Parliamentary Debates

(HANSARD)

FORTY-SECOND PARLIAMENT

FIRST SESSION

2025

LEGISLATIVE ASSEMBLY

Tuesday 16 September 2025

Legislative Assembly

Tuesday 16 September 2025

The Speaker (Mr Stephen Price) took the chair at 1:00 pm, acknowledged country and read prayers.

PAPERS TABLED

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

PRIVATE MEMBERS' BUSINESS

Standing orders suspension

Mr David Michael (Leader of the House) gave notice that at the next sitting of the house he would move:

> That so much of standing orders be suspended as is necessary to enable private members' business to have priority from 4:00 pm to 6:30 pm on Wednesday 17 September 2025.

DEFENCE INDUSTRIES—DELEGATION TO UK AND EUROPE

Brief ministerial statement

Mr Paul Papalia (Secret Harbour—Minister for Defence Industries) (1:02 pm): I rise to inform the house that I led a defence industry–focused delegation to Europe and the United Kingdom from 1 September to 12 September.

The AUKUS trilateral agreement between Australia, the United Kingdom and the United States has never been more important. With increasing global uncertainty, building strong relationships with partners in the UK and North Atlantic Treaty Organization is important as it not only benefits our nation's security but also sets the conditions for the continued growth of our great Western Australian defence industry. To that end, I met with senior NATO and European Commission officials in Brussels, and prime defence companies Thales and Saffron in Paris.

In the United Kingdom, I delivered a keynote address at the Australian British Chamber of Commerce's defence catalyst event and led an industry delegation of more than 20 Western Australian companies to the world's largest international defence exposition for defence and security equipment, DSEI UK. DSEI UK attracts more than 1,600 exhibitors from over 90 countries and has over 60,000 attendees. It provides an incredible platform for WA companies to showcase their capabilities to global defence leaders. Both events create an opportunity to highlight Western Australia's strategic capabilities and promote the role these companies can play in the UK defence supply chain, which will facilitate their own capability uplift.

I was joined by impressive WA companies, including Greenroom Robotics, Blacktree Technology, Aurora Labs, Global Coating Systems, CiTech, Onetide, Franmarine, Matrix Composites and Engineering, Nautic Technologies, Hofman Engineering and Advanced Navigation.

My mission included site visits to two key international defence primes, Rolls–Royce and BAE Systems. I am pleased to inform the house that we were successful in signing memoranda of understanding with these organisations to advance industry development, supply chain and workforce opportunities for Western Australian companies. These defence primes play a critical role in the delivery of support to nuclear-powered submarines and are contributing to our nation's capability uplift requirements to make Australia's acquisition of conventionally armed, nuclear-powered submarines a reality.

I was joined by shadow Minister for Defence Industries and AUKUS, Ms Libby Mettam, during my United Kingdom engagements. This was a demonstration of the bipartisan commitment to AUKUS and to growing and supporting WA's defence sector. The important mission was very busy and successful, and WA companies achieved multiple global partnership outcomes during DSEI UK. I will continue to pursue opportunities to support the growth and success of our defence sector.

Today, I table a copy of my itinerary for the information of the house.

(See paper 475.)

MENTAL HEALTH AND EATING DISORDER SUPPORT

Brief ministerial statement

Mr John Carey (Perth—Minister for Health Infrastructure) (1:05 pm): I rise to update the house on the commencement of construction of the new $18.1-million facility for the Peel Community Mental Health Service and Kara Maar Specialist Community Eating Disorder Service in Greenfields near Mandurah as part of the Peel Health Campus redevelopment. Yesterday, it was great to see the work's progress, alongside local members Mrs

Lisa Munday, member for Dawesville; Mr Rhys Williams, member for Mandurah; and Ms Ellie Whiteaker, federal senator for Western Australia.

The project marks a major step forward in improving access to mental health and eating disorder support in Western Australia. It will provide outpatient, day and community-based treatment in a purpose-built facility. In a first for the Peel region, a community facility that offers these services will be embedded in the community rather than linked to a hospital. The facility will deliver adult and older-adult mental health services, as well as outreach services for eating disorders.

Funded through the Commonwealth's Community Health and Hospitals Program, the new clinic will bring together clinicians and support teams in a contemporary research-backed environment that is designed to support recovery.

