said it is supposed to cover.

Mr Omodei: It is clause 3 of schedule 2.

Ms MacTIERNAN: Clause 3 of schedule 2 adds nothing to the debate; it does not answer the point. I shall seek leave to

withdraw my amendment, because the minister has given us further information which has clarified the Government's intent. Certainly, it is reasonable to distinguish between port authorities in terms of remuneration. Presumably, being on the board of the Fremantle Port Authority would be a much more onerous task than being on the board of a smaller regional port authority, so one might expect to have a differential remuneration. I accept also what the minister said: One needs to differentiate between the chairman and ordinary members of a board. That is perfectly reasonable. Opposition members would be prepared to accept a clause which made those provisos, but we are concerned that the way in which the legislation is drafted is much wider than that. We have received advice from the minister that it is not intended to discriminate between ordinary members in one port authority. The amendment is inappropriate in light of the information that has been provided to us.

Amendment, by leave, withdrawn.

Mr RIEBELING: I agree that an amendment to clause 10 is needed. Clearly the minister has been unable to find the provision that he referred to in either clauses 4, 3 or 2.

Mr Omodei: I think clause 2 did.

Mr RIEBELING: Clause 2 does not cover it either. If one reads it, it does not say anything like the minister indicated it said.

Mr Omodei: The member should take up a job as parliamentary counsel.

Mr RIEBELING: We will consider what clause 3 of schedule 2 says. Clause 3(1) says -

> The Minister is to appoint a director to be chairperson of a board and another to be deputy chairperson.

That says nothing about payment or that he will be paid at a different rate. Subclause (2) says -

> Where the chairperson is unable to act because of sickness, absence or other cause, the deputy chairperson is to act in the chairperson's place.

Subclause (3) states -

> Where the deputy chairperson is acting in place of the chairperson at a meeting, clause 4(1) applies as if the deputy chairperson were absent from the meeting.

If any of those subclauses refer to payment of a differential rate to the chairperson as compared with other directors, will the minister explain where in the Oxford Dictionary, or in any other dictionary, that meaning that the minister places on that clause can possibly be found? It is a nonsense to say it is in there.

Mr Omodei: My advice is that if all the directors are appointed and they are all paid the same amount, no facility exists to pay the chairperson a different amount. That is why that section covers the appointment of the chairperson.

Mr RIEBELING: The minister does not believe that. That is the biggest exercise in grasping at straws I have ever seen. What the minister originally said was that clause 10 of the schedule, which we are debating -

Mr Omodei: I do not want to repeat myself.

Mr RIEBELING: No, I know the minister does not want to repeat himself. However, he has been wrong about four times so far. Perhaps the minister will be able to get it right this time by looking at the wording of the second schedule. Clause 10 that we are debating says that the minister has the ability to pay directors at different rates. It does not mention the chairperson. The minister referred firstly to the third schedule. Then he referred to the fourth schedule and then the second schedule. The minister said that this clause sets out quite clearly that what is being referred to is the payment of the chairperson at a different rate. That clause only deals with who is the chairperson, how he is appointed, and who is the deputy. It does not say anything about remuneration. However, the minister continued to say that the Opposition could not read it properly. The minister does not understand the legislation at all. Perhaps his advisers could tell him what clause 10 says, and they may be able to direct him to an unknown clause in a schedule which might support what the minister is saying in response.

Ms MacTIERNAN: I move -

> Page 8, after line 21 - To insert the following -
>
> > (2) The Minister will determine rates of remuneration to be paid in respect of directors of the board of each port authority and may determine higher rates of remuneration for the chair of each board.

The minister has put arguments today that we accept. A distinction should be made from one port authority to the next because of the scope of the task that a director must undertake from port authority to port authority. We agree with that. The minister has also pointed out, quite rightly, that there should be some capacity to pay the chairman more than a director.

We accept that. What we have done is to enshrine in this amendment the capacity to do both of those things which the minister says this clause is designed to do. However, what it does preclude is the mischief that we are trying to avoid, which the minister says the Government does not want - therefore, the Government cannot have any reason not to support this amendment - which is to have ordinary board members on the same board paid at differential rates. That is unacceptable. Board members are appointed. They are all required to contribute their skills and act in a collaborative and colligative way. One cannot distinguish between those board members. It is not the practice of the port authorities at the moment. I understand from the minister it is not what they want. Therefore, given what the minister has said here today, no logical reason exists for the minister not to accept the amendment the Opposition has proposed.

Mr OMODEI: My advice is that the amendment is not necessary and that which the member seeks to do is covered under schedule 2. In my initial comment I referred to schedule 3; that should have been schedule 2. I admit that was a mistake. Schedule 2 contains the provisions governing the constitution and proceedings of boards. Schedule 2, clause 3, determines how the minister is to appoint the chairperson from the directors.

Ms MacTiernan: Will the minister clarify that and point out the part which says this?

Mr RIEBELING: I will go through it again slowly so that the minister understands what we are saying. Our concern is that clause 10 gives the Minister the power to pay directors on a board at different rates. If that clause is passed as it stands, should there be 10 directors, it will give the minister the power to pay them at 10 different rates.

Mr Omodei: What does the member mean by "10 different rates"?

Mr RIEBELING: If 10 directors are on the board -

Mr Omodei: They are all paid the same rate.

Mr RIEBELING: Where does it say that?

Mr Omodei: That is the advice I have been given.

Mr RIEBELING: Where does it say that?

Ms MacTiernan: The minister should look for himself. He is a minister; they are only advising him. They do not make the decision for him. The minister should read it himself and tell us where it is. This is not a re-run of "Yes, Minister"; this is the minister actually exercising real power here.

Mr RIEBELING: The minister might read it quickly for himself. Clearly clause 10 allows him to pay directors at different rates. We all agree with that. Does the minister agree that it allows him to pay directors at whatever rate he considers reasonable? It does not state anywhere in clause 10(1) or (2) that all directors, except for the chairman, are to be paid the same rate. It states that the minister can set directors' rates.

Mr Omodei: Yes.

Mr RIEBELING: The clause the minister says clearly indicates that all the directors will be paid the same, except for the chairperson, is the clause which deals with the appointment of the chairperson and deputy chairperson. It does not mention anything about remuneration. If schedule 2, clause 3, contains one word about remuneration, would the minister point it out? There is not one word.

Progress reported.

MRS KATHLEEN BUSHER

Grievance

MR CARPENTER (Willagee) [3.03 pm]: My grievance is to the Minister for Disability Services. It is on behalf of Mrs Kathleen Busher, who suffers from chronic rheumatoid arthritis. She has been the possessor of an Australian Council for Rehabilitation of the Disabled parking permit, which has allowed her to park close to the entrances of shopping centres. A review has been undertaken of her eligibility for an ACROD sticker. She has been informed by ACROD that she no longer meets the eligibility criteria, which is most distressing to her because her condition has not changed; it certainly has not improved. She is lobbying hard for a review of that decision by ACROD. An appeal process is underway of which the minister is aware. Mrs Busher has provided ACROD, me and the minister with a statement from Sir Charles Gairdner Hospital's rheumatology registrar, Marilyn Hassell, about her eligibility for an ACROD permit. It is pointed out in that statement that -

> . . . she is a lady with a 30 year history of rheumatoid arthritis. She has a particularly severe form of this illness with evidence ongoing of inflammation and activity of the disease despite multiple medications.

It further states -

> I believe she certainly qualifies for the criteria people who can only walk short distances at all times, largely due to the constant pain, which is certainly worse with activity. It is common for people with chronic arthritis such as Mrs Busher's, to withdraw from society and quickly lose motivation to maintain their independence.

It further states -

> Hence I strongly support Mrs Busher's appeal for renewal for her ACROD parking permit and hope this will be approved as soon as possible.

Mrs Busher has also received a report from a senior occupational therapist, Ms Felicity Ingram, at the request of ACROD. She summarises in her report -

> I do feel this lady is eligible and deserving of an ACROD permit. Please contact me if you need to clarify any information.

There is an issue beyond the individual circumstance of which the minister is aware. Earlier this year ACROD undertook a review of its parking program. Its initial position in the parking program review was that since 1988, when ACROD parking was developed, it was a requirement of Australian Standard 1428 that 1 per cent of parking bays should be reserved as accessible parking. Circumstances, the nature of disabilities and the proliferation of disabilities have changed considerably. The research that has been undertaken on behalf of the Australian Building Codes Board and a review of statistics produced by the Australian Bureau of Statistics indicates that Australia-wide accessible parking bays are now required at a rate of 3 per cent instead of 1 per cent. That is the position that ACROD took in its review in May 1998. It lobbied Australia-wide to increase the percentage of parking bays set aside for people with disabilities from 1 per cent to 3 per cent in developments. It was unsuccessful in its lobbying apart from receiving support in Queensland, where such a regime already exists. It was unable to win the support of a change and upgrade from the other States.

It approached the Minister for Local Government and for Disability Services in Western Australia as part of its lobbying program. The minister gave a contrary view, which is reported in its parking program review. It states -

> During the meeting the Minister indicated that he felt the problem might not lie in the provision of parking bays, but in the issuing of permits to persons who did not fit the eligibility criteria. This view is one, which although enjoying some currency, flies in the face of evidence from the 1993 ABS report "Disability Aging and Carers" and statistics gathered in Queensland which are both in line with the WA experience of the number of people eligible for permits.
>
> The meeting between the Department of Local Government, the Disability Services Commission was not successful in addressing the issues.

It then embarked upon a review of its eligibility criteria, having been unsuccessful in lobbying to increase the ratio of parking bays that should be set aside for people with disabilities. It did a review of the eligibility criteria along the lines suggested by the minister; that is, one should be looking in the first instance at the number of people who are eligible and whether they should be eligible rather than increasing the number of bays. As a result of its review, it was decided that 24 per cent of people with a recognised disability, who were previously eligible for ACROD parking stickers, should no longer be eligible for those stickers because they no longer fit the criteria. The criteria are the same as they were several months ago, but the information that must be provided is more specific and much more detailed. In real terms the eligibility has been tightened. As I said, 24 per cent of people who were previously eligible for ACROD stickers in Western Australia may now find themselves in the situation that Mrs Busher is in whereby they are no longer eligible for ACROD parking stickers.

This is a most unfortunate development, especially if one is put in the situation of Mrs Busher whereby both a rheumatology expert and an occupational therapist say she should be eligible because she has difficulty walking more than 50 or 60 metres without considerable pain. The eligibility states she must be unable to walk that distance 100 per cent of the time. Few people would meet that criteria. I ask the minister to review the decision.

MR OMODEI (Warren-Blackwood - Minister for Disability Services) [3.10 pm]: I regret that I was unable to chase up the letter that the member for Willagee handed to me shortly after question time, as I was dealing with legislation. I will certainly respond to Mrs Busher. I note that she believes that disabled people are vulnerable and that she will raise the issue with the member's successful colleague, Ms Jan McFarlane, and her representative Mr Kobelke. I have supported people with Australian Council for Rehabilitation of Disabled parking bays from more than one angle. I have supported them not only from the eligibility angle but also from the angle of the provision of parking bays. ACROD tells me that 38 000 people have current parking permits and it receives around 6 000 parking permit applications each year. As I have mentioned, I have not ignored the supply of parking bays but have recognised that there are two issues: One is the supply of bays and the other, as the member has mentioned, is the abuse of bays by people who may not hold an ACROD permit or who may hold a permit but do not meet the eligibility criteria.

Mr Carpenter: I never mentioned bays. I said there was a perception, which is shared by you, which ACROD in its initial submission said was inaccurate.

Mr OMODEI: I will get to that in a minute. To support my comments relating to the bays, the notes on my address at the start of Local Government Week, which was attended this year by 800 to 1 000 people from all over the State, read -

> One proposal we have recently received from ACROD is that councils consider requiring the provision of some additional ordinary width parking bays close to the entrance of shopping centres and other premises.
>
> It is important to note that the request is for ordinary width bays, so there will be no expense and no additional area required.
>
> The point is that there are many people with mobility problems but who are not using wheelchairs and therefore do not require the wide bays.
>
> I encourage you [local government] to consider ACROD's request because it appears to be a virtually cost-free solution to the problem of parking shortages for people with disabilities.

Earlier this year, ACROD conducted a major review of parking permit eligibility and the process of application with the aim of ensuring better targeting of the permit system. ACROD had become aware that a proportion of permit holders did not require the permit on the basis of their disabling condition. An independent market research company was contracted to randomly survey 400 ACROD permit holders. Its key findings include that 24 per cent of two-year permit holders did not meet the eligibility criteria and that 91 per cent of people surveyed supported or strongly supported the reassessment of permit holders at the time of renewal.

Mr Carpenter: I accept that. The point is that the eligibility criteria when taken to the letter are almost impossible for vast numbers of people because they say that under no circumstances at any time are people eligible if they can walk more than 50 metres at any time. What about 99 per cent of the time or six days out of seven? Those people have now become ineligible.

Mr OMODEI: At the same time ACROD has 38 000 people with current parking permits and receives 6 000 parking permit applications each year. I acknowledge that. I have suggested to local government that if it has normal width bays it would not be a big imposition. All it needs is some blue paint and obviously ACROD and another body declaring those people to be eligible.

I want to talk about the outcomes of the review. The eligibility criteria have remained the same but with total or legal blindness removed as automatic eligibility. Parking permits should be issued to people who cannot access regular parking either as a passenger or driver because of their functional limitations resulting from a disability. The applicant must meet at least one of the two eligibility criteria 100 per cent of the time. A new application form has been designed which will assist ACROD to identify applicants whose functional limitations prevent them from using regular parking, and that gives a clear indication of how the applicant meets at least one of the eligibility criteria. All existing permit holders are being reassessed using the new process of application upon the expiry of their current permit. This reassessment will take two years to complete.

ACROD has invited health professionals with skills in functional assessment to review appeals of unsuccessful applications. This includes an appeal panel of health professionals, including those with knowledge specific to the applicant's disability. The panel makes an independent recommendation to ACROD regarding the functioning capacities of those people who are not successful in obtaining a permit and who wish to have their application reviewed. There is therefore some light on the horizon for Mrs Busher.

Regarding the provision of parking bays, nationally the Building Code of Australia currently makes provision for 1 per cent of parking bays to be set aside for parking for people with disabilities. The BCA is currently being reviewed via national consultation. This issue has yet to be resolved as there is a diversity of opinion on the number of reserve car parking spaces that should be provided and whether they should all be wide bays or a mixture of wide bays and standard-size bays. Statistics exist which indicate a demand for 3 per cent of parking bays to be reserved. Local governments have the responsibility to administer the BCA requirements and have the discretion to require additional parking for people with disabilities. I asked local governments to consider that in my speech to them. This issue will need further attention in the future, certainly as our population increases. Other areas of need will emerge for people who have disorders of different kinds. We should consider those on their merits.

Mr Carpenter: The situation here is that the person can walk 50 metres on some days but then says, and her doctors support it, that for four days after that she probably cannot walk at all. However, under the strict criteria that are being applied now, she is ineligible for a permit. I am asking you to try to get ACROD to review that strict letter-of-the-law interpretation.

Mr OMODEI: Obviously ACROD is doing that now. I will get back to Mrs Busher as a result of the member raising this matter in Parliament today.

WASTE DISPOSAL, AVON VALLEY

Grievance

MR TRENORDEN (Avon) [3.17 pm]: My grievance is to the Minister for the Environment. Yet again the Avon Valley has been targeted for a waste proposal. A class 4 site, of which the minister is very conscious, was proposed for the Avon Valley. Some questions about this site raised concern in my electorate. One was the method by which the Department of Environmental Protection, I presume, advertised the site. Another was the fact that yet again the Avon Valley had been visited by a proposal for a dumping site. Although the minister has not been the Minister for the Environment for all the years that she has been in this place, she would probably be aware from background information that the Avon Valley has quite regularly been targeted for sites for dumping.

Ms MacTiernan interjected.

Mr TRENORDEN: That happens by a voting procedure, believe it or not. The dumping usually happens in Kalgoorlie on the federal scene.

Some years ago tyres started getting buried on properties. I and a lot of other people were very involved in reversing the procedure. A tyre dump was established in the Avon Valley and is still operating. I and the residents of the Avon Valley are very conscious of the fact that we have several granite holes in the ground and dozens of clay pits either abandoned or in current use, including the old Clackline refractories area which contains substantial clay pits, which are not in the Shire of Toodyay but in the Northam Shire. I and my electorate are aware that we are in a target area for solving some problems of the metropolitan area, which makes Northam people, Toodyay people and the minister's people restless.

Part of my grievance to the minister is that I and the people of the Avon Valley wish to make an application to the DEP. I will come back to talk to the minister about this in the future. On Monday morning representatives of the shires of Northam, Toodyay and York are meeting in my office to look at having a living plan of how we deal with proposals that pop up to do with dumping in the Avon Valley. At some stage I want to run that past the minister. Certainly we want to approach the DEP to ensure that it has a planning process that signals ahead its needs and does not act in the short term without a great deal of notice.

The people of Avon are thankful for this proposal not proceeding. Part of the reason is the fact that the Shire of Toodyay would not allow rezoning, which in effect killed the proposal. A considerable number of people were chasing the Minister for Planning. He is not in the Chamber at the moment but I have already thanked him. I thank him again for his openness and his willingness to be part of the procedure. We are also very thankful that the Environmental Protection Authority announced that the environmental assessment would not proceed in this particular case. It was a very important matter for us because while the assessment was alive all those signs along the Great Eastern Highway and the other road about toxic sites were likely to linger on. We do not want to promote the Avon Valley with that signage. We have a great place to live in the Avon Valley. It is not very nice having those signs up saying that Avon Valley is a great place except for the toxic sites. We are very appreciative of the fact that the EPA took away the need for that assessment.

We are also very thankful to the Minister for the Environment. I am personally very grateful but I know too that many people in the community are grateful because the minister made herself available at very short notice for phone calls and deputations of groups and individuals from the Avon Valley while this was occurring. Ministers do not get high praise at times but I believe that the minister deserves praise because she did put herself out to be available for the people of Avon, and we are grateful for it. I repeat that we are grateful that this proposal did not proceed. The threat remains. There is always a danger that to solve the environmental needs of the metropolitan area, the toxic waste will be trucked to the Avon region and tipped into those holes. As members are aware, the Avon district has been targeted as a growth area for people, not toxic waste sites.

I also ask the Minister to address this issue: A few days ago I went to the Toodyay show, which is an outstanding event. I know members always want to talk about how good the shows are in their electorates, but because of the October timing and the aspect of the town of Toodyay, this is a magnificent show. Toodyay is a beautiful place and I never miss this show. I went to the Toodyay show early in the day because later I had to attend the wedding of my next-door neighbour's son, who has been coming into my house forever and is like a member of my family. When I arrived at the show I was allowed into the pavilion. I was amazed to see on the wall artwork by students from the local school, all of which was targeted at the toxic waste site. The shire president chose three excellent examples from the art on display, and I have them with me. I ask the Minister to accept these three posters as a signal of the involvement of the children of Toodyay in a matter of great interest to the community. In addition, I ask the minister to take on board my grievance.

MRS EDWARDES (Kingsley - Minister for the Environment) [3.21 pm]: I am very pleased to receive the artwork of the children of Toodyay. I looked at it prior to the member speaking. When we were at school we did not have the opportunity to produce the artistic, musical and environmental work that we see from some of our school children these days.

Mr Trenorden: The student's name is on the back of each poster.

Mrs EDWARDES: I will write to the students to let them know how much I appreciate the time and effort they took in developing these pieces or art which give a very clear message to members of Parliament and to me, as a minister, about how keen they are to put forward their views. This morning I had the opportunity to participate in the third Kids Helping Kids WA Environment Conference. These young people have given a lot of their time and have made a huge commitment to looking for some solutions to the environmental problems faced in Western Australia, bringing along their peers and allowing them to participate in that educational awareness aspect.

The disposal site in Chitty Road, Bakers Hill was to be the first class 4 waste disposal site. It was proposed by a private owner, rather than as a local council or State Government operation. As such, it was very important for the local community to be very much a part of that proposal. In this instance, it was clear that the local community would not be part of the proposal and it would be an important decision for the Government to let a private owner have a class 4 waste disposal site. I have a very clear view that unless the community supports this sort of a project, a class 4 waste disposal site will not work.

There were some issues surrounding the advertising of that project, and I have taken them up with the Department of Environmental Protection. A number of measures have been put in place to ensure there is a greater level of clarity in the advertising of any future proposals, not just those relating to waste disposal sites. I thank the member for bringing this matter to my attention. It is always important to meet with and to listen to the concerns of members of groups and organisations. Unless we do that, we will never know what they are feeling or the issues they are raising. Sometimes we have a responsibility to make sure we have some input. I thank the children for their considered views expressed in art form. I will write to them and let them know how significant I think their contribution was.