SHAPE Australia has been appointed to complete the design and construct the fit-out. Site works, including internal concreting and structural preparations to the existing building, have commenced. The next phase will see the internal structural ceiling, wall concreting and primitive framing begin to define the clinic's internal footprint.

The Kara Maar clinic will have a dedicated entrance, private consultation and treatment rooms, and spaces designed to support recovery in a safe, welcoming environment. The name Kara Maar means "sustaining hands" and was developed in consultation with Noongar elders and community members to symbolise nourishment, support and healing.

Eating disorders are complex, and recovery requires more than just clinical care. This new clinic has been designed with research in mind, which shows that healing spaces are just as important as the treatment itself. Every Western Australian deserves access to care that is close to home, compassionate and tailored to their needs. This new clinic is one step closer to helping people get the help they need in one coordinated, supportive space.

This project is part of the Cook government's broader commitment to investing in health infrastructure that meets the needs of communities now and into the future.

HEALTHY SCHOOLS PROGRAM

Brief ministerial statement

Ms Sabine Winton (Wanneroo—Minister for Education) (1:07 pm): I am proud to be Western Australia's and Australia's first Minister for Preventative Health. The establishment of the role clearly signals just how serious the Cook Labor government is about delivering our priority of promoting active, healthy lifestyles to support the wellbeing of Western Australians.

Combining this with my other portfolios, education and early childhood, I am in a unique position to support initiatives and reforms that have significant influence on the long-term outcomes of our youngest Western Australians. We know that instilling children with positive, preventative health behaviours is the best long-term strategy to support Western Australians to live long and healthy lives. That is why I am pleased to advise the house that 60 schools across WA will receive between $3,000 and $5,000 to deliver projects that promote healthy habits and create supportive school environments.

Through Healthway's Healthy Schools Program, over $270,000 in grants is being provided to WA schools for projects that will support the health and wellbeing of students and the school community. Projects funded this year include healthy cooking and nutrition lessons, school vegetable gardens, mental wellbeing programs, sensory spaces, and professional development for teachers to deliver fun, high-quality physical education classes. These grants mean schools can turn creative ideas into real projects that make a difference for their school communities and give students practical skills that will stay with them for life.

The funding supports schools to align with the health promoting schools framework, which is a whole-school approach to building healthier and more connected communities now and into the future. There are 60 schools, which range from the South West all the way to the Kimberley, that will roll out the project this term and next term, working closely with relevant local health and community organisations to maximise the impact. It is inspiring to see school leaders, teachers, students and local communities working together to build healthier and happier school environments. I very much look forward to seeing the outcomes and positive impacts that these projects will deliver and encourage all schools to apply for Healthway's Healthy Schools Program, which will open again in February 2026.

NATIONAL DISABILITY INSURANCE SCHEME

Brief ministerial statement

Ms Hannah Beazley (Victoria Park—Minister for Disability Services) (1:10 pm): In June this year, the Cook and Albanese governments signed Western Australia's National Disability Insurance Scheme (NDIS) bilateral agreement, securing long-term funding arrangements for the NDIS and delivering certainty for over 65,000 Western Australian participants. Effective from 1 July 2025, this agreement reflects both governments' shared responsibility for an effective and sustainable NDIS in WA, with a commitment to strengthen governance

arrangements through the establishment of the WA Community Advisory Council. The WA Community Advisory Council will advise me as Minister for Disability Services on the development, operations and delivery of the NDIS in WA. It will ensure that community representatives with lived experience, advocacy and sector backgrounds are involved in advising and advocating for participants at a systems level to ensure the scheme is working well for Western Australians.

I am pleased to advise the house that yesterday I opened the expressions of interest process to invite representatives from the WA disability community to apply to join the council. The WA Community Advisory Council is an important opportunity to join with state government and Commonwealth government officials, and advise on the operational effectiveness of the NDIS in WA. This will include advocating for people with disability at a systems level to ensure better access to the scheme and to improve outcomes for participants. It is vital that we elevate the voices of people and groups with direct experience of the NDIS, and I encourage expressions of interests from NDIS participants and their families and carers, along with the disability sector, advocacy groups, providers and other stakeholders. Expressions of interest close on 13 October 2025, with the first meeting of the Community Advisory Council planned to be held this year. More information about the council's terms of reference and the expression of interest process can be found at the WA Community Advisory Council webpage on the Department of Communities website.

The Cook government is committed to supporting the effective operation of the NDIS in WA and building an inclusive community. People with disability are best placed to play a crucial role in shaping the system's policies and the legislation that impacts their lives, and in doing so will benefit and strengthen our whole community.

FAMILY AND DOMESTIC VIOLENCE—ONE-STOP HUB, ARMADALE

Brief ministerial statement

Mrs Jessica Stojkovski (Kingsley—Minister for Prevention of Family and Domestic Violence) (1:12 pm): I am pleased to rise to update the house on the opening of the Cook Labor government's family and domestic violence hub in Armadale. On 22 August, I joined the Attorney General and member for Armadale, Dr Tony Buti, and Hope Community Services to open new dedicated premises to support victim-survivors of family and domestic violence. The Armadale hub, to be known as Waullo Dawn Healing Service, will be delivered by Hope Community Services in partnership with Yorgum Healing Services Aboriginal Corporation and an alliance of specialist service organisations. The hub will provide a range of supports to people experiencing family and domestic violence, including advocacy, counselling, legal assistance and support for children. It will ensure victim-survivors in the Armadale region can get all the help, assistance and specialist support they need in a time of crisis at a single location. The intention is that co-locating key support with other community services will create a soft entry point, reducing the stigma attached to seeking assistance.

Together with the new Perth city location at the Ruah Centre for Women and Children, there are now five family and domestic violence one-stop hubs working from dedicated premises, providing a single central point for victim-survivors to access support and services in their community. The hub model is nation leading. The recent report on the South Australian Royal Commission into Domestic, Family and Sexual Violence states that South Australia had much to learn from WA's approach. Among its recommendations is to draw on our one-stop hub model, and in particular the community-based and soft entry point designs. The state government has invested $21.9 million for the delivery of the Armadale hub, building on the success of similar hub services in Mirrabooka, Kalgoorlie, Broome and Perth, and delivering the Cook Labor government's election commitment. Family and domestic violence has a devastating impact on individuals, families and communities. Breaking the cycle requires targeted services where people need them and the Cook Labor government is proud to deliver this important one-stop hub to support victim-survivors in the Armadale community.

ASSISTED REPRODUCTIVE TECHNOLOGY AND SURROGACY BILL 2025

Second reading

Resumed from 11 September.

Mr Kevin Michel (Pilbara) (1:14 pm): I rise to make my contribution to the Assisted Reproductive Technology and Surrogacy Bill 2025 second reading debate. I thank my colleagues for their valuable contributions.

The aim of the Assisted Reproductive Technology and Surrogacy Bill 2025 is to remove outdated discriminatory barriers that hinder people from accessing assisted reproductive technology and surrogacy and to create a more inclusive Western Australia. I stand today to speak in favour of the Assisted Reproductive Technology and Surrogacy Bill 2025 and to support the stance that everybody has the right to start a family regardless of their sexual orientation, sex, gender identity or relationship status. The current legislation—the *Human Reproductive Technology Act 1991*, the *Surrogacy Act 2008* and the *Artificial Conception Act 1985*—is constrained, allowing only heterosexual couples who experience medical infertility or whose child would likely be affected by genetic abnormality or disease to access ART and surrogacy. In addition to this, Western Australians who fall outside the criteria are forced to travel interstate or overseas to start a family. The new bill will remove those limitations,

which are no longer relevant in today's society. The Assisted Reproductive Technology and Surrogacy Bill 2025 will enable same-sex couples, single people, transgender and intersex Western Australians to access ART and surrogacy. It places the child and patients and their experience front and centre, and streamlines access, modernises the legal framework and ensures Western Australians can access the care and support they need to build or start a family.

The Assisted Reproductive Technology and Surrogacy Bill 2025 has undergone an in-depth consultation process to ensure the needs of the community are met and will allow access to ART and surrogacy to those who are struggling to conceive, including LGBTQIA+ community members. It will also ensure safe and sensitive processes for those pursuing reproductive assistance.

The bill includes further rights for donor conception, allowing donor-conceived individuals to access information regarding their social and genetic heritage. It will allow donors and the intended parents to gain certain information and provide rights to donors on consultation on the continuing use of donated reproductive material. Donors and contributing parents may withdraw consent and the action of a licensee must undertake the following withdrawal.