OFFICE OF YOUTH AFFAIRS

Grievance

MS ANWYL (Kalgoorlie) [3.25 pm]: My grievance relates specifically to the role of the Office of Youth Affairs, and particularly to youth suicide. This office has now had significant time in which to define its role, and it has had a lot of latitude in doing that. Questions are being asked in the community, particularly the youth sector, about what are the functions and purpose of the Office of Youth Affairs. The office has been involved in some very high profile activities, of which the Minister tirelessly informs us, including the JOY festival, the cadet scheme and youth councils.

We must ask this question: Where is the Office of Youth Affairs on the tough issues - child prostitution, youth homelessness, the impact of the allowance on our children, and the whole concept of youth help and access to mental health services, in particular? The Office of Youth Affairs must have a role in the coordination of youth services. I have with me an undated letter from the Office of Youth Affairs, which is part of the youth suicide prevention information kit. Perhaps the Minister will tell me when that originated. It states that the prevention of youth suicide has become a priority area for this Government.

A letter from the Office of Youth Affairs, which is attached to the youth suicide prevention information kit states that the prevention of youth suicide has therefore become a priority area for this Government. If that is the case, one must have concerns. All of the evidence, both anecdotal and otherwise, suggests that we continue to have a major crisis in this State in terms of youth suicide. That relates, in particular, to young men in rural and remote areas. My concerns relate to the lack of an evident, cohesive strategy by the Government to deal with youth suicide; the lack of a role for the Office of Youth Affairs to ensure some interagency cooperation, particularly in rural and remote areas; and the lack of comprehensive data collection that is readily accessible to interested individuals.

By far the bulk of data available is up to about 1995-96. In my view that creates a significant difficulty for individuals wanting to track this problem across Western Australia. I accept that all of this is complicated by the involvement of both the Federal Government and the State Government. When Carmen Lawrence was the federal Minister for Health she established a national youth suicide prevention advisory group. That was converted by her successor, Warwrick Smith, into a ministerial advisory council. There was able representation on that group in the form of Dr Sven Silburn. Nevertheless, the overwhelming evidence is that this continues to be a problem, especially in rural and remote communities. The University of New South Wales medical research journal, with which I am sure the Minister is familiar, sets out the finding that amongst young men, the rate has more than trebled.

Western Australian communities comprising fewer than 4 000 people have seen a seven-fold increase in the rate of male youth suicide. In communities larger than 4 000 people, a 4.2 per cent increase in that rate has occurred over the past 30 years. Anecdotal evidence on this matter in my electorate is particularly disturbing. A number of tragic youth suicides have occurred, as indicated through contacts from Esperance and Carnarvon. I have had difficulty gaining firm statistics on this matter through the usual organisations. The Office of Youth Affairs can become involved in tracking suicide trends across the community. The Kids Help Line data indicates an increase in depressive illnesses of about 14 per cent among teenagers. The TVW Telethon Institute for Child Health Research survey outlined that about 16 per cent of 12 to 16-year-olds have regular thoughts of self-harm. That is a staggering statistic.

The Freedom Centre, which provides a drop-in service for gay and lesbian young people, has reported to the minister's office its contact with a number of recent tragic youth suicides. I understand that the information received by the office was not treated with a great deal of enthusiasm, which led to the centre contacting me to see what could be done on the issue. Data establishes that sexuality is very much a factor, as indicated in suicide notes and the like. Therefore, we should consider such service delivery, particularly in remote and rural areas. The Freedom Centre, which is part-funded by the Here for Life project established by Dr Carmen Lawrence when she was Minister for Health and Family Services, is open only three days a week from 3.00 pm until 10.00 pm in many country areas. It is known that the smaller country towns are the most vulnerable in this regard, yet they have no such services.

It is time for the Office of Youth Affairs to determine exactly the role it will play in the serious and tough issue of youth suicide. The office must ensure that interagency cooperation occurs, and that all Western Australian young people throughout the rural and remote areas particularly have access to youth services. Although achievements have been made in the metropolitan area, they must be extended throughout Western Australian.

MR BOARD (Murdoch - Minister for Youth) [3.33 pm]: By arrangement with the Minister for Health, in whose portfolio the suicide issue falls as it is seen as a health issue, I will handle this grievance as the member for Kalgoorlie specifically referred to the role of the Office of Youth Affairs in suicide prevention and interagency coordination. The Government's position is that suicide in general, particularly youth suicide, falls within the Minister for Health's portfolio.

Ms Anwyl: You indicated that the priority area was within your portfolio, did you not?

Mr BOARD: Certainly. I refer to coordination. Nothing is more tragic and devastating in our community than suicide, not only regarding a person's loss of life, but also for those who suffer a loss of family or friend as a result of suicide. Suicide is probably the most tragic circumstance experienced in our community, particularly when it involves a young person; this leaves our community scratching its head wondering what it could have done to prevent that suicide or did to bring about these circumstances. I agree with the member for Kalgoorlie that no amount of resources or energy should be spared in trying to resolve this issue.

In a general sense, the Office of Youth Affairs is a reasonably small agency containing 18 people. Unfortunately, it does not take on every issue affecting youth in Western Australia. However, we have decided that this issue is one of priority, and the Youth Ministers Advisory Council, of which Dr Silburn is a member, takes a proactive role in developing a coordinated approach to youth suicide prevention in Western Australia.

I will shortly outline the measures we are adopting to this end. Many agencies work in this area, be it Justice, Health, or the Education departments, both federal and state, as well as the Office of Youth Affairs, which tries to take a coordinating role to ensure that all energies are dovetailed to become effective on the ground. We have tried to involve young people. There are 450 000 young people aged between 12 and 24 years in Western Australia. The youth advisory councils indicate that young people want to play a role in intervention. We are developing a program in which they can play a role to help those at risk from self-harm.

The member for Kalgoorlie mentioned the growing trend in youth suicide. A trend is evident in Australia of increasing suicide rates for adolescent males. However, the overall rates have not increased. In fact, the suicide trend has changed direction from mostly affecting middle-aged people to adolescent males. Homosexual males seem to be at greater risk. Anecdotal evidence indicates that drugs, families and pressure in the home environment tend to play a role -

Mr Riebeling: And job insecurity or the lack of a job.

Mr BOARD: Lack of job opportunity, not so much as security, is also seen anecdotally as a problem for young people. The member for Kalgoorlie raised an issue in which the Office of Youth Affairs is playing a significant role. She mentioned the youth suicide prevention information kit, which helps to identify young people at risk.

The intervention of the Youth Ministers Advisory Council and the youth advisory councils has gone beyond that program. At this moment, we are advertising for a program which will involve a large number of Western Australians, particularly young people. The youth suicide prevention subcommittee of the Office of Youth Affairs has allocated $150 000 to conduct a pilot community care support program to promote life-enhancing skills, and to prevent self-harm among young people. Tenders are currently being evaluated, and successful tenderers will be finalised in November of this year. The pilot will take place in three metropolitan locations. If the pilot is successful, it is envisaged that it will be expanded to country areas. I make the offer to the member for Kalgoorlie that if we are in a position to trial that program in a country area - I do not want to affect the tender process - we could trial one of the programs in the member's area if she feels that the Kalgoorlie region has particular difficulties. This would dovetail with the new youth officer to be located in her area. I understand that the local youth advisory council will take on a role in this regard. Those activities could be drawn together to assist the member in that area. I will speak to the Office of Youth Affairs and see whether, notwithstanding interrupting the tender process, that can happen.

In conclusion, in the short time available in this debate I have been unable to touch on the programs operated in WA by the

Federal Government and the Education Department, and the extensive Health Department program. The member's inquiry was specific to the Office of Youth Affairs. Suicide prevention is a major thrust of that office, which plays a coordinating role. We will use whatever resources possible and do whatever we can to prevent youth suicide.

BUS SERVICE TO WOOROLOO AND WUNDOWIE

Grievance

MRS van de KLASHORST (Swan Hills - Parliamentary Secretary) [3.40 pm]: I raise a grievance with the minister representing the Minister for Transport about the provision of a weekend bus service for people who live in the outer metropolitan areas of Wooroloo and Wundowie. I presented a petition to this Parliament in July 1997 and did a fair amount of lobbying on behalf of the constituents of those areas, which resulted in an improved and extended bus service to Wooroloo and Wundowie, for which I thank the minister. However, while a trial weekday bus service is available to those areas, no public transport service is available at weekends for either Wooroloo or Wundowie.

I understand from my inquiries that generally throughout the metropolitan area, the costs of providing weekend bus services are high, and patronage is much lower than during the week. Therefore, the Transport Department operates what it calls a rationalised service to best utilise costly resources and meet limited demand. However, as is the case with any service, the Government has a commitment to provide a full public transport service for all, not only for those who live in the inner metropolitan area. I believe firmly that the people who live in the outer metropolitan area should be provided with some sort of bus service on weekends.

Wooroloo is within Transperth's operating area, but Wundowie is not. The current trial has paid special consideration to Wundowie by including it in the Wooroloo service. If it is possible for Transperth to provide a bus service during the week to places that are outside its operating area, I wonder why it cannot also do that during weekends. Life does not stand still for these people at weekends. The people who live in these areas, like the people who live in inner metropolitan areas, want to be able to travel around. The young people in these areas want to be able to travel to the city, or at least to Midland so that they can catch the train to the city. Many of those small, outer metropolitan areas lack local facilities simply because they have small populations. The lack of public transport during weekends penalises these people even further. Some of these areas are beginning to experience a problem with crime and vandalism simply because the young people have nothing to do, as was the case in Wooroloo last year. The aged and the infirm also depend on public transport.

Chidlow has a weekend bus service, with four services on Saturdays and three services on Sundays to and from Chidlow. The first service on Saturdays is at 7.00 am, and the last service is at 6.10 pm from Midland back to Chidlow. The first service on Sundays is at 8.00 am, and the last service is at 5.00 pm. Wooroloo is about 10 kilometres from Chidlow, and Wundowie is another 15 kilometres from Wooroloo. Swan Transit, which runs the local bus service, is more than happy to provide a service to these areas and is currently providing weekend services to Chidlow. Therefore, I am suggesting to the minister that the buses that service Chidlow be extended to go to Wooroloo and Wundowie on the weekends as it does during the week.

People who live in the far-flung parts of the metropolitan area are entitled to receive the same type of service as the people who live in the inner metropolitan area, albeit their numbers are smaller. Perhaps we should consider some of the initiatives that Hon Eric Charlton proposed when he was Minister for Transport, such as using smaller buses to cater for routes that differ from those in the inner metropolitan area. I ask the Minister for Transport to work with Swan Transit and Transperth to provide a bus service to Wundowie and Wooroloo on weekends.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [3.44 pm]: I thank the member for Swan Hills for her grievance and for some notice of it. I acknowledge that the member for Swan Hills has always been very diligent in seeking proper services for her constituency.

I have sought some information from Transport. After representation to the Minister for Transport, Transperth conducted a survey in the Wundowie area in September-October 1997, and based on the results of that survey, Transperth commenced a trial weekday service to Wundowie on 20 July 1998. That trial was intended to operate for six months to ascertain the viability of the service. Six buses travel from Midland to Wooroloo each day, and five of those buses extend through to Wundowie. Five bus services commence from Wundowie each day and travel via Midland.

I am told that the extension of the trial bus service to Wundowie has been satisfactory. However, that does not cover the question that the member raised about the provision of a weekend bus service. I have discussed the member's grievance with the minister, and he has agreed to undertake a survey to establish customer demand for weekend services at Wooroloo and Wundowie. I note the member's comment that Chidlow has four bus services on Saturdays and three bus services on Sundays, and that Swan Transit is willing to extend that service. That is a step in the right direction. All we need to do now is undertake that survey and find the resources to achieve what the member is seeking.

Transport has told me that its ability to respond to the member's request highlights the changes in public transport that it has achieved over the past five years. It has increased the Transperth network by 2.2 million bus service kilometres, and many

services operate in the new urban areas, as mentioned previously. It has increased patronage by some two million passenger boardings. The recently announced Transform WA package will dedicate $210m to transport infrastructure. Therefore, the Government is spending money on the provision of public transport.

Mrs van de Klashorst: Swan Transit has gone out of its way to look after the passengers and has extended its service extensively during the four years that it has been in operation in my area.

Mr OMODEI: That is excellent. It is obviously building a good reputation.

The Transform WA package includes the following: Building the Morley bus transit way from the Galleria to the Perth central business district, at a cost of $9m; building the Rockingham to Fremantle transit way, at a cost of $39m; providing the bus priority lane on the circle route, at a cost of $7m; funding for the system 21 scheme, which focuses on high frequency services, low-floor buses and enhanced bus stop systems; and building the Kwinana Freeway dedicated dual bus lane from Perth to Murdoch.

Other initiatives include the following: By the end of this year, we will see the first of the new replacement bus fleet, the livery of which was launched at the recent successful TranzEd Conference. Over the next 12 years, the entire 848 buses in the fleet will be replaced and will all be low-floor accessible buses, which will be good for disabled people and is of great interest to me. By the end of this year, the public transport system will see the arrival of five new sets of twin-car trains for the urban rail network. As the member for Wanneroo would know, demand on the northern rail line is growing exponentially as the population is increasing. The master plan for the extension of the urban rail network to Mandurah is nearing finalisation.

I am sure the member for Swan Hills can understand that there are some competing demands for the Transport dollar. However, the member has certainly by her persistence managed to get the Minister for Transport to agree to that very necessary survey, and I hope that will result in the service that she is seeking for Wundowie.

Mrs van de Klashorst: I thank the minister for his help.

The ACTING SPEAKER (Mr Sweetman): Grievances noted.

PROPOSED DEMOLITION OF HERITAGE BUILDINGS

Censure Motion

DR EDWARDS (Maylands) [3.49 pm]: I move -

> That the House censure the Minister for Planning and Heritage for failing in his duty in respect of the proposed demolition of 19th century buildings on the former ICI site in Thompson Road, North Fremantle in -
>
> (a) overriding the advice of the Heritage Council of Western Australia to preserve these heritage buildings;
>
> (b) overriding decisions by the Fremantle City Council to preserve the buildings;
>
> (c) upholding an appeal by the developer company when the Town Planning Appeal Tribunal had already rejected an identical matter; and
>
> (d) allowing a conflict of interest between his responsibility for Planning and his responsibility for Heritage.

This is an extremely serious motion and, obviously, members on this side of the House would not move a censure motion unless they felt significant issues needed to be brought to the attention of Parliament and the community in general. This afternoon I will speak briefly about the history and background of the issue, because from that it becomes clear where the minister has failed in his duties under the Planning and Heritage portfolios. I hope the minister will appear in the Chamber and respond to this issue.

In August 1996 Fetherstone Holdings Pty Ltd sought approval to subdivide land in Thompson Road, North Fremantle, near the old Dingo flour mill site. It wanted to subdivide the land into 18 residential lots. The City of Fremantle advised the WA Planning Commission that it would prefer the application to be deferred because it believed that four buildings - offices and laboratories on lot 412 and two adjoining limestone cottages on lots 19 and 20 - had heritage value.

Point of Order

Dr GALLOP: This is a section of private members' parliamentary business when members have the chance to raise important issues with the executive arm of government. Not only is only one member of the executive arm of Government in the Chamber, but also no other government members are in the Chamber. It is a disgrace and I ask you, Mr Acting Speaker (Mr Barron-Sullivan), to do something about it.

The ACTING SPEAKER (Mr Barron-Sullivan): I am afraid it is not a valid point of order.

Debate Resumed

Dr EDWARDS: At that stage in 1996 the Fremantle City Council sought a report and concluded to its satisfaction -

[Quorum formed.]

Dr EDWARDS: This censure motion is of utmost importance. It involves Fetherstone Holdings and its activities within the boundaries of the City of Fremantle. In August 1996 this company sought approval to subdivide land near the Dingo flour mill for residential development. That is a landmark with which members will be familiar. At that stage the City of Fremantle requested that the subdivision application be delayed because it believed that four buildings on the site had heritage value. The council commissioned its own study and concluded that those buildings had heritage value. In April 1997 the Fremantle City Council asked the Heritage Council to assess the buildings and to confirm their values. In February 1997, the Western Australian Planning Commission approved the application for subdivision, but it was silent and did not comment on the retention or demolition of the four buildings. Under the City of Fremantle town planning scheme, if a developer wants to demolish buildings he or she needs permission from the council and must obtain a demolition licence. The company applied for the demolition licence and, understandably, given its attitude, the Fremantle City Council refused the licence application. Subsequently, Fetherstone Holdings took this case to the Town Planning Appeal Tribunal -

Points of Order

Mr KIERATH: I have just tried to obtain written legal advice. I have discussed this matter with the Crown Solicitor's Office with respect to the sub judice implication -

Dr Gallop: There is none.

Mr KIERATH: There is, bearing in mind that the City of Fremantle is seeking declaratory orders from the Supreme Court that my decisions on the planning appeal and on the making of a conservation order are unlawful and invalid and are of no force or effect. The Crown Solicitor has referred me to -

Ms McHale: Do you have a date?

Mr KIERATH: For the member's information I have a copy of a writ brought by the City of Fremantle that has been served on the Minister for Planning and the Minister for Heritage - I occupy both those positions - and also Fetherstone Holdings. On seeking Crown Law advice, the Crown Solicitor referred me to a resolution of the Legislative Assembly dated 13 February 1918 that matters which are sub judice should not be brought before the House. Chapter 2 of the standing orders deals with matters that should not be brought before the House, and paragraphs (b) and (c) make it clear that it includes matters under adjudication in a civil court if it appears to the Speaker that that is the case. I apologise that this information has been received only by telephone and I do not yet have it in writing. I submit that the debate should not proceed on the basis that the matter is sub judice.

Ms McHALE: I ask the minister once again to confirm whether a date has been set for a trial, or whether the minister is merely referring to a writ. Under the standing orders of this House, the sub judice rule would apply only from the time the trial date had been set because this is a civil matter, or if you, Mr Acting Speaker (Mr Barron-Sullivan), ruled that there would be sufficient danger to prejudice this trial. As you, Mr Acting Speaker, are not aware of the details of the trial, I suggest very strongly that you are unable to rule that this matter and any discussion in this House would be of sufficient danger to prejudice a trial. The first clause of the standing order cannot be invoked because only the writ has been issued. That does not apply in a civil matter and, therefore, there is no sub judice.

Mr KOBELKE: A case arose in this Chamber not long ago where the current minister stood to answer a dorothy dixer and alluded to specific cases which involved criminal charges. Those charges had been laid and when the then Speaker drew the attention of the minister to the fact that he should be careful about the sub judice case, the minister misled the House by saying it was not sub judice. In fact, one of the cases had been resolved, but that was not the case about which he was talking. That is a clear indication that the minister has no regard for the House or the sub judice rule, and it must be taken into account when you, Mr Acting Speaker, consider the points in this case.

Turning to the matter before the House, the member who was speaking to the motion had started to detail a range of matters which are clearly on the public record relating to approval processes. Nothing she said could in any way be considered sub judice. If the debate proceeded to a point where allegations were made or matters were raised which are not in the public domain, you, Mr Acting Speaker, might be asked to consider the sub judice rule. In that situation you would need to consider the standing orders and the precedent set, some of which has been raised already by the member for Thornlie. At the moment, the member speaking to this motion is raising matters relating to the processes of government and planning and heritage approvals. These matters are on the public record and are not matters that can be hidden through the fictitious use of the sub judice rule.

Ms MacTIERNAN: The definition of sub judice in the standing orders has three arms - on three occasions sub judice may apply. The first is a matter before any court exercising criminal jurisdiction. We are not talking about that. The second part states -

> Any matter awaiting or under adjudication in a civil court from the time that the case has been set down for trial . . .

That is the example alluded to by the member for Thornlie. As the Opposition understands the matter, no trial date has been set so clearly paragraph (b) of the sub judice standing order does not apply. Paragraph (c) states -

> Any matter awaiting or under adjudication in a civil court prior to the time that the case has been set down for trial or otherwise brought before the court -

The next section is the crucial part -

> - if it appears to the Chair that there is a substantial danger of prejudice to the trial of the case;

Mr Acting Speaker, to find that you would need to take the view that the judgment of the judges of the Supreme Court is likely to be biased by a debate in this House. That would be a most unfortunate finding. I put it you, Mr Acting Speaker, that paragraph (c) is in the standing orders because at the time when they were compiled, a number of civil proceedings went before a jury - for example, a defamation matter may go before a jury. However, this is an application for declaratory orders which will not be considered by a jury. It will be determined by the most eminent legal practitioners in this State, the judges on the bench of the Supreme Court. For this House to find that it cannot debate this matter because the points of view of the Supreme Court judges would be suborned by this debate is an outrage. This case does not fit into any of the three arms of sub judice; hence, this debate should be allowed to proceed.

Mr BARNETT: This is an important ruling which will need to be made from the Chair. I suggest that the Chair should consider not only the progress or otherwise of the impending case but also the distinction between matters of policy and matters of principle in the way ministerial powers may be exercised. That should be distinguished in discussion of items which may appear in the case. There are two elements to this debate.