The bill will replace the WA Reproductive Technology Council with the Assisted Reproductive Technology Advisory and Review Board. It will have an advisory function and certain approval powers and will reduce regulatory burdens. The bill will also ensure clinical assessments are conducted of the psychosocial and medical sustainability of individuals pursuing ART services before the services are provided.

Western Australia's existing worldwide five-family limit for the use reproductive material from the same donor to create a family will be maintained. This means that no more than five families worldwide should be related to the same donor.

It will also allow for fertility preservation procedures, which will allow for the collection of reproductive material when required, to provide the participants with further reproductive options when they are undergoing medical treatments or procedures that could damage reproductive organs or material. Although the bill requires individuals to be 18 years or older to access ART, exceptions will be made for individuals under the age of 18 for fertility preservation.

Furthermore, the bill promotes equality, improves access, modernises outdated laws, prioritises the best interests of the children, and reflects public support. These changes will bring Western Australia into line with other jurisdictions, including Victoria, South Australia, New South Wales, the ACT and Queensland, ensuring that Western Australia is a place where every family is valued and everyone who wants to become a parent has the right to try.

The Assisted Reproductive Technology and Surrogacy Bill 2025 is overdue, as families come in many forms and the ability to start a family should not depend on a person's sex, sexual orientation, gender identity or relationship status. I support the bill and look forward to seeing the positive outcomes it will have for those wanting to start a family and who now will be able to do so. Thank you for providing me the opportunity to speak. I commend the bill to the house.

Ms Simone McGurk (Fremantle—Minister for Women) (1:21 pm): I rise to speak in support of the reforms to assisted reproductive technology being introduced by the Cook Labor government to make parenthood more accessible. The Assisted Reproductive Technology and Surrogacy Bill 2025 is a historic step for Western Australia, and is one that many people in our state have waited far too long for. As the Minister for Women and a representative of my community, I care deeply about equity. It is important for me to make a contribution in support of this bill.

At their core, these reforms are about equality and ensuring that all Western Australians, regardless of gender, sexuality or relationship status have the same legal right to become parents through assisted reproductive technology. This legislation aligns our state with the federal anti-discrimination principles. This is not only fair, but also necessary. These reforms reflect the evolving social and ethical consensus in our state and are in line with practices in other jurisdictions.

The Assisted Reproductive Technology and Surrogacy Bill removes outdated and discriminatory barriers to accessing fertility treatment. Access to assisted reproductive technology and surrogacy will now be based on a clinical assessment of the person's current and future physical, psychological and social circumstances. The new laws will allow equitable access regardless of sex, gender identity, relationship status, sexual orientation or sex characteristics. The requirement for medical infertility will be removed, opening access to individuals and couples previously excluded, including members of the LGBTQIA+ community. The bill also allows assisted reproductive procedures for the purposes of fertility preservation. This means that if individuals are undergoing medical treatment or procedures that could damage reproductive material or organs, they can make preparations for future reproductive options.

The legislation also replaces outdated laws, including the *Human Reproductive Technology Act 1991*, the *Artificial Conception Act 1985* and the *Surrogacy Act 2008*. We are proud as a government to support these reforms to

ensure that we are breaking down the barriers to parenthood and building stronger families. For too long many people wanting to start their families have had to leave Western Australia to do that, and this bill will rectify that.

As Minister for Women, the principles of equal access are of fundamental importance to me, and this bill rises to those principles. I am proud to be part of a Labor government that has historically, at its core, been committed to progressive reform for all Australians. It was a Labor government that expanded access to secure, affordable housing through the Social Housing Accelerator and the Housing Australia Future Fund, recognising that housing accessibility is not a privilege; it is a fundamental right. It was a Labor government that made vocational education more affordable through introducing fee-free TAFE. It was a Labor government that brought accessible health care with the introduction of Medicare 41 years ago. It was a Labor government that advanced gender equality in the workplace by embedding the principles of equal pay for equal work through the *Sex Discrimination Act 1984*, challenging systemic inequalities. It was a Labor government that recognised the importance of autonomy in relationships, introducing no-fault divorce through the *Family Law Act 1975*, and with it the right to leave marriages without legal retribution. It was a Labor government that championed reproductive justice through the *Abortion Legislation Reform Act 2023*, removing the structural barriers to health care and creating safe access zones. That is why I am proud to be part of a government that is building a future that is equitable and fair in which everyone has the right to thrive.

I am sure other members have quoted a few endorsements of this legislation. That includes the board director of Rainbow Families Australia, Paul Hadfield-Jia, when he said:

> I welcome this long-overdue bill and thank the WA Government for taking this important step towards equality for all families. International surrogacy is not only costly but risky for those involved, but people continue to take these risks because there are no other options. WA is the only state where our ART and surrogacy laws violate our equality laws. They exclude and discriminate against LGBTQ+ people who want to start a family.
>
> …
>
> In 2021 I had a cancer scare and I suddenly realised that if I died, my baby girl could end up in the out of home care system even though my husband has loved and cared for her since she was born, because the laws do not recognise him as a parent.

He described the reintroduced bill as a significant milestone:

> This is truly monumental legislation. It's about allowing WA residents to create their families here safely in WA.

I also quote Anna Brown, the CEO of Equality Australia, who says:

> Gay couples have to travel interstate or overseas just to start a family — leaving behind their jobs, support networks and spending enormous sums of money — all while their children are denied the basic right of legal recognition for both parents.
>
> There is more work to do but this Bill is a good first step, and it's high time WA's laws were brought into line with the rest of Australia.
>
> For many couples, the dream of starting a family has been meant years of waiting, heartache and uncertainty. We urge every MP in parliament to support this Bill and help give these couples a chance at the family they've been hoping for.

Finally, I quote Clare from Hamilton Hill, a constituent who contacted me. I would like to have spoken to Clare, but I was not able to connect with her before speaking on this legislation, but I thank her for contacting me and for taking the time to support the legislation. According to my notes, Clare says in her email to me:

> As one of your local constituents, I write to request support for the WA Assisted Reproductive Technology (ART) and Surrogacy Reforms Bill, which was introduced to the Parliament on 13 August 2025.
>
> …
>
> WA laws currently violate Commonwealth laws and expose WA. Our WA laws are outdated and cause significant harm to our Western Australian people. They discriminate on the basis of gender and medical condition and prevent many Western Australians from starting families of their own.
>
> These barriers force many people to seek arrangements overseas, often in countries with limited safeguards, increasing risk to families and vulnerable individuals.
>
> Even more distressing is that under current legislation, many children born through international surrogacy are unable to have both of their parents legally recognised in Western Australia. This legal gap is unacceptable and demands urgent reform.
>
> This Bill is our opportunity to finally change that.
>
> Why would any politician oppose enabling children to be born safely and ethically here in WA or deny families the recognition and protections they deserve - especially when we have the ability to establish a robust legal framework that safeguards everyone involved, including that child?

> As my local representative, I urge you to support the ART and Surrogacy Bill.

That is exactly what I am doing. She also said:

> People like me, children and families across Western Australia are counting on you to do the right thing.

This legislation delivers on the Cook government's commitment to modern, inclusive, evidence-based laws that reflect the needs of all Western Australians. I commend the bill to the house.

Ms Kim Giddens (Bateman—Parliamentary Secretary) (1:29 pm): I rise today to contribute to the debate on the Assisted Reproductive Technology and Surrogacy Bill 2025 and signal my support for its passage through this place. We have had outstanding contributions from members who have shared what are deeply personal stories. They have talked about their families or their wish to have a family, and the ways in which their current exclusion from accessing surrogacy has impacted them on a deeply personal level. I thank them for sharing that. We have heard from them and others about how the current laws exclude some people in our community from accessing surrogacy on the basis of their sexual orientation or relationship status—not their ability to be a good parent, but simply because they are in a same-sex relationship. I do not think that is fair, but I accept that there are some in our community and some in this place for whom that is not their belief. I do not rise today to try to convince those who have that belief of a different perspective. In fact, I rise to say that I respect their right to hold that view, whether it is based on their religious, cultural or social moral convictions. But I still do have an ask; that is, I ask that those in this place who do not support the bill based on their own personal belief systems consider the basis of our secular democratic system and how we should inform our decision-making in this place around laws that impact our entire community.