Dr GALLOP: I am not a lawyer; I am parliamentarian. I believe in the system of parliamentary government whereby ministers are responsible to this Parliament for their actions. We have a sub judice ruling in the standing orders not to protect ministers from the scrutiny of the Parliament but to protect citizens of this State from the potential for compromising comments to be made within parliamentary debate which may influence proceedings in the courts. That is why it is in there. If we were to use this minister's argument as the basis of stopping a debate about the way he has exercised his power as a minister, it would be a retrograde step for this Parliament. It would be saying that the Government can use a device to avoid proper scrutiny of its performance. This is a serious matter for the Parliament of Western Australia. This is one of the most serious issues we have had in this Parliament in the past 12 months. If there is a ruling from the Chair that we as parliamentarians are not allowed to subject public decisions of that minister to scrutiny in this Parliament, Mr Acting Speaker, you will receive a loud howl of protest from this side of the House.

Mr PENDAL: Mr Acting Speaker, in your ruling I would like you to clarify one or two matters that have cropped up in the past four or five minutes. The minister has told us by way of a point of order that legal action challenging his decision has been instituted by the City of Fremantle in the Supreme Court. In the normal course of events, it would be inappropriate for the House to continue to conduct a debate but I ask you take into account and advise the House on this point: If these cottages are in imminent damage of demolition, this House should proceed with a debate. The prerogatives of the House should outweigh the prerogatives of the court if demolition is imminent. However, if the legal action of the Fremantle City Council means those cottages are not in imminent danger, it would be inappropriate for us to debate this. Mr Acting Speaker, your decision should come down to this question and this question alone; are these cottages, the subject of the motion by the member for Maylands, in imminent danger of demolition?

The ACTING SPEAKER (Mr Barron-Sullivan): I will leave the Chair until the ringing of the bells.

Sitting suspended from 4.06 to 4.46 pm

Acting Speaker's Ruling

The ACTING SPEAKER (Mr Barron-Sullivan): I thank members for their patience. It has been a very difficult point to consider. The main question is whether this House will in any way unduly influence any court proceedings. The Chair has spoken to members to ascertain further information. It has been difficult in that a number of points of order have been raised and at the time the Chair was not familiar with the full detail of the legal proceedings. However, it has been possible to ascertain that a preliminary hearing has been set for this Friday. The Chair understands that no trial date has yet been set to deal with the substance of the matter. However, I am told that a further application is before the court for a prerogative writ of mandamus which is to be heard this Friday. The question is whether the matters relating to the issue of the writ of mandamus go to the issues in the member for Maylands' motion. There may be some overlap with potential future court

proceedings, but this is not entirely relevant in the Chair's decision on this matter. The Chair further stresses that this proceeding is likely to involve court proceedings before a judge, not a jury, and consequently there could be expected to be less risk of influencing the judicial process. I will read an item from the *Australian Law Journal*, volume 39, page 186 -

> The whole concept of course works on a basis of guesswork. One is almost never able to know with any degree of certainty whether debate or discussion is likely to prejudice an impartial hearing. But, at least in our present society, judges do not give the appearance of being delicate hot-house plants, bound to wilt under any wind which blows their way. Juries may be more of an unknown quantity, but may it not be assumed that they comprise reasonably intelligent beings who can be relied upon to distinguish between out-of-court comment and the evidence in court upon which they have sworn to base their decisions?

In effect this is attempting to illustrate that there is some question as to how much the court would be influenced by proceedings in this Chamber today. We are dealing with a matter of convention and while the definitions are set out within the standing orders, the standing orders are not so specific as to how that definition should be applied or treated. Consequently I rely to some extent on the precedent in this House. I take members back to March 1996 and I provide a quote from the then Speaker Clarko -

> Members who have been here for some years will be aware that there has been a trend towards the House not inhibiting itself unnecessarily in relation to the subjudice convention.

Speaker Barnett has stated from the Chair that the essence of the convention as applied in this House is that if it appears to the Chair that there is a substantial danger of prejudice to the trial of a case, then a debate should be restricted only insofar as that substantial danger exists. He also noted that where there is an overwhelming public interest in a matter being debated, and much of the material which would be discussed has already been brought before the public in other ways, it is difficult to see how the legitimate deliberations of the House are likely to substantially further prejudice proceedings before the courts. Speaker Barnett ruled that until the Chair is convinced that there is a substantial danger that debate will prejudice a case before the courts, there is no alternative but to let the debate proceed.

The Chair rules that debate can proceed, but with the firm qualification that members should refrain from raising or discussing in detail issues that are likely to be considered in the Supreme Court this Friday. This has been a difficult decision. I thank members for their patience to enable the Chair to deliberate on the matter and I duly allow the motion to proceed.

Debate Resumed

Dr EDWARDS: Mr Acting Speaker, I acknowledge the work you have put into that ruling. It is a fact that under the town planning scheme of the City of Fremantle, a developer needs the permission of council before proceeding with demolition. Consequently, this developer applied for a demolition licence which was refused by the City of Fremantle. The developer then took the case to the Town Planning Appeal Tribunal. That case was heard over five days in May or June last year. Ultimately the appeal was dismissed in October 1997.

This Town Planning Appeal Tribunal report is a substantial document, containing 30 pages. It is tightly written and the tribunal considered all the angles. In five days of hearing, the tribunal went into considerable detail. It had heritage architects, acoustic engineers, lawyers and cross-examination. The document is thorough. The tribunal looked at the issue in depth. The tribunal had to decide, first of all, whether heritage is a valid planning issue. It conceded that in this jurisdiction, in Western Australia, heritage is a planning issue. It then looked at the buildings and determined that there was cultural heritage significance and, as I have said previously, that was a planning issue. It went on to rule that there would be a deleterious effect if the demolition of the buildings went ahead.

In the months that followed, the City of Fremantle tried to negotiate this situation and I believe the member for Cottesloe became involved; it tried to find a resolution to the problem. The demolition company then made a second application to the City of Fremantle, the only difference being that, whereas, the first had been a single application, the second was in two parts. I am informed that it was almost entirely the same application. What happened then is what most people would predict. Nothing had changed for the City of Fremantle, so it refused the application.

At this stage the company appealed to the Minister for Planning. These were the same buildings, the same issues and the same principle on which the tribunal had already ruled, but the developer had put in the same application and gone to the minister. In September this year the minister decided to uphold the appeal, which meant the demolition was allowed. The City of Fremantle then sought a conservation order; that is, a stop-work order to allow 42 days so that the Heritage Council of Western Australia could complete its assessment of these buildings. I understand the Heritage Council supported this stop-work order.

This request was made to the Minister for Heritage who refused it. As he is also the Minister for Planning, the least that can be said is that he was consistent in his decision. This is an insult to various people, to the deliberations of the tribunal which put in a whole lot of work, and to the Heritage Council. If the minister was concerned that he had a conflict, he could have

delegated that decision in various ways. There are various accepted ways in which he could not have made that decision. He could have had another minister act in his place or delegated that authority to the Heritage Council.

I now turn to what lies behind this censure motion. My first concern deals with the City of Fremantle, but I will be careful in how I approach this and will seek the advice of the Chair if you, Mr Acting Speaker, think I am straying. When the minister sent his letter to the developers as a result of the ministerial appeal, he made comments about the actions of the City of Fremantle, including that the City of Fremantle had not considered these buildings to have great heritage value. I think one throw-away line was that they were on the municipal inventory.

The council had three specific policies looking at heritage and those buildings quite clearly fell under that policy. I wonder whether the minister read this report and whether he comprehended all the detail in it. As I say, it is a thick report and it is hard to read, but it is worth reading it a few times so we can grasp it. It is quite clear from the evidence given to the tribunal that the City of Fremantle had considered this issue in great detail. It had also attempted mediation. It had done its best to try to sort it out. It commissioned more research. It wanted to make sure it knew what it was talking about. The matter was not dissimilar to the Planning Legislation Amendment Bill we dealt with this morning, when the minister was trying to override and undermine the powers of local government.

Perhaps the most serious insult by the minister is that he has allowed the developer to approach him, in appeal, as the Minister for Planning when the same issue had been thoroughly dealt with by the tribunal. This is an extremely serious issue. Is the Minister now signalling that if developers lose a planning appeal at the tribunal, they can lodge the application again in almost the same words, and if that fails - it will fail because councils are unlikely to change their decisions - the developers then trot off to the minister? The planning lawyers must be laughing. They must have work rolling in. What happens when they start doing it the other way?

Mr Kierath: They have been doing it the other way regularly.

Dr EDWARDS: That raises another interesting point. I was fascinated to read the review of the planning appeal legislation commissioned by the minister - Mr Chapman's review. In his review, Mr Chapman commented that when we exercise a right of appeal to one avenue, either the minister or the tribunal, we extinguish our right to the other. Does the minister believe Mr Chapman is wrong?

Mr Kierath: No, because there is nothing to stop people from putting in a new application.

Dr EDWARDS: I will be very interested to hear the minister's response to this debate. These applications were virtually identical, and the minister is saying that if developers have had one bite of the cherry and they are not happy, they should go through the other system to the minister. If they have failed before the tribunal, they should come to him, as the minister, with the same application with only a few different words, and he will let it through. What a way to run planning in this State! What a disgrace that is to the planning system! What a message that is sending out!

It is not as though the Minister for Planning did not know about these problems. When the member for Riverton got the guernsey as Minister for Planning in January last year, he received it in a blaze of controversy. We saw the very colourful exit of the former Minister for Planning, Richard Lewis. We had about three weeks of debate in the media concerning planning appeals. Everyone was concerned about the ministerial planning appeal process. The minister made a commitment to tighten up the system and conduct a review. People everywhere were saying that the dual system in this State was no longer acceptable, and we were not getting the accountability that we deserve. However, this minister is by his very actions feeding the perception in the community that the system is rotten.

Why is the minister so sensitive about this matter? The Acting Speaker had to leave the Chamber for 45 minutes in order to make a ruling on whether this matter is sub judice, when all of the legal advice that we have obtained is the same as the ruling that he made; namely, that the matter is not sub judice. Why is the minister so sensitive to the comments that have been made by the Mayor of Fremantle, Richard Utting? On 10 September, at the Royal Australian Planning Institute Conference, Mayor Utting outlined what he thought about the ministerial planning appeal process. One of the things that he did, in his usual colourful way, was liken the ministerial planning appeal process to a situation in which a person has been acquitted of murder, but in which the prosecution can then appeal to either the criminal court or the Attorney General. He pointed out that if a prosecutor had that option, and he had a pro-hanging Attorney General, he would go straight to the Attorney General.

Richard Utting also made a more serious comment. He did not make this comment in isolation. This comment has been made in the community, particularly since January 1997. Richard Utting said that there will always be a perception that the ministerial planning appeal process is unfair, that it is helping political mates, and that it is doing favours for financial backers, either actual or potential, and so on. He said that he was commenting not on the minister, but on the perception of the system. I want to know why the minister is so sensitive about this. I want to know also whether the minister has had any communication with Fetherstone Holdings, or any of its directors; and whether that communication was verbal, written, over the telephone, or whatever. I want to know what meetings have taken place behind the scenes that we do not know

about. It is interesting that the *Fremantle Herald* reported Richard Utting's speech under the startling banner of "Appeals stink of WA Inc". Guess what the minister did? He got upset, and he did what he has done this afternoon: He took legal advice! Guess what his legal advice was?

Mr Minson interjected.

Dr EDWARDS: I bet the member for Greenough did not take legal advice all the time when he was a minister. Why is the Minister for Planning so sensitive? Richard Utting gave a paper at the Royal Australian Planning Institute Conference. I gave a paper at that conference. Will the minister take legal action about something that I said? The minister is now threatening legal action, because he thinks he has been defamed. When will it end? Any time an issue is raised that makes the minister feel a bit uncomfortable, he goes off to the lawyers! It is no wonder he wants to be a lawyer! The lawyers must be doing really well out of him! I will wait for any apology with great interest.

This issue involves some buildings that we believe have heritage value. The City of Fremantle refused to issue a demolition licence for those buildings because it believed that those buildings have heritage value. However, the developer was not happy with that decision; and, as is its right, it took the matter to the Town Planning Appeal Tribunal. The Town Planning Appeal Tribunal is a very august body. It was referred to recently by a major planning lawyer and academic in the eastern States as the best planning decisions body in Australia.

The minister obviously does not agree, because although the decision of that tribunal was a 30-page document that was based on a hearing before lawyers, to which all the experts were called, with cross-examination and all the rest of it, he sent out a two-and-a-half-page letter saying that the tribunal had got it wrong. I wish to see the report of the committee on which that letter is based, and I have applied for it under freedom of information. On the same day that I made an application for that report, I made an FOI application for the report on another planning appeal. I have since received a copy of that report. However, the report on this matter appears to be delayed, although I believe it is being sorted out and I will receive the document shortly. How dare the minister say in a two-and-a-half-page document that he knows everything about planning law and about heritage, and totally dismiss the taxpayer funded findings of this tribunal? I do not know what this five-day hearing cost the taxpayer, but it cost the City of Fremantle $25 000, so it will have cost the taxpayer a lot more than that, because three people sit on that tribunal. How dare the minister do that? Even worse than that, why does the minister not close the loophole? Why is he allowing the loophole to be perpetuated? What does that say about planning in this State?

The minister has clearly not been able to manage the conflict between his dual roles of Minister for Planning and Minister for Heritage. Perhaps he sought legal advice about that matter; who knows? This is a very serious matter. We have not raised this censure motion lightly. It is an extremely significant issue, and the Minister for Planning and Heritage deserves and needs to be censured by this House.

MS McHALE (Thornlie) [5.05 pm]: I second the motion, and wish to make a number of remarks about this critical censure motion. This motion has been further complicated by the debacle that we have seen over the past 40 minutes, where the minister has tried to avoid dealing with the second censure motion that this side of the House has moved against him. That of itself is an interesting and relevant issue. However, in the case of this censure motion, the minister has not been able to invoke the standing orders to avoid being called to account for his decisions; and hopefully this time the minister will explain why he should not be censured by this House.

This is a critical issue, for three main reasons. Firstly, the respectable planning process that has been established by previous Governments in legislation has been severely called into question. Secondly, this minister appears to have a conflict of interest between his Planning portfolio and his Heritage portfolio. The critical element is that that conflict has not been managed; and, as a result, the heritage of our community, and particularly of the Fremantle community, is once again under threat. The third element is the minister's disregard for the heritage of Fremantle, and perhaps more broadly for the heritage of our State. I will make some remarks particularly about the minister's conflict of interest and disregard for heritage. I hope that this time the minister will respond to our comments.

The member for Maylands has outlined the history of this matter, which now goes back almost two-and-a-half years to August 1996 when the first application was made to the Fremantle City Council. Even as early as August 1996, the significance of these buildings was clearly articulated by the Fremantle City Council, and it argued that these buildings had significant heritage value. This minister chose to disregard and not give adequate weight to those comments. The heritage planner of the Fremantle City Council said that there was a prima facie case that the buildings were of significant cultural heritage value to the municipality. We all know that the City of Fremantle is steeped in history. I understand that about 3 500 buildings in the City of Fremantle are subject to consideration for listing on the interim municipal inventory. Fremantle has a great social history and a great industrial and aesthetic heritage. Therefore, any Minister for Heritage should think very carefully about planning applications relating to areas or buildings that have a heritage value. However, this minister chose not to have regard for history. Council refused the development application on the ground that the buildings had significant heritage value in 1996.

In 1997 in an appeal to the Town Planning Appeal Tribunal the heritage elements were revisited and the tribunal indicated

that heritage should be taken into account in a planning application. Again, during that hearing the Fremantle identity and the merits of preserving buildings that reflect the city's history and the elements of that history in the identity of Fremantle were canvassed. The Heritage Council of WA was asked, I believe in 1996 or early 1997, to consider assessing the heritage value of the buildings. It is interesting that at the time of the appeal to the tribunal, the Heritage Council had not commenced processing that application or the request to list those buildings on our state heritage list. Of course, when the tribunal had canvassed the heritage significance of these buildings and indicated that the heritage value was sufficient to reject the application to develop this site, the Heritage Council, understandably as a result of lack of resources and insufficient staff, thought that the buildings were preserved. Therefore, this set of buildings was not put on the urgency list.

If an august body such as the tribunal said that the buildings had significance and that to demolish them would "destroy a unique juxtaposition of buildings with some historic significance and would ever alter the qualities that were currently given expression by the built form." That is a clear statement of support for the heritage of these buildings. It is not worrying that at that time the Heritage Council decided not to continue with its urgent review or assessment, because it stated that the buildings were significant.

The minister said that the buildings were not listed on the council's municipal inventory. The Fremantle City Council does not have its final municipal inventory. However, it has a number of policy statements which build a picture of its approach to Fremantle's heritage.

Mr Kierath: Is it supposed to have a list?

Ms McHALE: Absolutely. The minister knows his legislation. A number of local governments do not have a municipal inventory and he does not get on their backs. He should not use that argument regarding the Fremantle council. We have asked him on numerous occasions what he is doing to assist local government and he has done nothing in that regard, so that is a fatuous argument.

Mr Bloffwitch: The Heritage Council has done nothing in my area. They all have their own inventories.

Ms McHALE: The member for Geraldton should get on to the Minister for Heritage and Planning.

Mr Kierath interjected.

Ms McHALE: When the minister and the member for Geraldton have finished arguing, I might continue with my remarks - not at a later stage, but now.

It is also interesting that the minister should refer to one of the expert witnesses in the tribunal case who argued on the balance of probabilities that these buildings may have local heritage significance but not strong significance. However, when he was quizzed about the offices and laboratories, he admitted he would have to review his evaluation because it did not take account of their history. We can well imagine that in the tribunal hearing, the expert witness for the applicant and for the respondent might clash, because they have different lords and masters and ladies and mistresses. However, when questioned, even the expert witness for the applicant recognised that perhaps the offices and buildings in particular had heritage value of which he had not been cognisant because his research was limited to the Fremantle library rather than to examination of some of the more detailed reports. Even the applicant's expert witness perhaps watered down his position and said that the office buildings could have some heritage value. The definition of "some" is a subjective argument - one we will not have here. The council showed that the buildings had considerable environmental and heritage significance. I quote from page 23 of the tribunal decision -

> The Offices and Laboratories Buildings are a remarkable group of structures illustrating aesthetic merit, a variety of historical architectural languages, and creating an aesthetically delightful, picturesque urban streetscape.

In the minister's determination of whether there is heritage value not only has he not taken regard of a number of expert authorities, but also he has ignored the fact that the offices and the laboratories in particular may have state significance. There is an argument to say that if something has local significance it may not warrant going on the state register. However, there is a strong view that these offices and laboratories may have state significance. I will refer later to what the minister should have done.

As the member for Maylands indicated, we have a history of cases going to and fro over two and a half years and at the end of it a very clear picture that these buildings in Fremantle are deemed to have significant heritage value. However, when the company's application was once again rejected by the council and it went to the Minister for Planning, the minister decided that the buildings had little heritage value and that the planning application should go ahead. He said that things such as the buildings were subject to vandalism, that the architect acting on behalf of the applicant concluded the building had no heritage value to justify conservation, that the council had not listed them on the inventory, and that the Heritage Council had shown no interest in the preservation of the buildings.

Many buildings are now very strong and beautiful heritage buildings that some years ago had been subject to vandalism and left to deteriorate. However, we can do remarkable things when we put our minds and our hearts to it. We can restore

buildings, not always in a conservation manner, which returns the heritage value in its entirety. The fact that they are subject to vandalism is a red herring.

As I indicated, the architect had to concede that the office buildings in particular had some heritage value and his overall evidence was outweighed by the evidence of the expert witness on behalf of the Fremantle City Council. I have already indicated that the council does not have its formal municipal inventory, but it has other mechanisms by which it lists and preserves its heritage buildings.

It is not true that the Heritage Council showed no interest in the preservation of the buildings. An application was made to have the buildings listed on the state heritage register. Those investigations did not proceed because of the tribunal's decision. However, in recent weeks the Heritage Council recommended to the minister that a conservation order be placed on those buildings, but the minister chose to disregard that advice. That is where he made a terrible mistake. He should have taken the advice of his council, which investigates a range of issues. The council, through its officers, recommended that a conservation or stop-work order be placed on the buildings for the very purpose of dealing with such a conflict or a decision made in hurry that could result in the demolition of buildings. It is there to provide breathing space for the minister and those involved to deal with complex matters. That would have been the due process to follow and that is what the Heritage Council recommended - that the due process be followed to allow for an order to be made and considered assessment of the buildings to be undertaken. At the end of the 42 days the council might have said that the buildings did not have significant value. We do not know that because it was not allowed the time and scope to do that assessment. That would have meant nothing in the overall process and it would have been the proper way to proceed. The minister should have allowed for some breathing space to manage both his Heritage and Planning portfolios, but he did not. We can only surmise from that that heritage issues take a very low priority as far as this minister goes vis-a-vis planning applications. It is one of the most critical issues facing the preservation of our heritage.

If the minister felt there was a conflict of interest - we are not saying that that is necessarily and inherently wrong, because many people are faced with that situation - there are ways he could have managed it. The minister could have delegated the heritage aspect, but he did not. Instead, he chose to disregard or override, firstly, the Fremantle council, which had spent several years determining this position and working to preserve the heritage of Fremantle; secondly, the Town Planning Appeal Tribunal, which considered a range of planning, heritage and other issues pertinent to the application; and, thirdly, the Heritage Council's advice. Instead, he supported the appeal from Fetherstone Holdings Pty Ltd, and as result the council might be faced with very expensive legal costs and the State will be caught up in an expensive legal matter. That has happened because this minister chose to disregard his heritage responsibilities and supported an application for redevelopment from Fetherstone.

Members may know that Fetherstone Holdings is a significant donor to the Liberal Party. This minister has shown disregard for the cultural and social heritage of Fremantle. His own Heritage Council advised that due process needed to be followed to allow the heritage value of these buildings to be properly investigated. This minister may have been put in a difficult position in wearing two hats, but all ministers have various portfolio responsibilities and at times they are in conflict. He had options, but he disregarded them because he was totally focused on supporting the planning application.

The Labor Party has moved this censure motion against this minister for those reasons. Censure motions are important and critical. They are seldom moved in this House but, when they are, it is done with good reason and after members have considered the underlying issues. Because the Labor Party values the planning process and the heritage of our State and because this minister has abrogated his responsibilities in both portfolio areas, it has moved this motion.

MR KIERATH (Riverton - Minister for Planning) [5.27 pm]: Mr Acting Speaker -

Mr McGinty: You are running scared. Last week you tried to get away with cheap stunts. You are not worth two bob. You are shot to pieces. You are a gutless wonder!

Mr KIERATH: That is garbage.

Withdrawal of Remark

Mr BARNETT: The point of order is obvious. The member for Fremantle should withdraw that remark.

The ACTING SPEAKER (Mr Sweetman): The member will withdraw.

Mr McGINTY: I withdraw.

Debate Resumed

Mr KIERATH: When this issue came before me as Minister for Planning under the appeals procedure I could see that there would be some difficulty.

Mr McGinty: Did you get a donation for the Liberal Party's campaign fund?

Mr KIERATH: At least let me have a chance to say something. When it came to me on appeal, I could see that this would be a potentially difficult issue.

Mr McGinty: Did you enhance the Liberal Party's financial situation?

The ACTING SPEAKER: I will be forced to call the member for Fremantle to order formally if he persists.

Mr KIERATH: When this issue came before me I could see there would be a degree of difficulty, because in the end I would be wearing two hats.

Several members interjected.

Mr KIERATH: Members laugh. I do not think this is a joking matter, although members of the Opposition may. It is serious and I took my responsibilities in this regard very seriously.

The minister has a statutory right to exercise some discretion in that decision-making process. However, because I could see a potential conflict of interest, the director of the Town Planning Appeal Committee appointed Mr Tony Ednie-Brown, who is a member of the Heritage Council and has well-recognised expertise in the heritage area.

I am not blaming anyone else; I accept that it is my decision in the end. However, I will detail the precautions I put in place. We had the most qualified appeals committee member in the heritage area to do the investigation and he recommended that the appeal be upheld. Ordinarily there would be much discussion from my point of view, and I could have varied that decision, which happens on occasions. However, in this case, we accepted the investigator's report literally.

The letter the member referred to states -

> The Member of my Appeal Committee, Mr Tony Ednie-Brown, also a Member of the Heritage Council of Western Australia, has also concluded that there is very limited, if any, justification for the retention of these buildings given their current condition and the fact that, hitherto, little recognition has been given to the buildings for the purpose of conservation.

If the City of Fremantle felt it was so important, it should have taken every precaution possible to preserve that site. The fact that it did not do so is one of the reasons we are in this situation. If the City of Fremantle had given the buildings conservation priority it could have done something about the matter a lot earlier. Did it refer the buildings to the Heritage Council for listing? No, not until I upheld the decision, when as a last ditch effort to do something about it, the City of Fremantle referred the matter to the Heritage Council. I believe that a body like the City of Fremantle, which so proudly lays claim to its heritage, would have done something about this before if they were important buildings. If the City of Fremantle thought the buildings were not important enough to be on its municipal inventory, and if it thought the buildings were a state heritage matter, it should have referred them to the Heritage Council for assessment. It did not do so until it was searching for any last trick it could pull out of its hat to try to prevent the demolition of the buildings. Suddenly, the Mayor of Fremantle began to make all sorts of outrageous allegations. He said it was a stunt like WA Inc. One of the worst insults that could be directed at me in this House is to associate me with any of the Opposition's activities when in government. Yes, member for Maylands, I was a bit sensitive to that. I do not like being associated with corrupt activities such as those we saw in the previous Government. I object to that and feel very strongly about it. I sought legal advice and was told that if I were an ordinary citizen I would have a very good case for defamation but because I am a member of Parliament and considered public property, although I still had a strong case, I needed to consider whether I would succeed in the end.

I saw the problems coming. Wearing my appeals hat I took every possible precaution to ensure that I did not influence the decision. I relied heavily on other people's advice. The person who conducted the assessment and the three or four remaining members of the Town Planning Appeal Committee were unanimous in their support for the investigator's report. On that basis, I decided to uphold the appeal. That was when I was wearing that hat. The member for Maylands may not like the fact that somebody can go the tribunal and then to the minister or vice versa. They must choose one or the other. The law is very specific - a person who makes an application cannot go to the minister and the tribunal. However, the law does not prevent that person from making a new application. The new application can be an exact repeat of a previous application, a slight variation, a major variation or bear no resemblance to the first proposal.

Mr Bloffwitch: Thank goodness that is still available.

Mr KIERATH: That is right. Generally the appeal is sent to the minister first because it usually costs a couple of hundred dollars, takes three months and has a 50 per cent success rate. If a person loses, he then goes to the tribunal which costs $50 000 to $100 000. In this case, the party obviously felt that the tribunal's case was fundamentally flawed.

Dr Edwards: Have you read the tribunal's case?

Mr KIERATH: Information was given to me. In the letter I stated -

> I note with interest that the Mediators in the case before the Tribunal, one of whom is a prominent architect, came to the conclusion that the buildings did not in fact have heritage value to justify their conservation. Moreover, the City did not select these buildings for conservation as a part of its appraisal of buildings of heritage value within its Municipal District. In presenting evidence to the Tribunal hearing, Mr Ron Bodycoat, a recognised authority on places of heritage value . . .

If he had erred in any way, it would have been on the side of conserving the place. He is a recognised authority and he -

> . . . concluded that the significance of the buildings was not such as to demand conservation.

He is another expert who thought that. The City of Fremantle itself did not believe the buildings were so important that it should put them on the register. If it did not want to list the buildings on its register, which does not have the status of the Register of State Heritage Places, it could have at least referred the matter to the state Heritage Council. It did not do that until my decision on the appeal was known. That was the first time the City of Fremantle moved to have an assessment made of those buildings. That is disgraceful.

Point of Order

Mr KOBELKE: Mr Acting Speaker, I ask you to direct the minister to table the official document from which he is quoting. He has a record of misquoting and the Opposition would like a copy of the document to check whether the minister is telling us the truth.

Mr KIERATH: I will table the document when I have finished quoting it. I need it for my comments. It is a letter that is publicly available.

The ACTING SPEAKER (Mr Sweetman): There is no point of order.

Debate Resumed

Mr KIERATH: When the City of Fremantle tried this stunt of referring the matter to the Heritage Council, the council sent me some information. A minister wearing two hats is faced with a dilemma. I referred that report to the director of the Town Planning Appeal Committee, a person of utmost integrity. I am not blaming him; I am just explaining what has happened. I gave him that information and I asked him to advise me whether, in the light of that information, any of the previous appeal decisions would be changed. He took time to consider the matter and reported to me that there was nothing in the information to change the appeal decision. I thought I had gone out of my way to ensure that I did not intervene or impose my personal views on the process. Under the current legislation, I cannot delegate the appeals process to anyone else. Even if a member of my family put something up I could not delegate it to somebody else. The minister must make the decision. The Town Planning Appeal Committee gives the minister advice and he makes the decision. I accept responsibility for the decisions but when the matter appeared on appeal I took great care to ensure that other people advised me, and I accepted their advice without question and without considering my personal views. When I was given that information I referred it back to the senior person on that committee to ask whether it would have changed its decision in the light of that information. If the committee had advised me that it would, I would have agreed to issue the conservation order on a temporary basis. However, having received that information, the committee's advice to me was such that it would not consider changing its decision in any manner, way, shape or form.

When the Opposition moves a censure motion it should find some impropriety or wrongdoing on the behalf of the minister. As I have explained to the House, I have gone to extraordinary lengths to ensure that I did not influence the decision. I sought independent advice and I accepted that advice without question. Under the Statute I had the right to change the decision if I felt so inclined, but I chose to maintain impartiality because of the potential perception of conflict of interest. I went out of my way to ensure that I sought advice from the different parties.

Dr Edwards: I did not hear what you said as the attendant was talking to me. Could you just go over that again?

Mr KIERATH: The member for Maylands can read the detail in *Hansard*. I outlined the procedures and how the appeals were arrived at. An assessor was appointed who had the highest heritage background that we can choose from our panel of committee members. He was also a member of the Heritage Council, which made the decision even more credible. He made his report, a copy of which members of the Opposition are seeking. His recommendation was to uphold the appeal. I can only presume that he was either not at the meeting or voted against the resolution when the Heritage Council, or its executive director, sent me a request for a conservation order and some background information to justify its position. I took that information, gave it to the director of the appeals office and asked him to go through it. In the end, the minister makes a decision. I asked him, "Is there anything that would cause him to change his advice to me in any manner, shape or form?" In my view, I had worked out that if there were, I would have issued the conservation order, but if there were not, there was nothing new to be added and the appeal decision should stand. In terms of balancing the conflict of interest in having those two portfolios, I do not believe that I could have done anything else within my legal obligations to be more independent. In this case, I made sure that I did not put any of my personal feelings into it. I accepted the assessor's report and the view of the Town Planning Appeal Committee, of which there were three or four members.

Dr Gallop: It is convenient that you ignored the Town Planning Appeal Tribunal and the city council.

Mr KIERATH: I allowed them to state their own positions. Their views were unanimous. They supported the assessor's report, so I accepted it exactly as it was given to me, without changing it in any way and without using the ministerial discretion that I have to change that recommendation. So I did. When Heritage put up the request for a conservation order, which came from the City of Fremantle, but only as a last resort to avoid issuing a demolition licence - in other words, only as a stunt, not because it thought that the building had any heritage value before; it was just a last-minute device to prevent the issuing of the demolition order - I obtained the information and sent it across to the Town Planning Appeal Committee and asked it to reconsider the matter. Statutorily, it cannot do that, but to help me as Minister for Heritage to make a decision, if there was anything that caused it even to question any part of the decision that had been made, I would have issued the conservation order. The advice I received was that there was absolutely nothing that would change any aspect of the recommendations that were put to me. Members can obtain the document from the Heritage Council under freedom of information. As I said the other day, there will be an "approved" or "not approved" stamp, my signature and the date on it, which is what I do with all my decisions, so I can be confident of that. From the point of view of conflict of interest - I have sought advice - I could have done nothing more to be independent in my assessment of those two issues.

Before I finish I will comment on some of the ridiculous things that have been said. I do not choose where appellants go. An appellant might go off to the tribunal, not like the decision and want to set up a new application. The member for Maylands even acknowledged that there was a new application, because she said that it went back to the City of Fremantle and it knocked it back again. It then chose to come to the Minister for Planning under the statutory provisions in the Act. I am obligated then to treat it on planning principles - that is, whether or not it has planning merit. I have done exactly that. I have done it to the letter of the law. As for the dirty, disgusting, snide remarks of one opposition member, I made sure that any involvement I had was totally clean and that there was no interference by the minister. At the end of the day, the minister must make the decision, but I have abided by the advice that was given to me to the absolute letter and without any interference at all. In those circumstances, believe me that is the best that one can do.

The member for Maylands mentioned the former minister. Even when he was no longer the minister, he did not have the ability to delegate to anyone else. In the new appeals Bill there is that ability so that a person can get out of uncomfortable situations.

Dr Edwards: So are you going to close the loophole?

Mr KIERATH: I do not call it a loophole.

Dr Edwards: Of course it is.

Mr KIERATH: It is not a loophole, because we can say that the legislators at the time specifically put it in the legislation. That does not mean that it is a loophole. The member for Maylands might not like it, and the House is able to change it, but just because she does not like it does not make it a loophole. It is clearly there in statute law for people to choose whichever they want. I also object to the fact that another opposition member said I did that as a stunt to avoid scrutiny. I am always happy to take on opposition members in a debate.

Mr Ripper: You were not last week.

Mr KIERATH: I do not believe that I have ever run away. The member for Belmont rose to his feet, and then he sat down. He got halfway to his feet, seeking the call, and he sat down. He should not blame me for that. He told us that he had four speakers, and we were rotating them. In this case he told us that he had two, and I was quite happy to speak after his next speaker. An opposition member made the stupid remark that I was trying to avoid debating the matter.

Mr Riebeling: You were.

Mr KIERATH: I was not trying to avoid it. One of my officers actually checked with Crown Law. I said that I had been trying to get the advice in writing. I received verbal advice. I do not know what opposition members do, but we ask for verbal advice and when we ask for it to be put in writing it sometimes changes. If verbal advice is given on an important matter, I ask for it in writing. As I said at the outset, I did not have it in writing; I had only verbal advice. A couple of sections which were quoted back to me sounded fairly informative and authoritative.

If there is any doubt, one must be conservative in one's judgment and not do anything reckless or irrational. On that basis, I raised the matter in the House, which is the proper thing to do because I had a dilemma: On the one hand the member for Maylands was saying one thing - I mean no disrespect to her; she is probably the most decent member of the Opposition - and, on the other hand, I had some verbal Crown Law advice saying something different. What do I do? I would accept Crown Law advice every time in preference to opposition members' advice. If that is doing something wrong, I will go he as well.

I have heard many times that the Opposition did not agree with decisions that I have made, but I have heard not one shred of evidence of any wrongdoing on behalf of the minister. In fact, the evidence has been that the minister carried out his

duties as a Planning Minister and as a Heritage Minister to the best of his ability. Members opposite might not have liked my decision - I accept that it is their right to dislike that decision - nevertheless I have not been guilty of any wrongdoing. Indeed, I have upheld the statute. Section 59(1) of the Heritage Act provides that the Minister for Heritage may make a conservation order for any place if he is of the opinion that -

> . . . it is necessary or desirable to provide special protection in respect of any place . . .

Obviously, I believed that it did not require that special protection. Members opposite can dispute my decision, but a censure requires a form of wrongdoing, and there is no wrongdoing. I make more than 700 planning appeal decisions a year. I reckon that, as half of them are successful and half of them fail, opposition members would have to disagree with at least half of them. Does disagreeing with a decision that statutorily I must make form the basis of a censure motion? How ridiculous! The member for Maylands said that she did not use the procedure lightheartedly. She seems to like moving censure motions in respect of me. She is forever hopeful.

Mr Osborne: It is a form of flattery.

Mr KIERATH: Yes. I have actually taken it that way. A member of the Labor movement actually said to me, "It's a backhanded way of showing that they respect you."

Also, section 59(2) of the Heritage Act allows that a conservation order may be in the form of a stop work order -

> Where, by reason of the likelihood of imminent damage . . . a specific prohibition is urgently necessary . . .

It can be seen clearly from that that the making of a conservation order is at the discretion of the minister, and it was open to me to override the advice of the Heritage Council. In this case, I chose to do so. Similarly, under statute the determination of town planning appeals by the Minister for Planning - this relates to paragraph (b) of the motion - is clearly at the discretion of the minister. The motion states -

> overriding decisions by the Fremantle City Council . . .

The planning law allows that. There is a specific role for the minister to overturn a council's decision on matters of appeal. It is a statutory right that was exercised. Nothing in the legislation states that an applicant cannot make a new application, nor does it require that it must be substantially different from a previous application. If the applicant is prepared to make a new application and run through the process, it has another right of appeal. It has exercised that. The Opposition may not like that, but that is the law. I agree that some things could be done better. I am a strong proponent of choice. People should be able to choose the jurisdictions to which they apply because if they know of one in which the odds are stacked against them, they might prefer to go to another from which they will receive greater fairness. Nothing is wrong; we are simply reflecting legislation that is part of the laws of this State that ministers took an oath to uphold.

The fourth part of the motion appears to be the difficult one. It is in this area that I saw conflict emerging. If a minister has two portfolios, in this case Planning and Heritage, it is possible to have conflict. It is no different to the conflict between the forestry section and the conservation section in the Department of Conservation and Land Management. Decisions could be made that will conflict against each other. While the minister is the Minister for Heritage and the Minister for Planning, some decisions will obviously be in conflict. However, the responsibility to make those decisions rests with the minister in both the Heritage of Western Australia Act and the Town Planning and Development Act. In both cases, the conservation order and the appeal, if the person chooses that path, rests with the minister. I have not heard of any example of wrongdoing this afternoon.

Mr Pendal: Has the Heritage Council made a formal decision; and, if so, what was its recommendation to you?

Mr KIERATH: No, it did not make a formal decision. It asked me to issue a conservation order because the power is mine under the Act, but it did so to allow it to do an assessment.

Mr Riebeling: You did not let it.

Mr KIERATH: No. It had some information on assessment and that was the point. It gave me a thick wad of papers which I referred to the Town Planning Appeal Committee to review to determine whether anything was in there.

Mr Pendal: Its recommendation was that you issue a conservation order.

Mr KIERATH: Yes.

Dr Edwards: Do you not see that as a conflict anyway? You refer it to the Town Planning Appeal Committee which is interested only in planning appeals. You are asking it to make a heritage decision.

Mr KIERATH: I have tried to maintain independence. On one hand I had a request for a conservation order, while on the other hand I had an appeal that would allow the demolition of those cottages. I had sufficient confidence in the appeals process and the people involved. New information could have come forward, but the information to hand was already

extensive. The member for Maylands is damned by the other members' words because the issues have been extensively canvassed. It has been the subject of intensive discussion. On the basis of all that information, the recommendation was that the buildings were not worthy of conservation given their current state. Little recognition had been given to the buildings for the purpose of conservation. Accordingly, I was prepared to hold my decision. When I received this other new information, I asked as a personal favour, "Is there anything to cause them to either change any of their recommendations or even question one of the recommendations?" The answer I received was, "No doubt at all." I then decided I would not issue a conservation order. I viewed the matter with an open mind. If I was worried about imposing my views, the referral to the Heritage Council from the City of Fremantle would have been a stunt to enable me to avoid issuing a demolition licence. I perhaps should have wiped that out, but I went through the process of allowing the Heritage Council to consider the matter and provide information to me and then to provide it to the director of the Town Planning Appeal Committee to see whether it would change its decision.

Dr Gallop: Will you answer a question?

Mr KIERATH: Yes, but at least have the decency to let me finish what I am saying.

Dr Gallop: You let me know when you are finished.

Mr KIERATH: Yes, I will. The point I was making was that I provided that information to the Town Planning Appeal Committee and it saw nothing to cause it to change its decision.

Dr Gallop: In coming to your conclusion to uphold the appeal, did you take submissions from anyone else? Did you take submissions from the developer or the council? Did you talk to the local community?

Mr KIERATH: I will tell the Leader of the Opposition how the appeal system works. The applicant who is the person aggrieved by a decision has the power to appeal to the minister or the tribunal. In this case Fetherstone Holdings appealed to the minister, and it then indicated the decision against which it was appealing and gave its reasons for appeal. In other words it had to make its case and it did.

Dr Gallop: Did the developers bring their stuff in and speak to you?

Mr KIERATH: No, it did not, because I have a protocol. If I know that a matter might end up before me on appeal, I refuse to meet with the people involved and discuss the issues. Some of my backbenchers get upset because they fail in their attempt to refer the matter to the minister. The member for Swan Hills is one who gets upset. I say no because that could be seen to influence my decision. I make an officer available to whom they can put their case. That officer will ensure that whatever plea is put to them is referred to the Town Planning Appeal Committee when it makes its decision. That is proper, correct and extremely fair.

Mr Kobelke: Is it usually someone from your office?

Mr KIERATH: Yes, it is a policy officer. I must say that even members opposite who deal with that policy officer speak highly of her. I do not want to see the member denigrate anyone else. At the end of the day I sign it. I have explained to this House in detail how I sought various advice to overcome any difficulties that have been before me.

Dr Gallop: You knew what you had to do and you did it.