I am going to return to my uni days, when I was required to write an essay on John Stuart Mill. I am going to reflect on some of what I wrote at the time. John Stuart Mill was one of the foundational intellects, whose ideas underpin many of the institutions and values of our western liberal secular democracies. In particular, I refer to three broad and guiding principles. The harm principle—that liberty can be curtailed only to prevent harm to others—is a foundational test for lawmaking in liberal democracies. We see this principle echo through human rights institutions across western liberal democracies that have constitutional jurisprudence and free speech protections. JS Mill also spoke about the defence of minority rights and warned against the tyranny of the majority. That is a cornerstone of our pluralist system—that democracies have protections for minorities, as well as reflecting the majority will. The third foundational aspect of his work is that of secular foundations. His key argument in this respect was that laws must rest on preventing harm, not enforcing morality. Members, we have a secular system of democracy; it is one of the core principles.

I now turn to the harm principle. In considering this bill, there are two key places in which we can consider whether there is harm. The first is to the surrogate and the second is to the child. In relation to the surrogate, it is absolutely fundamental that we protect the wellbeing and health of women. We know that women still do not enjoy the equality that we would like or hope for across many western democracies. When there is inequality, there is often the possibility for there to be coercion or inequity that drives women to make a choice that they might not make in different circumstances. We must be alive to that consideration. In that respect, this bill does not support commercial surrogacy; it is about altruistic surrogacy. Studies of altruistic surrogacy in well-regulated jurisdictions like Australia and the United Kingdom consistently show very low rates of regret and generally positive psychological outcomes for women who are surrogates. In fact, a longitudinal study from the University of Cambridge in the UK reported satisfaction with the experience and that healthy boundaries were maintained even years later. We absolutely should be alive to the risk to women, but I believe that this bill, particularly around the altruistic nature of surrogacy in Australia, goes a long way to protecting the wellbeing of women who may wish to engage in surrogacy.

The second harm is to children and, perhaps by extension, some people might argue harm to the family unit. Again, this is an area in which we have decades of peer-reviewed research that shows that children of same-sex parents do just as well in terms of health, education and social outcomes as children of heterosexual parents. Anyone who is a parent knows that it is a really tough gig and that we do not get it right all the time. The most important thing for a child is to be well loved and to have their needs met. We know that children who grow up in a traditional heterosexual family unit and who experience abuse or domestic violence have really poor outcomes. It is not about the nature of the parenting in terms of whether it is a traditional mum-and-dad unit or a stepfamily; there are all sorts of family units in Australia already and the outcomes for those children are exceptional when they meet the criteria of good enough parenting. The evidence shows that the outcomes for children of same-sex couples are no different from children in any other family unit. There is a whole bunch of evidence around that but I am not going to point to it because people can find it for themselves. How does this connect to this bill? In my view, the harm test has not been met. There is no demonstrable harm to children from being raised by single parents or same-sex parents, so the exclusion of those groups of people from accessing surrogacy is not justified. Any legal barriers are based on moral disapproval and not evidence of harm, and that is exactly the type of overreach that JS Mill warned about.

In conclusion, I remind members of the chamber that JS Mill's work strongly defends and protects religious freedom. In fact, he saw freedom of belief, including religious belief, as core to individual liberty and a safeguard against the tyranny of the majority. I respect the right to hold religious views and that people are free to live their life in accordance with them, but we simply cannot lay claim to freedom of religion for some while using that same belief to deny equality of access to others. Belief is personal, but equality before the law is universal. Our laws must not be guided by our personal moral conformity but by evidence of harm. Here, as I have said, the harm test has not been met by evidence as there is no demonstrable harm in extending these rights. This is an opportunity to make our laws fairer, more consistent and more just. For these reasons, I support this bill. I pass on my thanks to those members who shared, with courage, their personal stories. My congratulations are extended to the minister for bringing this bill before the Parliament.

Ms Colleen Egan (Thornlie) (1:38 pm): I rise to speak in strong support of the Assisted Reproductive Technology and Surrogacy Bill 2025. I thank the Whips on both sides for allowing me to speak today. I was unwell last week so I was not here, but I watched the live stream of the debate on Thursday. I must say that I felt extremely proud to be a part of this caucus. It was a really meaningful debate. It was very moving, eloquent and really quite beautiful. As I say, I feel very proud to be standing here and to be part of this historic legislation.