Mr KIERATH: No. That may be the Leader of the Opposition's opinion, but I think I have established to most reasonable thinking members of this House that I have gone out of my way to ensure that all these issues were embraced fairly and evenly and without any conflict of interest. The Opposition has failed to show any grounds for a censure motion this afternoon. I table the letter from which I quoted.

[See paper No 278.]

MR BARNETT (Cottesloe - Leader of the House) [5.58 pm]: In this case it could be argued that a conflict exists between the role of the minister as the Minister for Heritage and as the Minister for Planning. It is not unusual to find individual portfolios that may be in conflict on specific issues. Indeed, it is common to find conflicts between issues within a portfolio. It is up to the minister responsible to manage those conflicts and to behave in a proper way.

The issue of this censure motion against the minister is not well placed. The minister has not in any way abused or misused his powers either as Minister for Heritage or as Minister for Planning. Members opposite may argue that these buildings should be preserved and that may be an argument of some merit. I do not think that can be taken to imply that the minister has misused his ministerial powers. The motion should be defeated.

Some problems exist with the heritage law in this State. I readily admit it is not an area in which I have a close interest. A number of old residences in my electorate, particularly in the suburb of Cottesloe, are protected under the heritage law. The consequence of the way in which the law is applied is that the restrictions have become so great that houses of merit are being allowed to decay, and are physically decaying along the ocean front. The application of heritage law is almost

guaranteeing that houses will fall into ruin. One house is quite well known. I would argue that the Le Fanu residence is already a ruin and is probably beyond restoration. Indeed, it will take a very wealthy and compassionate builder to rebuild that house. It will virtually require total reconstruction. Because it is heritage listed, it must simply sit deteriorating and eventually, but probably not very far off, that house and perhaps Burt's Summer Residence, Tukura, will just collapse.

In my view heritage law is being applied too prescriptively, particularly in respect of the interior of buildings. Many people in my electorate would certainly buy those properties and spend very large sums of money on restoring the exterior to heritage standard, without any question about what the heritage plan might be; however, they will not agree to being unreasonably constrained in the internal restoration and refurbishing of those buildings. Modern families do not want to live in old style architecture. They want to knock out internal walls and to have open living areas and the like. They do not necessarily want to preserve 18 fireplaces in a house. We have inflexibility. There is no restriction or hesitancy on the part of people who wish to buy heritage properties and restore the exterior. They are private properties and can be seen in that sense. However, this inflexibility means that in the long run people will not pay for heritage properties or restore them. The market for quality heritage properties is drying up. People were keen to buy them, but now they will not. I am aware of at least three properties in Cottesloe - two of which are decaying - that are sitting in the market place.

Mr Marlborough: In some countries in Europe the Government puts in money to preserve buildings.

Mr BARNETT: The member can say that we can put money into them; however, some of these building, which are decaying and which are probably worth preserving, would not rank highly across the state register. These buildings can be preserved without taxpayers' money, as long as people are given the right to work on the interior and to make these buildings practical, sensible places in which to live. That is not happening under our heritage law. The sad irony is this: Our heritage laws are contributing to the decay and ruin of heritage properties. That is of concern.

Members may not be aware that the properties in North Fremantle happen to be in my electorate, and I have an interest as the local member. For seven years I lived in North Fremantle and on most mornings I walked past these buildings. I know them well. On 8 October, about a week or so ago, I took the trouble to go through those buildings. I had not been inside them before. They are interesting buildings, but not remarkable. I think the minister described the cultural heritage aspect, but I am not sure what that means precisely.

These buildings are well known in North Fremantle, are of interest to people and are part of the history and culture of the area. One of the two buildings, the office, is the old Vacuum Oil building. Originally it was intended by the developer to be preserved. It provided a heritage buffer between the Dingo Flour Mill and residential land that was being developed. The developer had offered to refurbish those Vacuum Oil buildings into five apartments. If members drive past that site today, they will see a big billboard showing a schematic representation of how those buildings could be converted to five apartments. The advice I have received from the developer is that the City of Fremantle was not forthcoming in allowing that. A bit of commonsense would have meant that those buildings would have been converted. There was no big profit in it. At best, it would have been a break-even situation. Those buildings could have been converted into acceptable apartments and sold. It would not have been a particularly attractive location because it is opposite a factory; however, the apartments could have been sold and that would have dealt with the situation.

The two cottages are interesting from the outside. They are quaint, old, Fremantle-style cottages. Inside them, there is nothing remarkable at all. They have been vandalised. They have no ornate fittings. They comprise typical turn-of-the-century, federation, empty, square rooms, with not even the ceiling cornices left in place, if ever there were any. They are not high profile and were never exotic, elaborate buildings. Perhaps they have some merit for preservation. I went to the site last week with the developer and we talked about some options for restoring the Vacuum Oil buildings and about ways in which perhaps these cottages could be preserved to avoid the situation with which we are now faced. The developer, in good faith, is looking at that and no doubt will talk to the City of Fremantle about it.

Perhaps it would be better to see whether people in the community have an interest in acquiring the land on which the cottages are located and restoring the buildings. It would not be a high priority heritage project; it would be more an act of love for someone who has the skills and an interest in doing that. The sad irony is that had the $25 000 spent by the City of Fremantle on reports been provided as a contribution to a buyer of one of those properties, it would have gone a long way towards the restoration of a cottage. Essentially, as I see it, they are structurally sound, but they are somewhat dilapidated. In the area of heritage we need a fair bit of commonsense from the Government's perspective and, particularly, from local government and the owners and/or potential redevelopers of property. The exterior of the buildings can be preserved, as long as commonsense applies when restoring the interior. As long as people are willing to compromise and allow some modern living space and amenities of modern living to be put into heritage buildings so they can be funded privately, we will have no problems. I still hold some hope that this issue will be resolved. I was quite impressed that the developer was willing to go back and have another look at the issue. As to this motion, those opposite have not established anything wrong or improper in the way in which the minister has conducted his affairs. Therefore, it should - and will - be defeated.

MR KOBELKE (Nollamara) [6.06 pm]: At the outset, I declare a family interest in this matter, in that late last century my grandparents, Charles and Phoebe Kobelke, lived in Thompson Road, North Fremantle. I do not think that influences my

speaking to the motion which has been clearly established by speakers on this side. Government members have said nothing which refutes the facts in the motion; that is, the minister did not accept the advice of the Heritage Council of Western Australia to issue a conservation order. He simply rejected that. He overrode the decision of the City of Fremantle to preserve the building. He overrode the decision of the Town Planning Appeal Tribunal and he allowed himself to be in a position of conflict of interest between his duties as Minister for Heritage and as Minister for Planning.

I will reiterate some of the elements that have already been presented. Section 39 of the Town Planning and Development Act allows for appeals. Subsection (1) states -

> An appeal may be made to the Minister or to the Appeal Tribunal, but the commencement of an appeal to one extinguishes any right of appeal to the other.

I repeat: The commencement of an appeal to one extinguishes any right of appeal to the other. The minister knew that an application for an appeal in exactly the same form had been made to the tribunal. The tribunal had heard it and in a very full decision, comprising a number of pages, rejected the appeal. This minister then heard exactly the same matter.

Mr Kierath: It was a new appeal.

Mr KOBELKE: It was a new appeal, but it was about exactly the same matter. I presume that is a basis for challenge. Did the minister read the full report of the Town Planning Appeal Tribunal?

Mr Kierath: I have not said anything. I do not know whether you were here earlier.

Mr KOBELKE: I was. This is a simple question: Did the minister read the full report of the tribunal? No. The minister has not even read the full report, the determination, of the Town Planning Appeal Tribunal; yet, he got up in this House today and tried to create a fiction that somehow he was objective and listened to the advice. This afternoon the minister tried to put to the House that he took the advice of the Town Planning Appeal Committee, as if he must. Under the Act he does not need to make his decisions on any legal ground. All it requires is that he take the report and the decision and make a determination on it. The legislation says that the minister, after considering the report and recommendation, shall determine that appeal. No guidelines apply as a basis for the minister's decision. It is quite different from the Town Planning Appeal Tribunal, regarding which section 52 of the Town Planning and Development Act reads -

> On the hearing of any appeal the Appeal Tribunal shall act according to equity and a good conscience and the substantial merits of the case . . . subject to the requirements of justice . . .

The minister does not have to act on any such basis. He can make his determination purely on a whim if he so wishes. On this occasion it appears he has acted on the basis of a whim, or on the basis that the company involved donated money to the Liberal Party. He has established no facts in the House today supporting the view that the determination was made with regard to any good reason or in upholding justice. He took advice from the Heritage Council which sought a conservation order which he rejected. The minister tried to paint the picture that somehow the Town Planning Appeal Committee's advice had to be accepted, which is total fiction. No requirement exists in law for the minister to accept the recommendations of the Town Planning Appeal Committee. We know from previous cases into which we have inquired using freedom of information that the minister of the day does not always accept such advice. It is totally open to the minister to determine an appeal under the Town Planning and Development Act. The minister in his contribution to today's debate somehow claimed it was not his decision, as he took advice from the committee. However, he rejected advice from the Heritage Council.

Mr Kierath: I said I accepted full responsibility for the decision. I said that in here.

Mr KOBELKE: I heard that comment. The minister's argument in debate was to shift focus to the Town Planning Appeal Committee, and claim he was following its advice. Clearly, it was unnecessary for him to do that, but the minister sought to use that as an excuse.

It is clearly established today that this minister has acted against the well-founded opinion of the Town Planning Appeal Committee, against the City of Fremantle, and against the recommendation of the Heritage Council, which sought a conservation order, and instead decided in favour of a major donor to the Liberal Party.

Mr Kierath: You just told an untruth. I went along with the Town Planning Appeal Committee's assessment. You said I did not.

Mr KOBELKE: It was the tribunal.

Mr Kierath: You said committee.

Mr KOBELKE: The minister did not accept the tribunal's decision, which he has not even read. We have a situation of game, set and match to the movers of this motion who have clearly established that the minister, once again, has been found out to be not acting with propriety in upholding the principles one expects of a minister in a Government of standards. Simply, it is a case of a Government looking after its mates.

Question put and a division taken with the following result -

Ayes (19)

Ms Anwyl	Dr Gallop	Mr McGinty	Mrs Roberts
Mr Brown	Mr Graham	Ms McHale	Mr Thomas
Mr Carpenter	Mr Grill	Mr Pendal	Ms Warnock
Dr Constable	Mr Kobelke	Mr Riebeling	Mr Cunningham *(Teller)*
Dr Edwards	Ms MacTiernan	Mr Ripper	

Noes (26)

Mr Ainsworth	Mrs Edwardes	Mr Minson	Mr Trenorden
Mr Barron-Sullivan	Mrs Hodson-Thomas	Mr Nicholls	Mr Tubby
Mr Bloffwitch	Mr House	Mrs Parker	Dr Turnbull
Mr Board	Mr Johnson	Mr Prince	Mrs van de Klashorst
Mr Court	Mr Kierath	Mr Shave	Mr Wiese
Mr Cowan	Mr Marshall	Mr Sweetman	Mr Osborne *(Teller)*
Mr Day	Mr Masters		

Pairs

Mr McGowan	Mr Barnett
Mr Marlborough	Mr Strickland

Question thus negatived.

SPEARWOOD BUFFER ZONE

Motion

MR THOMAS (Cockburn) [6.17 pm]: I move -

> That this House notes with concern that a buffer zone associated with the Watsonia plant in Spearwood is depriving landowners of the opportunity to develop their land and could sterilise potentially valuable and useful urban land. The House calls upon the proprietors of the plant and the Ministers for the Environment and Planning to cooperate to speedily and conclusively determine the extent of the buffer zone and asks the ministers and the City of Cockburn to conduct a planning study to determine a higher and better use for the land.

I draw the attention of the House to a situation which applies in my electorate to a number of landowners relating to the buffer zone around the Watsonia plant and the effect it is having in the City of Cockburn and upon people's use of their assets. The City of Cockburn, more so than most areas, is affected by buffer zones. We have the mother of all buffer zones around the Kwinana air shed, which affects entire suburbs, particularly Wattleup and Hope Valley, and many thousands of hectares of land. We have a buffer zone around the Woodman Point sewage treatment plant, which affects the use of land; that is also a controversial issue. We also have the buffer zone around Watsonia's plant, to which I refer tonight.

A historical context needs to be applied to this issue. The suburbs of Cockburn, particularly Spearwood and Munster, are different in their pattern of development from most other areas of Perth. It was earlier an agricultural rural area settled from the gold rush forward by people of, for the most part, Croatian and Italian descent. The pattern of urban development in this area is different from others in that it does not involve the disjunction which occurred between rural and urban land use in most parts of Perth as it developed from rural to residential or urban use. The typical pattern of land use is that a block was subdivided into a number of blocks and families kept one or two blocks for themselves and sold the balance. A continuity arose. Every tenth or sixth house in Spearwood is older than the other houses in that street; the older one being the original house, with the others being built as the blocks were sold. Third and fourth generation families are living on land which in many cases was originally the family farm or market garden. A tradition has been built up in that area of a link between the urban phase of development of the suburb and the earlier rural phase. A cultural expectation has also been built up whereby people regard their block as their superannuation cheque and believe they have the right to subdivide their block for urban use and thereby provide for their family and for their old age. I am sure members can understand why that cultural expectation exists.

Most of the development in the suburb of Spearwood occurred in the 1960s. The suburb of Munster has also been developed, and development has taken place to the south and to the west towards the coast. The Watsonia plant, which is an abattoir and smallgoods manufacturing facility in Hamilton Road, Spearwood, is now surrounded by residential suburbs. A buffer zone has been put around that plant to limit residential development in that area. That is causing the people who own land in that area a degree of angst, because they cannot develop their land. That situation is also most undesirable for

the development of the suburb, because it can create planning blight, whereby a circle of rural land is surrounded by suburbs on most sides but is no longer used for agriculture and becomes a wasteland.

The current phase of development is being undertaken by the landowners, who have formed a consortium that is managed by a company known as Urban Focus. However, when that company applied to rezone and then subdivide that land, its application was opposed by Watsonia, because it feared that if residential development took place hard up against its premises, that would lead to pressure and complaints from residents and would cause it trouble. We can understand Watsonia's point of view. As a consequence of that application, the Environmental Protection Authority decided to put a buffer zone around the Watsonia plant and said that no development or subdivision could take place within a radius of 1 000 metres, or one kilometre, of that plant. That buffer zone takes up a substantial amount of land. That buffer zone was subsequently reduced to 500 metres, after representation from the landowners and Urban Focus, and the City of Cockburn.

I understand that when the EPA renewed Watsonia's licence, Watsonia undertook as a condition of that renewal to upgrade the plant with regard to effluent disposal and odour control. I understand that its licence will expire this month. Something must be done about this matter. We cannot have such a large buffer zone of rural land in an urban area, because it is wasteland, unsightly, and for the most part is not being farmed. We need to determine conclusively what size buffer zone is required. Watsonia has been a responsible company This plant began operations when it was effectively situated in the bush. The people who have lived in that area for many years cannot understand why anyone would complain about the smell from Watsonia now, because they can remember what the smell was like previously. Some of the land in that buffer zone is owned by Watsonia, and at one stage it included a holding paddocks for pigs, and I am told it really stank! That land has now been improved substantially.

When I first became the member for Cockburn, I chaired a committee that was examining the clean-up of Coogee and related areas. At that time, Watsonia was still pumping its effluent out to sea. It was eventually required to install plant which allowed the effluent to go into the sewer so that it no longer polluted the water. We must decide conclusively what is required of Watsonia to maintain a manufacturing facility in an urban area. I am not suggesting that Watsonia be required to move. We should acknowledge that it will be situated in a residential area for hopefully the next 50 years and that it requires plant that is appropriate to those needs. However, we must decide conclusively what that plant should be and what the buffer zone should be, and then work out what should be done with the land, because the landowners do have some rights, and they have expectations.

Whenever the landowners have made a complaint to the planners, the planners have quoted the lore of planning, which is that they have no necessary right to rezone to a higher and better use, although the fact that almost all of the land in that area has been rezoned has created that expectation on their part, and I believe it is a reasonable expectation. Apart from the interests of the landowners, the City of Cockburn has an interest in making sure that a higher and better use is found for that land. That land should be landscaped. No doubt there are many uses, commercial or otherwise, to which that land can be put so that it is useful and contributes to the district, and at the same time, if there is to be a buffer zone of 100 m, 200 m, or whatever, protects the residents of the area.

Watsons, as it is still known in the vernacular, has been part of the Cockburn community for many years. Bill Watson, who set up the company, was the federal member for Fremantle. He was defeated by John Curtin in 1928, and he subsequently beat John Curtin in 1931. That plant is no longer owned by the Watson family, but it has a longstanding presence in the community and is valued. People want to be good neighbours, and to have the planning issues sorted out. The Minister for the Environment and the Minister for Planning should get together and work out conclusively what the buffer zone should be, in cooperation with the owners of that plant. Once that decision has been made, we should move swiftly to work out a better use for that land so that it is not an eyesore and a planning blight and the owners can develop it and realise its best potential in contributing to the district.

MRS EDWARDES (Kingsley - Minister for the Environment) [6.27 pm]: We have the same concerns about the issue raised by the member for Cockburn; namely, to make better use of the land surrounding the Watsonia plant in Spearwood. At the moment there is no buffer zone around that plant, and many planning applications which have sought to introduce residential development up to within 50 metres of the boundary of that plant have been rejected. The decision to reject those applications was made after advice from the Department of Environmental Protection that it would not support residential development within 500 metres of the plant until such time as the odour controls had been improved. Further odour modelling has since been conducted, and a buffer definition study has been completed. The aim is to establish a buffer area in accordance with the state industrial buffer policy. The rationale behind recommending that course of action was that it is unacceptable to subject new residents to the existing odour impact of the Watsonia plant. Watsonia has made a commitment, in consultation with the DEP, to upgrade its odour controls by October 1999, and the requirement to complete that work has been included in the plant's DEP licence for 1998-99. The improved controls will focus on the major odour producing area, which has been identified as the by-products plant. It is a pretty complex issue, and it was not easy to identify where the problem was and to determine the best way of dealing with it. It is always difficult to deal with odour issues, as it was in this case.

The proposed upgrading works will involve refurbishing and recladding the by-products plant area; installation of up to 10 fume hoods with associated fans and ducts; directing collected odours to a biofilter which will be designed to handle air volumes of at least 2 000 cubic metres an hour; and additional water sprays and a scrubber if necessary. The anticipated cost of these works is approximately $800 000. It was felt that October 1999 was a reasonable time by which the company could commit to upgrading those odour controls. Following completion of that work, it is intended to conduct an odour modelling study and to determine the necessary extent of a buffer around the Watsonia plant. That modelling study will involve a number of steps; namely, measurement of odour source terms through dynamic olfactometry; computer modelling of odour dispersion from the identified odour sources; and comparison of modelled odour contours within the Department of Environmental Protection odour criteria. That process will enable the necessary extent of the buffer to be established using scientific criteria, such that the odour impact on any new residential developments outside the buffer area can be maintained at an acceptable level. It is anticipated that the study will be completed by January 2000.

Following completion of the modelling work, formal establishment of a buffer area can then be completed through the Ministry for Planning by approximately mid-2000. This course of action has been developed over some time, in consultation with the residents and the factory operator. It was outlined at a public meeting of residents in March this year. Also it has been identified through letters I have sent to many residents who wrote to the Government. I am comfortable with the approach that has been adopted, except perhaps the time frames. If there is an opportunity to bring forward any of those time frames, particularly the commitment to upgrade odour controls by October 1999, I will seek to do that. However, it must be with the company's agreement. The Government has its agreement so far for the steps I have outlined. I would like the residents to be able to make better use of the land than is probably the case without a buffer area in place. It is not acceptable for new residents to be subjected to the odour problems in that area by allowing residential development to go ahead before that work has been undertaken and a buffer area has been established. I thank the member for the points he raised, and I will continue to keep him informed of the progress of the work being carried out. He can be assured that it is part of the conditions of the licence for the forthcoming year.

MR KIERATH (Riverton - Minister for Planning) [6.34 pm]: I have been roped into this debate as well, as Minister for Planning, and I have been reasonably satisfied with the procedures that have occurred. I do not know whether the minister has outlined them. Various amendments have been made. In October 1997 final approval was refused on the ground that since its initiation the need for a buffer around the plant had been identified and the establishment of such a zone is a prerequisite of rezoning. It has gone reasonably well. The member seems to want the House to call upon the proprietors of the plant and the Minister for the Environment and the Minister for Planning to cooperate to speedily and conclusively determine the extent of the buffer zone. I believe that is being done. The motion asks the ministers and the City of Cockburn to conduct a planning study to determine a higher and better use for the land. Subject to the buffer zone, that is also being done. I understand the new equipment will not be installed until October 1999. That causes problems, but not much can be done before then. The ministry has tried to cooperate, without sacrificing the strong planning principles in relation to the buffer zone. The Ministry for Planning continues to pledge its support, and I cannot pledge much more than that.

Question put and passed.

RESORT DEVELOPMENT

Motion

MR BROWN (Bassendean) [6.35 pm]: I move -

> That the Public Accounts and Expenditure Review Committee be requested to examine whether the Government used the resources of the State in an ethical, effective and proper way in its assessment of an application by Trade Centre Pty Ltd to develop a resort on the west coast of the North West Cape.

This is an important matter and in the short time available to me tonight I will endeavour to outline the circumstances surrounding it, so that the minister who will respond has an opportunity to examine the facts of the matter as I understand them. In 1994 a syndicate, later known as Trade Centre Pty Ltd, approached the Government about developing a resort on the west coast of the Cape Range peninsula. The syndicate tried for two years to get approval to carry out a technical and environmental study on the site which was identified for the development. After two years the developers gave up when they were advised by the minister's office that, among other things, the preliminary studies the developers needed to undertake would not be approved or progressed for political reasons associated with the then approaching state election. The developers decided some time ago not to proceed with the proposal. It is important when discussing this matter today to recognise that I do not come to this place with a special plea on behalf of the developers for this proposal to go ahead. This proposal is dead; it was killed by the Government. However, that does not mean that the circumstances giving rise to the way it was buried should not be investigated. This motion requests the Public Accounts and Expenditure Review Committee to consider this matter.

I note that Standing Order No 412 of this House sets out the mandate of the Public Accounts and Expenditure Review Committee, and part of that mandate is -

(d) to inquire into, and report to the Assembly on any question which . . .

(ii) is referred to it by a resolution of the Assembly;

I also note that the Public Accounts and Expenditure Review Committee has examined a range of matters concerning the proper operation of the Administration of the State because that relates to the effective and efficient use of taxpayers' funds. Therefore, this sits on all fours with matters that should be examined by that committee. This particular debacle should be investigated by that committee for a number of reasons. First, it involves the effective and efficient use of taxpayers' funds. It is essential that the State have an effective and efficient way of addressing development applications. A convoluted and disjointed process costs taxpayers and developers a great deal of money. Additionally, poor process can result in the State missing out on important development proposals.

It appears from all the documents made available to me, which I obtained through the freedom of information process, that the procedures followed were appalling and certainly did not live up to the coalition's 1993 claim to the Western Australian public that it would develop more jobs and better management. Secondly, the information obtained suggests that the Government used its regulatory powers to promote a government development over a private sector development. Thirdly, the information suggests a high level of ministerial incompetence and an appalling lack of planning coordination across government departments and agencies. Fourthly, the information suggests a lack of integrity in the process, particularly relating to the way the project was dealt with by government just prior to the 1996 state election. It seems that the project was dumped for political reasons in the lead-up to that election campaign. The point also must be made that the motion before Parliament tonight has been moved only because it has been impossible to get certain information from the Premier and other ministers by way of parliamentary questions. Indeed, the refusal to provide information sought through parliamentary questions raised suspicions about the integrity of the processes used by government.

I will first provide a chronology of events as I understand them and as information has been provided to me under the Freedom of Information Act. I will then provide an overview of other development proposals that appear to have had an impact on this project. I will then refer to questions on notice I have asked about the proposal. In doing so I will point out where the Premier and/or minister or ministers have refused to answer questions concerning the efficacy of the way the Government has dealt with the project.

I stress that this motion requests this matter be investigated by the Public Accounts and Expenditure Review Committee. That is the appropriate way to proceed when, first, based on the information available, there is a prima facie case that resources of the State have not been properly used and indeed have been misused and, second, that attempts to obtain information on what has occurred have been blocked by the Government.

To provide some understanding of this project I refer to the chronology of events. On 21 December 1994 a memo from Kevin Harrison, the then chief executive officer of the WA Tourism Commission, was sent to the Premier advising that a syndicate led by Allan Ingham was negotiating with state government agencies for approval to develop a resort at Tantabiddi Creek on the west coast of the North West Cape. It advised that a small casino was a component part of the resort. The developer asked that the Premier be advised of the project. In January 1995 Allan Ingham received a letter from the Tourism Commission saying that the commission was pleased to do whatever it could to assist him with bringing his plans to fruition. It is also noted in that letter to him that the minister had been apprised of his work. At the time I believe that the Premier was the Minister for Tourism.

For the benefit of Hansard, Allan Ingham and Mr Reidy-Crofts are people in the syndicate, Trade Centre Pty Ltd.

On 6 February 1995 a memo of what appears to be a meeting or conversation between Allan Ingham and a Tourism Commission person records that the company, variously referred to as a syndicate, wanted a licence to occupy approximately three hectares of land at Tantabiddi Creek for up to two years to assess the area. It wanted a commitment from the Government that if the assessment process proved positive the syndicate could proceed with the development, including a casino. The syndicate at that stage wanted to know what was the Government's policy on additional casinos in the State.

I will deal with the small casino the company wanted. That has not proceeded during this process. The dumping of this development application in no way had anything to do with the fact that it began with a proposal which included a small casino. On 10 February 1995, a letter from the Tourism Commission to the Office of Racing and Gaming sought information on what would be the likely response to approval being given to the developers establishing a casino in Exmouth. As I said, that did not ultimately form part of the planning process and, therefore, has nothing to do with the Government's final decision.

On 1 March 1995, a major meeting took place which involved a variety of departments and agencies such as the Tourism Commission, the Department of Conservation and Land Management, Planning, the developers and other departments and agencies which were all pulled together to consider this development proposal. It needed cooperation from all of those departments and agencies if it were to be given the green light. The information I will relay to the Parliament contains extracts from the files of the various departments on that meeting. The notes on the Tourism Commission file reveal that

a request was made for the Government to instruct the syndicate to investigate the area and identify the site at the syndicate's expense. It was proposed the Government then advertise for expressions of interest to develop the site. One of the conditions was that if the syndicate was not successful, up to $200 000 for an environmental study would not be reimbursed by the syndicate for the cost of assessing the site.

The syndicate wanted to see whether its proposal for a resort hotel could be constructed under environmental standards. That was not known and it was put to the syndicate that before anything could happen, an environmental assessment should occur for which the syndicate would have to meet the cost.

The syndicate, as shown by the notes on various files, indicated it was prepared to put up the $200 000 for the environmental study. The money was put up on the basis that if the results of the environmental study showed that the development could not go ahead the syndicate would lose the $200 000. If, however, the environmental study showed a development could proceed, irrespective of whether it was the precise development the developers wanted or another development, that site would be put out to expressions of interest. The fact that the syndicate carried out an environmental assessment did not automatically mean it would be able to develop on that site.

It was also agreed that, in the event of the site being put out to expressions of interest, the successful bidder would have to pay for the cost of the environmental study. As I say, that is set out in notes on both the Tourism Commission file and the Department of Conservation and Land Management files. It was also proposed at that time that either the WA Tourism Commission or another of the agencies would prepare a cabinet submission seeking endorsement of this proposal; not to its proceeding, but in principle so that the developers would not put themselves to considerable time, trouble and expense trying to progress it in vain.

It is pertinent to note that as part of the poor administration and the way this was dealt with, no cabinet submission was ever written and no cabinet submission ever came forward. After that meeting on 10 March 1995 a letter was forwarded by the Tourism Commission to the executive director of the Department of Conservation and Land Management explaining that the syndicate would like to present to CALM its overview of the development proposal so that CALM could examine granting, in principle, a licence to occupy the selected study area. Part of that study area falls within a C class reserve. It is interesting to see how this matter was dealt with within the CALM bureaucracy. A handwritten note that may inadvertently have been left on the file provided to me is dated 19 April 1995, which is about six weeks after this major meeting. The author of the handwritten note is not identified, but it is interesting. It states -

> Just seen Syd Shea
> been with Jim Sharp for 6 weeks.
> Had to go to Kevin Minson.

He was then the Minister for the Environment. The note continues -

> Syd said he won't make a decision on development approval.
> No objections to the developers.

This handwritten note on the CALM file indicates that the executive director of CALM was not going to make a decision on the proposal. Throughout the next 18 months CALM prevaricated and did not make a decision on this matter, despite being asked to.

The matter first came up in March 1995. If the developer had been told at that time that CALM did not want developments on the west coast of Cape Range because the area was too fragile, it would have packed its bags and gone somewhere else. The developer's original proposal was for a resort on the east coast, where the other developments are located. However, a government minister suggested a development on the west coast. If the developers had been told by CALM there and then to go away, because the area was too sensitive to agree to a development and its recommendation to the Government would be to oppose the development, it would have gone away. However, the developer was not told that. The developer and government departments and agencies made repeated approaches to CALM for an answer. This did not relate to approval of the development, just to an answer to a request to set land aside to conduct an environmental study. The developer was fobbed off. It spent a lot of money and time because it could not get an answer - not necessarily the right answer, but any answer.

A letter dated 20 April 1995 on the Tourism Commission's file from the Ningaloo Reef Resort, which is now known as Trade Centre Pty Ltd, to Dr Syd Shea reads -

> Thank you for meeting with Alan Ingham and myself yesterday . . .
>
> It was encouraging to hear that you do not have any technical objections to our resort development provided it meets all environmental and statutory requirements and is endorsed by government.

That is interesting. CALM told the developer at a meeting on 19 April 1995, and later, that it did not have any real objections to the development, but government approval was required. However, when the developer approached the

Premier about obtaining development approval the Premier said it must obtain approval from CALM. Someone was not telling the truth, and was playing a nice little game with the developer. The only problem with playing that game is that it is an expensive game to play.

As far as the developer was concerned as at April 1995 it had put forward a proposal, and had gone to the Premier for advice. A meeting had been held with a range of departments and agencies. That meeting looked positive and there was to be a Cabinet submission to see whether Cabinet would agree. The developer had met with the executive director of CALM and CALM's response was that it had no technical objections to the development. What the developer did not have at that time was the handwritten file note that I referred to earlier - that is, the handwritten note on the Tourism Commission's file saying that Dr Syd Shea and CALM would not agree to the proposal. The developer's understanding was that CALM had no technical objections towards the proposal.

A letter on the CALM file from the Department of Land Administration is dated 27 June 1995. That letter requests comments or objections to allow the evaluation of the site for the then proposed Ningaloo reef resort. On 27 June 1995 the Department of Land Administration wrote to CALM and asked its view about the proposal. That is not an unreasonable proposition. CALM was asked repeatedly for its view, and did not provide one.

A letter on the Tourism Commission's file from the Shire of Exmouth to the Department of Land Administration dated 25 July 1995 advised that the shire objected to the evaluation of the site proposed by the resort developers. The site in question is jointly managed by the Shire of Exmouth and CALM. At that stage the shire had passed a resolution objecting to any feasibility study being carried out on the site. On that basis the feasibility study could not go ahead. So far as the developer was concerned consideration of the proposal could not go ahead until such time as the shire approved the study. On the basis of the resolution then adopted by the Shire of Exmouth the study was not approved. Further correspondence was entered into later in that year, which I will not go into, but nothing of great significance occurred for the remainder of that year.

Members should bear in mind that the proposal was about 16 months old, when in March 1996 the Shire of Exmouth changed its position, and by way of resolution it approved the study being carried out. The blockage that previously existed was overcome.

The CALM file shows that on 23 April 1996 a letter from the executive director of CALM to Trade Centre Pty Ltd states -

> The Shire of Exmouth has requested CALM's comments on the proposal so that it may consider the matter further. CALM has not yet formally responded to the Shire or the Department of Land Administration (DOLA) but has had discussions with DOLA and the Western Australian Tourism Commission (WATC).
>
> As indicated at our meeting on 19 April 1995 -

That was a year earlier -

> - CALM supports the development of accommodation on the west coast of Cape Range and considers that the Jurabi Coastal Park may well provide an ideal site for such development . . .
>
> As you may recall at that meeting, I advised that the best way of proceeding would be to seek endorsement for the proposal by Government, as a whole, and the best way of securing that would be proceeding with a proposition through the Minister for Tourism.

CALM said that it had no objections to the development, but the decision was a matter of policy for the Minister for Tourism. Other agencies specifically sought CALM's advice. CALM was saying one thing to the developer, but a note on the file says the opposite. As we will see later in debate the developer was led a merry chase between departments, agencies and ministers with people secreting the real agenda, and not responding to requests. I will finish this chronological presentation another day, because that is the only way this matter can be understood fully.

[Leave granted for speech to be continued.]

Debate thus adjourned.

House adjourned at 7.00 pm

QUESTIONS ON NOTICE

Answers to questions are as supplied by the relevant Minister's office.

GOVERNMENT DEPARTMENTS AND AGENCIES

Compliance with Section 175ZE of the Electoral Act

660. Mr RIEBELING to the Minister for Planning; Employment and Training; Heritage:

(1) Which public agencies within the Minister's portfolios are required to comply with section 175ZE ("the section") of the Electoral Act 1907?

(2) Which of those agencies included the required statement in their annual report?

(3) Which of those agencies did not include the required statement in their annual report?

(4) In respect of those agencies which did not include the required statement, will the Minister require the agencies to amend their annual report to include the required statement?

(5) In the case of those agencies which did not include the required statement, why did they not include it?

(6) What is the amount of expenditure incurred by or on behalf of each such agency in relation to the matters set out in the section 175ZE -

(a) in the 1996-97 reporting period;
(b) in the 1997-98 reporting period; and
(c) in the current reporting period to date?

(7) What is the name and address of each advertising agency, market research organisation, polling organisation and direct mail organisation on which expenditure has been incurred since 1 July 1996 by or on behalf of each agency?

(8) When was that expenditure incurred?

(9) What was the value of the expenditure incurred in each case?

(10) What is the nature and content of the advertising, market research, polling or direct mail services provided by each agency and organisation on each occasion?

(11) What was the name of the officer incurring each item of expenditure?

(12) What was the name of the certifying officer in relation to each item of expenditure?

(13) What is the name of the principal officer in each agency responsible for ensuring that the statement required under section 175ZE is included in the agency's annual report?

Mr KIERATH replied:

All agencies within the portfolios of the Minister for Planning; Employment and Training; Heritage:

(4),(6)-(12)

Section 175ZE of the Electoral Act requires that all public agencies publish annually information on expenditure on advertising, market research, polling, direct mail and media advertising. This section came into force in October 1996 and has only operated since then. The Western Australian Treasury was advised a number of months ago by the Western Australian Electoral Commission of this requirement which was then noted in the instructions to agencies for the preparation of Annual Reports. In the Political Finance Report 1997, tabled 12 August 1998, the Electoral Commissioner recommended:

> That section 175ZE of the Electoral Act 1907 regarding reporting on electoral expenditure by public agencies be moved to a more appropriate piece of legislation such as the Financial Administration and Audit Act 1985.

The Government intends to give early and favourable consideration to this, and bring forward the necessary amendments to the Electoral Act. All agencies in my portfolio are now aware of the requirement to meet the provisions of section 175ZE of the Electoral Act, and henceforth will be providing the appropriate information. However, I am not prepared for agencies to devote the considerable resources necessary to retrospectively prepare this report, and in particular to provide the level of detail requested. If the member has a question in relation to a specific advertising contract I will endeavour to provide the information.

Planning:
Ministry for Planning

(1) Ministry for Planning
Western Australian Planning Commission

(2)-(3) 1996/97 Neither included the required statement.
1997/98 Statement will be included in the audited version of both the 1997/98 annual reports.

(5) Previously unaware of the requirement to meet the provisions of section 175ZE of the Electoral Act.

(13) Ministry for Planning: Gary Prattley, Chief Executive Officer.
Western Australian Planning Commission: Simon Holthouse, Chairman.

East Perth Redevelopment Authority

(1) East Perth Redevelopment Authority.

(2)-(3) 1996/97 Required statement was not included.
1997/98 Statement will be included in the audited version of the 1997/98 annual report.

(5) Previously unaware of the requirement to meet the provisions of section 175ZE of the Electoral Act.

(13) Dr W J Cox, Chief Executive Officer.

Subiaco Redevelopment Authority

(1) Subiaco Redevelopment Authority.

(2)-(3) 1996/97 Required statement was not included.
1997/98 Statement will be included in the audited version of the 1997/98 annual report.

(5) Previously unaware of the requirement to meet the provisions of section 175ZE of the Electoral Act.

(13) Dr W J Cox, Chief Executive Officer.

Training:
Western Australian Department of Training

(1) Western Australia Department of Training.

(2)-(3) 1996/97 Required statement was not included.
1997/98 Statement will be included in in the audited version of the 1997/98 annual report.

(5) Previously unaware of the requirement to meet the provisions of section 175ZE of the Electoral Act.

(13) Chief Executive – Western Australia Department of Training.

TAFE Colleges

(1) Central Metropolitan College of TAFE
West Coast College of TAFE
South East Metropolitan College of TAFE
South Metropolitan College of TAFE
Midland College of TAFE
Central West Regional College of TAFE
South West Regional College of TAFE
Hedland College
Great Southern Regional College of TAFE
Karratha College

(2) None.

(3) Western Australia Department of Training
Central Metropolitan College of TAFE
West Coast College of TAFE
South East Metropolitan College of TAFE
South Metropolitan College of TAFE
Midland College of TAFE
Central West Regional College of TAFE
South West Regional College of TAFE
Hedland College
Great Southern Regional College of TAFE
Karratha College

(5) Previously unaware of the requirement to meet the provisions of section 175ZE of the Electoral Act.

(13) Managing Director – Central Metropolitan College of TAFE
Managing Director – West Coast College of TAFE
Managing Director – South East Metropolitan College of TAFE
Managing Director – South Metropolitan College of TAFE
Managing Director – Midland College of TAFE
Managing Director – Central West Regional College of TAFE
Managing Director – South West Regional College of TAFE
Managing Director – Hedland College
Managing Director – Great Southern Regional College of TAFE
Managing Director – Karratha College

Heritage:
Heritage Council of Western Australia

(1) The Heritage Council of Western Australia.

(2)-(3) 1996/97 Required statement was not included.
1997/98 Statement will be included in in the audited version of the 1997/98 annual report.

(5) Previously unaware of the requirement to meet the provisions of section 175ZE of the Electoral Act.

(13) Ian Baxter, Director.

GOVERNMENT DEPARTMENTS AND AGENCIES

Criminal Record Screening of Employees

689. Mr KOBELKE to the Minister for Primary Industry; Fisheries:

(1) Which agencies within the Minister's portfolios have a policy on criminal record screening of employees or prospective employees?

(2) In each agency that has a policy on criminal record screening, which categories or classes of employees, other workers or prospective workers are required to submit to criminal record screening?

(3) For each such agency, what is the cost of criminal record screening per individual?

(4) In which cases is the cost of criminal record screening met by the worker, prospective employee or the employing agency?

(5) Will the Minister table a copy of each such policy document?

Mr HOUSE replied:

AGRICULTURE WESTERN AUSTRALIA

(1) Agriculture Western Australia has recently established a policy to ensure a police clearance is obtained for existing and prospective employees whose positions involve a "right of access or inspectorial function".

(2) All applicants who seek employment with the agency must declare any criminal convictions or pending police action as part of their employment application. This is a standard public service practice. Those applicants for, and existing employees whom hold positions that have a "right of access or inspectorial function" under legislation will be required to provide a police clearance.

(3)-(4) $16.00 per individual for all new employees. This cost will be met by the Agency for all existing employees who now work in positions that have "right of access or inspectorial function".

(5) The policy and consequential procedures are currently under preparation.

FISHERIES WESTERN AUSTRALIA

(1) Fisheries WA has a Risk Management Policy which includes guidelines for criminal record screening of employees.

(2) "Any position that provides individuals with access to significant financial control, access to sensitive data or systems (including computing systems) where there would be opportunities for significant fraud or where public or employees safety is dependent on the required knowledge and skills, requires written confirmations before employment or promotion is confirmed." And further (*inter alia*)..... "1. Independently verify qualifications, police clearances, any security checks and experience by writing on agency letterhead to the appropriate educational institution, police authorities, referees or licensing authorities concerned seeking the required written confirmations of the claimed credentials".

(3) The cost of criminal record screening is determined by the relevant police authority from which the criminal record check is sought. The cost of reviewing the results of a criminal record check are absorbed into the cost of the recruitment process.

(4) The practice in the past has been to ask the applicant to provide a relevant police clearance with the cost being met by the applicant.

(5) Yes, policy on "Risk Management - Procedures - Security, Safety and Employment of Staff" is tabled. [See paper No 277.]

GOVERNMENT DEPARTMENTS AND AGENCIES

Criminal Record Screening of Employees

696. Mr KOBELKE to the Minister for Health:

(1) Which agencies within the Minister's portfolios have a policy on criminal record screening of employees or prospective employees?

(2) In each agency that has a policy on criminal record screening, which categories or classes of employees, other workers or prospective workers are required to submit to criminal record screening?

(3) For each such agency, what is the cost of criminal record screening per individual?