As a former political journalist, I remember the landmark reforms of former Attorney General Jim McGinty more than 20 years ago to address discrimination in legislation in WA. I particularly recall the partnership between Attorney General Jim McGinty and the then Leader of the Greens in the Legislative Council, Giz Watson, who was universally admired and respected. Jim McGinty was outraged—and so he should have been—that Giz's life partner would not be able to receive her parliamentary superannuation in the same way that Jim's wife would be able to receive his. That outraged him. He put himself on the right side of history by reforming that law, alongside a lot of other discriminatory legislation, including in the Family Court and against same-sex couples and single women. It was a landmark reform. Part of those reforms made more than 20 years ago are in the legislation that this bill will reform. We are due for another refresh.

At the time that Jim McGinty implemented those reforms, WA was one of the nation's leaders in discrimination reform. Fast-forward to 2017 when I went into government with Attorney General John Quigley; Western Australia had become the laggard of the nation in reforms against discrimination and in a lot of other areas of the law, such as the statute of limitations for child sexual abuse, the Evidence Act—an amending bill came through recently—and multitude other reforms. In that era, surrogacy was just one of the outdated statutes when it came to discrimination reform. I remember in our first term of government we expunged homosexual historical convictions. I remember that was a bipartisan bill. In the last, most recent term, the government introduced legislation to abolish the Gender Reassignment Board, which was another important reform. I think we were the outliers in the nation on that issue, perhaps apart from New South Wales. Of course, the Equal Opportunity Act has been the subject of a very long and detailed Law Reform Commission of Western Australia piece of work.

Progressive law reform, particularly when it involves social issues, can be very complex and it can take a lot of time to not only undertake consultation, with sometimes several rounds of consultation, but also get the details exactly right. That has been the case with the Assisted Reproductive Technology and Surrogacy Bill 2025. I acknowledge the three health ministers who have worked on this bill. I remember when I first got into government in 2017, Roger Cook, the then Minister for Health, already had his eye on this bill and started off the process. When she was the health minister, Amber-Jade Sanderson implemented the ministerial expert panel and now our hardworking health minister, Minister Hammat, is bringing it home today. All the public servants who worked in health and justice, probably at the State Solicitor's Office and definitely at the Parliamentary Counsel's Office, would have put an awful lot of hard work into this, and I acknowledge them. I suppose they say that it takes a village to raise a child, but I think it almost takes a village to get together legislation like this. I congratulate all of them and, of course, all those who were consulted and who have lobbied very politely but persistently for this reform.

It is important to acknowledge—I have been talking a lot about discrimination and what that means for adults who are in this process—that this bill has been drafted with the primary purpose of being in the best interests of the child. Members do not have to take my word or the word of government members or the Minister for Health. Rather, they should take the word of the experts. I would like to read into the parliamentary record the media release of the Australian Medical Association's WA branch, which states:

> The Australian Medical Association (WA) welcomes the introduction of the *Assisted Reproductive Technology and Surrogacy Bill 2025* … describing it as a long-overdue reform that places patients and children at the centre of reproductive healthcare in Western Australia.
>
> AMA (WA) President Dr Kyle Hoath said the Bill reflects contemporary clinical practice, community expectations, and the principles of equity and patient autonomy.
>
> "This legislation brings Western Australia into alignment with national and international best practice. It removes outdated and discriminatory barriers to care and ensures all people—regardless of relationship

> status, gender identity or sexual orientation—can access assisted reproductive technology … and surrogacy with dignity and respect …
>
> The AMA (WA) particularly acknowledges the Bill's emphasis on the best interests of the child and its robust consent frameworks.
>
> "The Bill rightly places the welfare of children born through ART and surrogacy at the heart of the regulatory framework. It also provides clarity and legal certainty for families, donors, and clinicians" ...
>
> The AMA (WA) also welcomed provisions in the Bill on embryo storage, posthumous use, and reciprocal In Vitro Fertilisation (IVF), which reflect the realities of reproductive medicine.
>
> "Clinicians have long supported people's ability to make informed decisions about embryo storage and use, including in cases of reciprocal IVF and posthumous conception. The Bill provides a clear, ethical and practical framework for these scenarios …
>
> "This reform will allow more Western Australians to start a family. Removing the medical infertility requirement is a critical step toward equitable access."
>
> The AMA (WA) looks forward to working with the Cook Labor Government to support the implementation of the legislation and ensure that Western Australians continue to receive safe, ethical and patient-centred reproductive care.