(4) In which cases is the cost of criminal record screening met by the worker, prospective employee or the employing agency?

(5) Will the Minister table a copy of each such policy document?

Mr DAY replied:

(1) The Health Department of Western Australia and the individual Boards of Management of Health Services and/or Hospitals have Policy Statements requiring prospective personnel to have a criminal record screen. All prospective:

Employees (full/part time, temporary, casual, sessional, contract (includes redeployees));
Independent contractors (includes all visiting practitioners) and their employees;
Private agency staff;
Students on placement (excludes school children on work experience);
Volunteers; and
Persons engaged in any other capacity (eg. adults on work experience, chaplains, academics);

(2) The Health Department of Western Australia's Policy Statement requires that those prospective personnel involved in direct client ie patients or clients, must be screened but the Boards of Management, having assessed the risk, have in the main opted to screen all prospective personnel.

(3) $25 per name checked.

(4) Prospective employees, Independent Contractors, Private Agency Staff, Students on Placement and 'Persons engaged in any other capacity' are required to pay a fee of $25. The Government Health Industry incurs the cost for Current Staff, Redeployees, Volunteers and the checking of alias names of prospective personnel who have paid the $25 fee.

(5) The Health Department's Policy Statement and its supporting Operational Guidelines are tabled. [See paper No 276.]

GOVERNMENT DEPARTMENTS AND AGENCIES

Criminal Record Screening of Employees

698. Mr KOBELKE to the Minister for Works; Services; Youth; Citizenship and Multicultural Interests:

(1) Which agencies within the Minister's portfolios have a policy on criminal record screening of employees or prospective employees?

(2) In each agency that has a policy on criminal record screening, which categories or classes of employees, other workers or prospective workers are required to submit to criminal record screening?

(3) For each such agency, what is the cost of criminal record screening per individual?

(4) In which cases is the cost of criminal record screening met by the worker, prospective employee or the employing agency?

(5) Will the Minister table a copy of each such policy document?

Mr BOARD replied:

I am advised that:

(1) Contract and Management Services (CAMS), the Office of Multicultural Interests and the Office of Youth Affairs request all applicants for positions in agencies to complete a declaration stating whether they have been convicted of any offence in any court, or are currently the subject of any charge pending before any court and provide details. CAMS is currently in the process of developing a policy on criminal record screening.

(2) The draft policy proposes that all employees identified as requiring access to school sites and/or who access agencies with juveniles in the performance of their duties, will be required to undergo a criminal record check.

(3) $25.00.

(4) The cost of the record screening will be met by the employing agency in all cases.

(5) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES

Act of Grace Payments

831. Mr BROWN to the Deputy Premier; Minister for Commerce and Trade; Regional Development; Small Business:

(1) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Deputy Premier approve any act of grace payments up to a maximum of $2,000 from any department or agency under the Deputy Premier's control?

(2) Who were such payments made to?

(3) What was the amount of each payment?

(4) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Deputy Premier seek the Treasurer's approval for any act of grace payments between the amount of $2,000 and $50,000 from any department or agency under the Deputy Premier's control?

(5) What was the amount of each payment?

(6) Who was each payment to be made to?

(7) What was the purpose of each payment?

(8) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Deputy Premier seek approval from the Treasurer and/or Governor to make any act of grace payments over $50,000 from any department or agency under the Deputy Premier's control?

(9) How many such payments were approved?

(10) How many such payments were made?

(11) What was the amount of each payment?

(12) To whom was each payment made?

(13) What was the reason or purpose of each payment being made?

Mr COWAN replied:

(1)-(3) Yes. In 1996-97 payment of $100 was made to Ms Stephanie Calder of the South West Development Commission.

(4)-(7) Yes. In 1996-97 payment of $34 468 was made to Timber 2002 to reimburse them for losses sustained and ensure that body's financial viability and ongoing support to the emerging timber industry in the Great Southern Region.

(8) No.

(9)-(13) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES

Act of Grace Payments

836. Mr BROWN to the Minister for Planning; Employment and Training; Heritage:

(1) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister approve any act of grace payments up to a maximum of $2,000 from any department or agency under the Minister's control?

(2) Who were such payments made to?

(3) What was the amount of each payment?

(4) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister seek the Treasurer's approval for any act of grace payments between the amount of $2,000 and $50,000 from any department or agency under the Minister's control?

(5) What was the amount of each payment?

(6) Who was each payment to be made to?

(7) What was the purpose of each payment?

(8) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister seek approval from the Treasurer and/or Governor to make any act of grace payments over $50,000 from any department or agency under the Minister's control?

(9) How many such payments were approved?

(10) How many such payments were made?

(11) What was the amount of each payment?

(12) To whom was each payment made?

(13) What was the reason or purpose of each payment being made?

Mr KIERATH replied:

Planning
Ministry for Planning

(1) (a) Yes.
(b) No.

(2) (a) Ministry for Planning employee.
(b) Not applicable.

(3) (a) $265
(b) Not applicable.

(4) No.

(5)-(7) Not applicable.

(8) No.

(9)-(13)
Not applicable.

Minister for Planning (Appeals Office)
(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) No.
(9)-(13)
Not applicable.

East Perth Redevelopment Authority
(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) No.
(9)-(13)
Not applicable.

Subiaco Redevelopment Authority
(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) Yes, one.
(9) None.
(10)-(13)
Not applicable.

Employment and Training
Western Australian Department of Training
(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) No.
(9)-(13)
Not applicable.

Central Metropolitan College of TAFE
(1) No.

(2)-(3) Not applicable.

(4) (a) Yes.
(b) No.

(5) Three payments were made:
$5 410
$5 040
$4 380

(6) Payments were made to Mr R Meggitt, Mr H van der Velde and the Australian Broadcasting Corporation.

(7) The payments were to reimburse the above named individuals and the Australian Broadcasting Corporation for equipment they had loaned to the College for the delivery of its Music Program and which had been stolen during a burglary at the program's then premises in Charles Street, North Perth.

(8) No.

(9)-(13)
Not applicable.

West Coast College of TAFE
(1) No.
(2)-(3) Not applicable.
(4) No.

(5)-(7) Not applicable.
(8) No.
(9)-(13) Not applicable.

South East Metropolitan College of TAFE
(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) No.
(9)-(13) Not applicable.

South Metropolitan College of TAFE
(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) No.
(9)-(13) Not applicable.

Midland College of TAFE
(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) No.
(9)-(13) Not applicable.

Central West Regional College of TAFE
(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) No.
(9)-(13) Not applicable.

Great Southern Regional College of TAFE
(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) No.
(9)-(13) Not applicable.

Hedland College
(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) No.
(9)-(13) Not applicable.

Karratha College
(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) No.
(9)-(13) Not applicable.

Kimberley College
(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) No.
(9)-(13) Not applicable.

CY O'Connor College
(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) No.
(9)-(13)
Not applicable.

South West Regional College of TAFE
(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) No.
(9)-(13)
Not applicable.

TAFE International
(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) No.
(9)-(13)
Not applicable.

Heritage
Heritage Council of Western Australia
(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) No.
(9)-(13)
Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES

Act of Grace Payments

839. Mr BROWN to the Minister for Local Government; Disability Services:

(1) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister approve any act of grace payments up to a maximum of $2,000 from any department or agency under the Minister's control?

(2) Who were such payments made to?

(3) What was the amount of each payment?

(4) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister seek the Treasurer's approval for any act of grace payments between the amount of $2,000 and $50,000 from any department or agency under the Minister's control?

(5) What was the amount of each payment?

(6) Who was each payment to be made to?

(7) What was the purpose of each payment?

(8) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister seek approval from the Treasurer and/or Governor to make any act of grace payments over $50,000 from any department or agency under the Minister's control?

(9) How many such payments were approved?

(10) How many such payments were made?

(11) What was the amount of each payment?

(12) To whom was each payment made?

(13) What was the reason or purpose of each payment being made?

Mr OMODEI replied:

(1) No.

(2)-(13) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES

Act of Grace Payments

840. Mr BROWN to the Minister for Health:

(1) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister approve any act of grace payments up to a maximum of $2,000 from any department or agency under the Minister's control?

(2) Who were such payments made to?

(3) What was the amount of each payment?

(4) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister seek the Treasurer's approval for any act of grace payments between the amount of $2,000 and $50,000 from any department or agency under the Minister's control?

(5) What was the amount of each payment?

(6) Who was each payment to be made to?

(7) What was the purpose of each payment?

(8) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister seek approval from the Treasurer and/or Governor to make any act of grace payments over $50,000 from any department or agency under the Minister's control?

(9) How many such payments were approved?

(10) How many such payments were made?

(11) What was the amount of each payment?

(12) To whom was each payment made?

(13) What was the reason or purpose of each payment being made?

Mr DAY replied:

Health Department

(1) Yes.

(2) Mr Blackwell and Mrs Simper.

(3) $89.00 and $1821.15.

(4) Yes.

(5) $13,498.02 and $18,033.00.

(6) L & M Goldsmith and Mrs Weldon.

(7) Expiry of contract for Mt Henry kiosk lease and failure to diagnose and advise fatal illness.

(8) No.

(9)-(13) Not applicable.

HEALTHWAY

(1) No.
(2)-(3) Not applicable.
(4) No.
(5)-(7) Not applicable.
(8) No.
(9)-(13) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES

Act of Grace Payments

842. Mr BROWN to the Minister for Works; Services; Youth; Citizenship and Multicultural Interests:

(1) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister approve any act of grace payments up to a maximum of $2,000 from any department or agency under the Minister's control?

(2) Who were such payments made to?

(3) What was the amount of each payment?

(4) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister seek the Treasurer's approval for any act of grace payments between the amount of $2,000 and $50,000 from any department or agency under the Minister's control?

(5) What was the amount of each payment?

(6) Who was each payment to be made to?

(7) What was the purpose of each payment?

(8) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister seek approval from the Treasurer and/or Governor to make any act of grace payments over $50,000 from any department or agency under the Minister's control?

(9) How many such payments were approved?

(10) How many such payments were made?

(11) What was the amount of each payment?

(12) To whom was each payment made?

(13) What was the reason or purpose of each payment being made?

Mr BOARD replied:

I am advised that:-

CONTRACT AND MANAGEMENT SERVICES

(1) Contract and Management Services.

(a) Yes.
(b) No.

(2) Ms Eve Mirtsopolous, a Contract and Management Services Employee.

(3) $725 00.

(4) (a)-(b) No.

(5)-(7) Not applicable.

(8) (a)-(b) No.

(9)-(13) Not applicable.

STATE SUPPLY COMMISSION

(1) No.
(2)-(13) Not applicable.

OFFICE OF MULTICULTURAL INTERESTS

(1) No.
(2)-(13) Not applicable.

OFFICE OF YOUTH AFFAIRS

(1) No.
(2)-(13) Not applicable.

GOVERNMENT DEPARTMENTS AND AGENCIES

Act of Grace Payments

845. Mr BROWN to the Minister for Police; Emergency Services:

(1) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister approve any act of grace payments up to a maximum of $2,000 from any department or agency under the Minister's control?

(2) Who were such payments made to?

(3) What was the amount of each payment?

(4) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister seek the Treasurer's approval for any act of grace payments between the amount of $2,000 and $50,000 from any department or agency under the Minister's control?

(5) What was the amount of each payment?

(6) Who was each payment to be made to?

(7) What was the purpose of each payment?

(8) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister seek approval from the Treasurer and/or Governor to make any act of grace payments over $50,000 from any department or agency under the Minister's control?

(9) How many such payments were approved?

(10) How many such payments were made?

(11) What was the amount of each payment?

(12) To whom was each payment made?

(13) What was the reason or purpose of each payment being made?

Mr PRINCE replied:

WESTERN AUSTRALIA POLICE SERVICE

(1) Yes.

(2)-(3) Act of Grace Payments up to $2,000 made by the WA Police Service in the 96/97 Financial Year

Payee	Amount(s)
Graeme Edward Ashworth	$135.00
Mary Elizabeth Grey	$135.00
Raymond George Grey	$135.00
Browning - Ferris Industries Pty Ltd	$301.54

Act of Grace Payments up to $2,000 made by the WA Police Service in the 97/98 Financial Year

Payee	Amount(s)
Romolo Angelo Santoro	$500.00
Lance Pettit	$256.00
Matthyas Kiraly	$143.00
Kelly Bertram	$209.00
Graeme Noakes	$1,145.00
John Shek Hon Lo	$42.75
Melanie Jane Lyon	$358.00

(4) No, in respect of the 1997 financial year; and
Yes, in respect of the 1998 financial year.

(5-7)

Payee	Amount(s)	Purpose of Payment
Executor of the Estate of Edwina Mason	$3,946.90	Contribution towards funeral costs
Michelle O'Halloran	$3,568.20	Compensation for fire damage
WA Police Union	$31,779.67	Reimbursement of legal costs
WA Police Union	$10,324.83	Reimbursement of legal costs
Dallas Winmar	$5,000.00	Compensation for wrongful arrest

(8) Yes.

(9) Two, in respect of the 1997 financial year; and
Two, in respect of the 1998 financial year.

(10) Two, in respect of the 1997 financial year; and
Two, in respect of the 1998 financial year.

(11-13)

Act of Grace Payments greater than $50,000 made by the WA Police Service in the 96/97 financial year

Payee	Amount(s)	Purpose of Payment
WA Police Union	$124,334.14	Reimbursement of legal costs
WA Police Union	$52,900.05	Reimbursement of legal costs

Act of Grace Payments greater than $50,000 made by the WA Police Service in the 97/98 financial year

Payee	Amount(s)	Purpose of Payment
WA Police Union	$205,191.84	Reimbursement of legal costs
Glenn Murray	$600,000.00	Cabinet approved payment to an injured police officer.

FIRE & EMERGENCY SERVICES AUTHORITY

(1) (a)-(b) No.
(2)-(3) Not applicable.
(4) (a)-(b) No.
(5)-(7) Not applicable.
(8) (a) Yes.
(b) No.
(9)-(10)
One.
(11) $138,776

(12) The payment was made to the estate of Mr Glen Hoffman, a Western Australian Fire Brigades Board (WAFBB) volunteer firefighter.

(13) The *Bush Fires Act* provides for an ex-gratia payment to bush fire brigade members for specified injuries, including death. The provision is the prescribed amount (as defined in the Workers Compensation and Rehabilitation Act 1981) multiplied by 1.36. On 11 March 1996, Cabinet approved a proposal to extend the same entitlement to the WAFBB, State Emergency Service and Sea, Search & Rescue in the event of the death of a volunteer. WAFBB volunteer firefighter Glen Hoffman was fatally injured four weeks prior to this Cabinet Decision thus the above provision did not apply. An ex-gratia payment was approved to bring the amount paid to his beneficiaries to that as if his accident had occurred after the Cabinet decision.

GOVERNMENT DEPARTMENTS AND AGENCIES

Act of Grace Payments

846. Mr BROWN to the Minister representing the Minister for the Arts:

(1) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister approve any act of grace payments up to a maximum of $2,000 from any department or agency under the Minister's control?

(2) Who were such payments made to?

(3) What was the amount of each payment?

(4) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister seek the Treasurer's approval for any act of grace payments between the amount of $2,000 and $50,000 from any department or agency under the Minister's control?

(5) What was the amount of each payment?

(6) Who was each payment to be made to?

(7) What was the purpose of each payment?

(8) In the -

(a) 1996-97 financial year; and
(b) 1997-98 financial year

did the Minister seek approval from the Treasurer and/or Governor to make any act of grace payments over $50,000 from any department or agency under the Minister's control?

(9) How many such payments were approved?

(10) How many such payments were made?

(11) What was the amount of each payment?

(12) To whom was each payment made?

(13) What was the reason or purpose of each payment being made?

Mrs EDWARDES replied:

The Minister for The Arts has provided the following reply:

(1) Nil.
(2)-(3) Not applicable.
(4) Nil.
(5)-(7) Not applicable.
(8) Nil.
(9)-(13) Not applicable.

WASTE TRANSFER STATION, GORDON RD, MANDURAH

923. Dr EDWARDS to the Minister for Local Government:

What was the outcome of investigations by the Department of Local Government into complaints made by Mr J Costley regarding the City of Mandurah's actions in relation to the development of an integrated waste transfer station at Gordon Road, Mandurah?

Mr OMODEI replied:

As the matter Mr Costley raised in his letter to the Premier relate to the portfolio of the Minister for the Environment, they were referred to that Minister for examination. It is understood that the Premier has sent a detailed response to Mr Costley.

POLICE STATIONS, CANNINGTON, MIDLAND, FREMANTLE AND PERTH

974. Ms McHALE to the Minister for Police:

(1) What are the FTE Police officer staffing levels for each of the following police stations -

(i) Cannington;
(ii) Midland;
(iii) Fremantle; and
(iv) Perth?

(2) For each of the above police stations, what is the per capita ratio of operational police officers?

Mr PRINCE replied:

(1) (a) 34
(b) 56
(c) 81
(d) 263 (Perth City Station and Perth Central Station combined).

(2) (a) 1:1466
(b) 1:405
(c) 1:554
(d) 1:52

POLICE, WORKPLACE AGREEMENTS

1008. Mr BROWN to the Minister for Police:

(1) Is the Minister aware of an article that appeared in *The West Australian* on 9 September 1998 concerning Merredin Policeman Darren Ring being asked by fellow officers to resign as union branch president after it was revealed he had signed a Workplace Agreement?

(2) Does the Minister now accept that the Government's policy of introducing workplace agreements into the Western Australian Police Service has caused division between officers?

(3) If not, why not?

Mr PRINCE replied:

(1) Yes.

(2) No.

(3) Workplace Agreements provide individuals with personal choice, the exercise of which is entirely respected by the Western Australia Police Service, and as stated in the same article, the W.A. Police Union.

QUESTIONS WITHOUT NOTICE

WORKERS COMPENSATION - ACCESS TO COMMON LAW

254. Dr GALLOP to the Premier:

I refer to the report of the Standing Committee on Legislation tabled in the Legislative Council yesterday, which dealt with the Government's proposal to deny injured workers access to common law, and ask -

(1) Is it not the case that the Government's approach, which was described by Hon Bruce Donaldson as simplistic, was about improving the financial position of particular insurance companies rather than the public interest?

(2) Will the Government now proceed as it should have in the first place and consult widely about the matter before introducing changes to the workers compensation system?

Mr COURT replied:

(1)-(2) I am aware of the report tabled in the Legislative Council yesterday. I have not read all the report but I indicate to the House that the minister responsible has been dealing with all the stakeholders in recent months and will continue to do so. The Government is trying to find a solution to a difficult issue. It does not want to end up with a situation in which the private sector, because of the legislation under which it works, walks away from involvement in workers compensation insurance. The last thing the Government wants is for the State Government to go back into the workers compensation market. The Government is consulting with all the stakeholders and it hopes to find some common ground to reach a solution that will enable the private sector to remain in that business in Western Australia.

WORKERS COMPENSATION - ACCESS TO COMMON LAW

255. Dr GALLOP to the Premier:

Is it not the case that the original legislation was all about improving the financial position of particular companies rather than the public interest?

Mr COURT replied:

It was not about particular insurance companies. The legislation is about a workers compensation system and trying to improve a system that, if it continues as it is and large losses are made, will result in the private sector leaving that business. It would then be left to the State to administer.

MAIN ROADS WA - 14 OLD COAST ROAD, AUSTRALIND

256. Mr BARRON-SULLIVAN to the minister representing the Minister for Transport:

(1) What action does Main Roads intend to take regarding its landholding at lot 14 Old Coast Road in Australind?

(2) Will Main Roads endeavour to provide additional parking on this site to assist the Parkfield Primary School?

(3) Will the school community and the Shire of Harvey be consulted?

Mr OMODEI replied:

The Minister for Transport has provided the following response -

(1)-(3) Lot 14 Old Coast Road was acquired by Main Roads for a quarry site. However, it is no longer required and Main Roads is in the process of disposing of the property. To facilitate this, Main Roads has engaged a town planning consultant to undertake discussions with interested parties, including the headmaster of the Parkfield Primary School, the Harvey Shire Council and the member for Mitchell, prior to developing a concept plan. This will enable some residential development to occur following disposal, while also addressing local issues such as the school's requirements for a parking area. Traffic management and local planning requirements will also be considered, together with retention of any significant trees in the area.

COFFIN CHEATERS' APPLICATION FOR PROCESSION PERMIT

257. Mrs ROBERTS to the Minister for Police:

I refer to media reports that the Coffin Cheaters organised crime gang has applied for a procession permit, and ask -

(1) Does the minister agree that organised crime gangs should never under any circumstances be given a permit to assemble en masse on our streets?

(2) Does the minister agree that the granting of such a permit would make a mockery of the so-called zero tolerance policy in dealing with these criminals?

(3) If so, will the minister instruct police to refuse the request, or does the minister intend to hide behind his own code of silence by claiming the decision is up to the police?

Mr PRINCE replied:

(1)-(2) I am informed by the acting commissioner and other officers that the Coffin Cheaters have sought a permit under the provisions of the Road Traffic Act, in connection with the funeral of Chabriere tomorrow at 2.30 pm. The police have given careful consideration to that and are still in the process of making a decision.

(3) I am not hiding behind anything and there is certainly no code of silence. That is a ridiculous comment. It is for the police to judge whether such a permit should be issued and how it should be issued. I discussed the matter with the acting commissioner this morning.

Dr Gallop: I bet he asked your opinion.

Mr PRINCE: No, he did not.

Dr Gallop: What did you talk about then?

Mr PRINCE: We talked about many things. On the subject of the outlaw motorcycle gangs, we talked about the progress of Operation Gallipoli, what is being done, what arrests have been made, what information is available and how the whole project is going. In relation to the funeral tomorrow, the acting commissioner, Mr Brennan, and I discussed what may happen, how many people may be involved, and the route that may be taken. I intend to make a ministerial statement at 10 o'clock tomorrow morning about the arrangements the police have determined with regard to that funeral, so that all members know of them.

SPEEDWAY AND RACEWAY SITE

258. Mr MASTERS to the Minister for Planning:

The State Government has recently announced the very sensible choice of an Alcoa tailings disposal area near Kwinana as the site for the relocated Claremont Speedway and Ravenswood International Raceway. Can the minister please advise if

there is any truth to the claim that the Kwinana City Council was gagged and could not discuss or otherwise consider the Government's proposal?

Mr KIERATH replied:

No, it was not gagged. The position of Cabinet was conveyed to the Kwinana City Council, and the only time there was any hint of anything confidential was before the public announcement was made. I asked the council not to comment publicly until the Government had made the announcement. Now that the announcement has been made, the Kwinana council can discuss any matter it wants in relation to the site. Two people from the City of Kwinana, one councillor and one council officer, are members of the implementation committee so that they can be involved in all the decisions made.

BIKIE GANGS - INCIDENT AT MURDER SCENE

259. Mr GRAHAM to the Minister for Police:

Twice now in this place the Minister for Police has defended the failure of the police to charge the bikies who pushed and shoved officers at the murder scene last week, by claiming that one of the bikies was the brother of the dead man and was "distressed and upset". Which of the two bikies involved in the pushing incident - Eddie Withnell or Kevin Woodhouse - is biologically related to the dead man?

Mr PRINCE replied:

I thank the member for the question. Until late yesterday, when I was informed that it was not the case, it was my understanding that there was a biological relationship.

Dr Gallop: It was the whole justification for this.

Mr PRINCE: No, not at all. That is the information I was given, and I thank the member for Pilbara for raising the question because it gives me an opportunity to say that I misunderstood. The two bikies appeared at the scene and attempted to walk onto the scene, and they were stopped. They were made to sit and wait an hour and 40 minutes before the police then permitted them to go to the body. The police controlled the area at all times, and the decision not to charge by the officer who was pushed and shoved is for him to determine. I back him. He was there, members opposite were not and neither was I.

ORGANISED CRIMINALS

260. Mr GRAHAM to the Minister for Police:

What now is the police justification for not charging these organised criminals who publicly pushed around police officers at a murder scene?

Mr PRINCE replied:

The police officer concerned determined not to charge. It was a murder scene, and a large number of officers were involved. Had that police officer taken on those two men at the time of dealing with the murder scene, the body, and the evidence to be collected that would have been a distraction. The police constable at the scene made the judgment not to charge. That was his call, and nobody can order him to lay a charge, because that power does not exist, and no-one can order a police officer to charge.

Ms MacTiernan interjected.

Mr PRINCE: The member for Armadale does not understand the law.

Mr Graham: If he was a footballer he would have got six weeks suspension based on the video replay, yet the minister will not even report him.

Mr PRINCE: For goodness sake! The member for Pilbara should read the Police Act.

Mr Graham: The minister should call in the assistant commissioner and ask him what the hell his officers are doing.

Mr PRINCE: They are constables and they have their own power and their own discretions.

Mr Graham: The men involved are criminals accessing a murder scene and your coppers let them, and you won't even charge them!

Mr PRINCE: The member for Pilbara refuses to understand the law. He wants the law to be what he would like it to be. That is usual for the member for Pilbara. If the law does not agree with what he thinks it should be, he ignores it!

JOONDALUP BROTHERS RUGBY UNION FOOTBALL CLUB

261. Mr BAKER to the Parliamentary Secretary to the Minister for Sport and Recreation:

The new Joondalup Brothers Rugby Union Football Club is negotiating with the manager of the Arena Joondalup to utilise a former hockey pitch within the grounds of the complex. What is the nature and extent of any assistance the WA Sports Centre Trust can provide to this fledgling club to enable it to establish itself within the Joondalup Arena complex?

Mr MARSHALL replied:

I thank the member for some notice of this question. The member is diligently trying to get more projects into his area. The Minister for Sport and Recreation has advised that the WA Sports Centre Trust, through the centre manager of the Arena Joondalup, is currently negotiating with the new Joondalup Brothers Rugby Union Football Club for the club to establish its headquarters in the area.

The Arena will provide assistance to the club through free and discounted membership for the fitness centre, lighting to the playing field, meeting rooms, storage space for equipment, line marking, extra playing fields if required, venue hire rates at a discounted rate including change rooms, weekly awards, sponsorship signage opportunities, and sponsorship of the club through a customer loyalty program.

BELL, COST

262. Dr GALLOP to the Premier:

(1) Who authorised the expenditure of $18 000 of taxpayers' money on the casting of a bell in England in March?

(2) Why was the bell cast for the Western Australian Government, as the inscription states, rather than for the people of Western Australia?

(3) Has the Premier preempted not only the public consultation phase he is now talking about but also reference to his Cabinet colleagues on this matter?

Mr COURT replied:

The Leader of the Opposition will be embarrassed by this issue.

Dr Gallop: Will the Premier explain that brilliant, incisive analysis?

Mr COURT: I will explain.

Mr Marlborough: Is the Premier going to get Elle to ring the bell? They tell me she is practising already. She will come back and ring the Premier's bell in the year 2000!

Mr COURT: I might be forced to table the list of opposition members who wanted to attend the reception for Ms Macpherson the other night.

(1)-(3) In 1988 the Agent General for Western Australia Mr Ron Davies and Mr Laith Reynolds, also from Western Australia, were involved in negotiations to have these bells gifted to Western Australia.

Dr Gallop: That is not the issue Premier.

Mr COURT: The Leader of the Opposition asked me about the inscription. Additional bells were needed to complete the set, so the then Labor Government said that if a complete set of the bells was obtained and delivered to Western Australia, the Government would provide the bell tower.

Dr Gallop: There are belltowers and belltowers, in case the Premier did not notice.

Mrs Roberts: It was a bell that would be part sponsored by the University of Western Australia.

Dr Gallop: We are talking about $18m.

Mrs Roberts: Some of us know what the story really is.

Mr COURT: I will tell members what the story is. The metal for the five additional bells was a gift from Renison Goldfields Consolidated to mark the Australian bicentennial. They sponsored one of the bells to be inscribed in the names of Ron Davies and Laith Reynolds. It is the custom that when bells are cast they are inscribed. I do not know the exact inscription on that bell. However, it mentioned the then WA Agent General, Ron Davies. The other four bells were sponsored by the Corporation of London, the City of Westminster, Hanson Trust, and Tioxide Group PLC - two of those groups having investments in WA at the time. There was a need for one additional bell, and I authorised funding from the Capital City Committee. That completed the full set of bells.

Mr Graham: Who advised the Premier?

Mr COURT: I was advised by some of the most professional people on this matter, including Sir Frank Callaway, a distinguished professor of music at the University of WA.

Mrs Roberts: Which is where the bells were originally to go.

Mr Court: That is right, in a belltower funded by the Labor Government! The bell was cast and the inscription refers to the Government of Western Australia and has the Premier's name on it. The previous casting was inscribed with Ron Davies' name as the Agent General at the time. The embarrassment in all of this for the Opposition -

Dr Gallop: There is no embarrassment.

Mr COURT: Yes, there is. We were gifted with some bells.

Several members interjected.

The DEPUTY SPEAKER: Order! This is question time, not scream time. We ask ministers to respond to our questions. However, it is impossible for ministers to respond when four or five people are screaming and other people are adding remarks. Let us listen to the ministers when they answer the questions. Let us give ministers respect and, hopefully, they will keep their answers short so we can move on.

Mr COURT: The gift of the bells was a magnificent gift to the State. It was negotiated by a Labor Government, which gave a commitment that if there was a complete set of bells the Government would build a belltower. Now the Opposition is telling us that that commitment meant nothing, and members opposite are being pedantic about the inscription on a bell. They say the bell should not be inscribed for the Government of Western Australia, but for the people of Western Australia. That is a good suggestion. However, the Opposition had an opportunity to fulfil a commitment that it made and it did not fulfil it, so what is new? The coalition Government will build what will be a big tourist attraction. We will build a Barrack Square redevelopment of which this State can be proud. The former Labor Government built a tourist attraction in Singapore - the Sentosa underwater world complex!

Several members interjected.

Mr COURT: Does the member want the people to make a choice about whose priorities they support: The Government's intention to install in a belltower this magnificent gift to the people of Western Australia during the bicentennial celebrations, or the former Government's decision to build an underwater world in Singapore?

FREEHOLD LAND, WELLINGTON LAKE

263. Dr TURNBULL to the Minister for the Environment:

Some notice of this question has been given. The Worsley Timber Company, which owns freehold land around the Wellington Lake near Collie, has announced that it is prepared to sell all 9 500 hectares. Much of the timber on the land is prime jarrah, marri and blackbutt and there are valleys of virgin blackbutt forest. Is the minister prepared to assess the possibility of the State's purchasing a large part of this unique forest in order to create a significant conservation park?

Mrs EDWARDES replied:

I thank the member for forwarding the details about the availability of this land over the weekend. I have asked the department to investigate it and to look at a valuation undertaken by the Valuer General. That consideration would need to take into account the conservation aspects of the timber, the biodiversity of the land and the State's priorities in respect of other conservation pieces of land that need to be acquired. It is important, having been given this opportunity now the land has come on the market, to investigate the possibilities. I will do that and get back to the member.

AN FENG-KINGSTREAM RESOURCES PROJECT

264. Dr GALLOP to the Minister for Resources Development:

(1) Is the Western Australian Government or any of its agencies discussing the future of the Kingstream Resources project with the Taiwanese Government?

(2) If yes, who is engaged in these discussions?

(3) What matters are being discussed?

(4) Have any commitments been sought and/or given in on this project?

Mr BARNETT replied:

I thank the member for some notice of this question.

(1)-(4) I have been in continual negotiations over the past two years about the An Feng-Kingstream project. When I visited Taiwan, I met with political leaders and a number of major industrialists, and we appropriately discussed

this project. They indicated their support for it and their desire for it to go ahead. Recently Dr Chen, who heads up the investment house which has strong political connections in Taiwan, visited Western Australia, and I had dinner with him and discussed the project. I very much hope they invest in it.

Dr Gallop: You have not answered the question.

MULTICULTURAL RESOURCES

265. Mr OSBORNE to the Minister for Citizenship and Multicultural Interests:

After a recent meeting of my Rotary Club - the Bunbury-Leschenault Rotary Club - I spoke to several business people about taking advantage of multicultural resources within their companies. I am aware that the Government has been working hard to promote this idea. Will the minister provide further details that I can take back to my constituents for their benefit?

Mr BOARD replied:

I thank the member for some notice of this question. Today is Proclamation Day, and we are celebrating 108 years of responsible self-government. It is also a day on which we celebrate our citizenship. It is appropriate that we also acknowledge that in 1890 the State already had many people from different countries; in fact, 50 different nationalities lived in Western Australia at that time. The member for Fremantle would know that when the Proclamation Tree was planted in 1890, many Italians attended the ceremony. People from all over the world have come to this great State and helped to build it.

The program the member mentioned involves identifying the language skills in various companies and the contacts that employees have within their ethnic communities both here and overseas. The Government is encouraging people to use those skills and contacts to promote not only the business they work for but also Western Australia. That is a matter of taking pride in one's ethnicity and the fact that we have cultural diversity in this State and using it as a competitive advantage for Western Australia.

AN FENG-KINGSTREAM RESOURCES PROJECT

266. Dr GALLOP to the Minister for Resources Development:

I refer to my earlier question on discussions between the Taiwanese Government and the Western Australian Government about the Kingstream Resources project. The minister referred to discussions he has had about this project. What matters were discussed and have any commitments been sought and/or given in relation to it?

Mr BARNETT replied:

I have had a number of discussions with An Feng. As I said, when I visited Taiwan, I met the principals of the company, the Deputy Prime Minister and a number of industrialists. I met recently with Dr David Chen, who heads an investment organisation that has close political connections in Taiwan; in fact, it is partly owned by the Kuomintang or KMT political party. That is well understood. The issues we discussed at dinner related to the project and whether they would invest in it. We discussed important and obvious issues, such as the port, timing, steel prices and so on. I do not see the point of the question. It is proper that I discuss those issues with a potential investor.

Dr Gallop: A restructuring is currently being undertaken in the company in Taiwan. The Taiwanese Government might well be directly involved in that project. Is that correct?

Mr BARNETT: The leader has said "directly"; I would say indirectly. The Taiwanese Government and the political party have tentacles into most sectors of industry.

Dr Gallop: If they make that decision, what are they asking of the Government and people of Western Australia in return?

Mr BARNETT: They have asked nothing of me. Those discussions have been carried out properly in the context of the agreement Act.

Dr Gallop: Who else have they met?

Mr BARNETT: The most recent meeting with Dr David Chen was a dinner hosted by An Feng-Kingstream, the chairman, Mr Ken Court, and Mr Nik Zuks. I attended, as did Dr Des Kelly, the CEO of the Department of Resources Development. As happens with any such exercise, we discussed the project and its progress. I very much hope, as you do, Mr Deputy Speaker, that it will go ahead.

INDUSTRY-BASED TRAINING INCENTIVES

267. Mrs HOLMES to the Minister for Employment and Training:

Will the Minister inform the House of any new industry-based training incentives?

Mr KIERATH replied:

I thank the member for some notice of this question. I recently launched a tourism training package designed to provide training for the tourism industry and to allow qualifications to be nationally recognised. It is one of 20 packages that have recently been released Australia-wide. The thrust of the exercise is to move away from curriculum and to focus on skills. It is funded by the Australian National Training Authority and is designed for tour operators, guides, travel retailers, meeting organisers and those involved in theme parks. Having completed the training, those involved will be able to get work throughout the country.

As members know, tourism is one of the State's fastest growing industries. We expect about seven million tourists to visit this State by 2000, which will generate 11 000 new jobs in cafes, accommodation facilities and restaurants over the next six years. In fact, 90 per cent of tourism businesses employ fewer than 20 people and this package has been designed for and targeted at them. The new apprenticeships generated will be the primary pathway into the industry. Currently, 1 039 apprentices and trainees are involved in tourism-related training. As a result of this, we will have a far better educated work force, and that will be a plus for all concerned.

MAIN ROADS WESTERN AUSTRALIA, DIRECTOR OF HUMAN RESOURCES

268. Ms MacTIERNAN to the Premier:

Today in a Legislative Council committee hearing it was revealed that the director of human resources in Main Roads Western Australia has been acting in that position for three and a half years. As Minister for Public Sector Management, does the Premier agree that such delays in filling senior positions is unacceptable and does he accept responsibility for allowing situations such as this to arise?

Mr COURT replied:

I am not aware of the evidence given to a Legislative Council committee. I assume that what the member has said is correct. I cannot speak about the circumstances of that agency; I would want to get more information. If that were true -

Ms MacTiernan: As a matter of principle, do you think it is a problem?

Mr COURT: It is a decision made by the CEO as a matter of principle. I will make inquiries of the CEO and provide an answer to the member for Armadale.

PERTH-DARWIN HIGHWAY ALIGNMENT

269. Mrs van de KLASHORST to the minister representing the Minister for Transport:

Can the minister advise whether the alignment of the proposed Perth-Darwin highway within the area of Swan Hills from Morella Road north through Bullsbrook has been selected yet? If not, what is the time line for such a decision? Many of my constituents in Swan Hills are interested to know when it will happen.

Mr OMODEI replied:

The Minister for Transport has provided the following response: A detailed planning report is currently being prepared which will make a recommendation on a preferred alignment option. It is expected that the draft report will be released in April 1999 for public review and comment. It is anticipated that the final report to Government recommending a preferred alignment will be completed by mid-1999.

INDUSTRY TRAINING COUNCILS

270. Mr KOBELKE to the Minister for Employment and Training:

(1) Is the minister committed to maintaining the Industry Training Council network as the primary source of advice on the training needs of industry?

(2) If yes, does the minister intend to adequately fund the existing Industry Training Council structure or is the minister intending to force a restructure of the Industry Training Councils by starving them of funding?

Mr KIERATH replied:

(1)-(2) I am supportive of the role that ITCs play. Having said that, the ITCs have been funded for what is called their core responsibilities. Other advice and other non-core activities have gone out to tender. Some of those ITCs have won their tenders, others have not. It is vital to have an element of competition in there so that the Government of the day can have the best possible advice.

ARTS FUNDING

271. Mr MASTERS to the minister representing the Minister for the Arts:

Supporters of the Bunbury entertainment centre have lobbied south west members of Parliament to try to achieve equity in government financial support for the arts between country and Perth art and entertainment activities. For example, it has been claimed that every Perth resident attracts $8 in arts funding versus less than 50¢ for every rural resident of Western Australia. Can the minister advise if these Perth versus country funding levels are accurate? If so, what action will be taken to redress the balance?

Mrs EDWARDES replied:

I thank the member for some notice of this question. The Minister for the Arts has provided an extensive response. I will address some of the points he makes. Government arts funding is provided through ArtsWA. For the financial year 1998-99 metropolitan expenditure funding per head of population was $4.23, regional expenditure funding $3.70 and statewide funding approvals $3.13. The minister indicates that he has increased funding for regional arts activities in a number of ways. One is the amalgamation of the West Australian Arts Council and the Performing Arts Touring and Information Service to form Country Arts WA. Country Arts WA is now receiving total funding of about $900 000 a year. He has also put in place some additional incentive funding in a number of various forms for major regional arts agencies to increase their services to regional Western Australia. He has introduced incentive funding for theatre companies to help them develop projects for reward whereby companies will receive $2 for each $1 raised for country tours. There has been also a significant amount of federal regional arts funds. Western Australia received $900 000 over a two year period for a range of initiatives, $50 000 for Aboriginal cultural centre feasibility studies and programs and $90 000 for country areas for cultural planning and projects linked to those plans.

INDUSTRIAL AND COMMERCIAL EMPLOYEES HOUSING AUTHORITY LAND SALES

272. Ms MacTIERNAN to the Minister for Fair Trading:

Ample notice has been given of this question. I refer to the Government's admission that 41 charges have been laid against a public servant in respect of Industrial and Commercial Employees Housing Authority land sales and ask:

(1) What action has been taken by the Ministry of Fair Trading in response to the complaint made against Charles Patrick O'Leary and/or Residential Equity Solutions that they acted as real estate agents without licences and charged commissions without written authority?

(2) When was the referral made to the ministry?

(3) Has the matter been referred by the ministry staff to the Real Estate Agents Supervisory Board?

(4) If not, why not?

(5) If yes, on what date was it referred and what was the outcome?

Mr SHAVE replied:

I thank my good friend the member for Armadale for the question and I am pleased that she asked it. I was feeling rather neglected.

Ms MacTiernan: I want to see your name on a bell!

Mr SHAVE: I might be lucky enough just to get to ring it.

Mr Ripper interjected.

Mr SHAVE: I was starting to feel that our good relationship was faltering. However, I am pleased that she has not forgotten me. I am advised -

(1) The ministry is investigating the conduct of Mr O'Leary in respect of the activities of Residential Equity Solutions and Investments Western Australia Pty Ltd. Legal advice to the ministry was that, although RESIWA appeared to have breached the Real Estate and Business Agents Act 1978, no action could be taken because the company was by then defunct. With the agreement of the Crown Solicitor's office, the ministry resolved to investigate O'Leary's role in RESIWA in conjunction with other investigations which concerned O'Leary and the Sure Sale scheme. The ministry is currently awaiting advice from the Crown Solicitor's office in relation to the latter matters.

Decisions concerning the order in which prosecution might be brought will be made when the advice is received.

(2) 30 March 1998.

(3) No.

(4) These matters are being considered at this stage only as prosecutions which are conducted in the Court of Petty Sessions and not before the Real Estate and Business Agents Supervisory Board.

(5) Not applicable.

The DEPUTY SPEAKER: Members, that concludes question time. There have been 16 questions and two supplementaries today. There were a couple of very long questions today and I ask members to shorten the length of their questions.