I do not think we could get a more supportive endorsement for this bill from the medical professionals who know this area best.

Like other members, I have received encouragement to support this bill from constituents who have personal stories. I am particularly grateful to Kylie and Michele, a gay couple I am proud to represent in my electorate of Thornlie, for sharing their story with me. Kylie and Michele were able to access IVF, but their journey was far more difficult than it needed to be, including aspects that were discriminatory of their same-sex relationship status. According to my notes, Michele told me:

> It was definitely a HARD journey. 14 transfers, 4 pregnancies, 2 miscarriages over seven years.
>
> One of the most awful things we went through was "having to prove that we were medically infertile". We had to pay for ICSI cycles for 18 months to prove that we were classified as medically infertile. Even though they knew that we were a same-sex couple and that I had anti-phospholipid markers which were working against the chance of pregnancy.
>
> When we first started our journey, we weren't given the option of carrying an embryo from Kylie because of the surrogacy laws in WA. No one discussed it with us as an option.

Kylie and Michele persevered, and I am pleased to say that they now have two children. But the limitation of this legislation did not stop with that happy ending. According to my notes, Michele explained:

> Both of our children have hypermobility and Pectus Excavatum (related to scoliosis) … having more information about our donor would be a godsend to track genetic conditions etc. Until this bill passes, we must wait until they are 16 to know more.

Kylie and Michele are a great example of the many, many people of the rainbow community who are exemplary contributors to our society. Between them, they have decades of public service, including serving in the armed forces and working for charities for children with cancer. I am proud to represent them in Parliament today.

Anyone who has spent much time in my company knows that my two children are the loves of my life. They are without doubt my proudest achievements, and they are the only things in my world that I could not live without. But for many years I did not want to have kids. How fortunate I was to have the luxury of a last-minute change of mind, and how cruel it is that others who crave for years or decades to have a family are denied what I took for granted. One of the many blessings of my children is that I have a daily window into the lives of adolescents and young people in today's world.

I have two super smart and thoughtful humans who can educate me about what it is like for their generation in 2025. I would like to speak today a little bit about the potential impact of laws like these and debates like this one here, and soon in the other chamber, on the wellbeing and mental health of young people in our community and the signals it sends from us, the adults in power, to them. The law as it stands tells our rainbow young people that no matter how hard they strive to be good citizens, they are not equal. If you are gay or gender diverse, you can die for your country in the armed forces, you can save lives on operating tables, you can inspire children with your teaching lessons, you can win Olympic medals or become Prime Minister, but you cannot accept the offer of a friend or loved one to help start a family. What it says to our kids, their friends, schoolmates and peers is, "If you're gay or if you're gender diverse, you can study hard, work hard and devote your life for the betterment of this society, but society does not deem you worthy of equality."

As the member for Scarborough so eloquently put it:

> … no matter who I was or what I contributed, I did not fit in the eyes of the laws of my home state.

To me, these words sum up the importance of this bill, not just for those who want to start a family now, but for the young people who wonder if there is a place for them in our society, no matter how hard they work.

The mental health of young people is of concern to me, as it should be to us all. Young people who identify as gay, trans and non-binary are particularly vulnerable to severe mental health challenges, including suicidal thoughts. There are families in every electorate, I am sure, who are living through this right now. Rainbow young people are often bullied by their peers and, on top of that, they are subjected in the media and on the internet to nasty public discourse and political pointscoring that is tantamount to bullying—bullying by adults. From Donald Trump to JK Rowling and the politicians here at home, kids are faced with headlines and social media post that can be hurtful and ill informed.

Rainbow young people, who in my experience are some of the most gentle people in need of love and support, can get caught up in ideological wars that are often nasty and ignorant. Even if comments are not aimed at them, that is what is in front of them. Thankfully, there are journalists and commentators who strive to balance that ignorance. I particularly acknowledge *The West Australian* columnist Kate Emery. Kate is a wonderfully talented writer and she brings all her intelligent analysis, logical reasoning and warm heart to her writing on these issues. She is a notable advocate for equality in the state and is firmly on the right side of history on these issues.

I encourage all members to read her opinion piece in *The West Australian* today. I will quote a little from it:

> WA is the only place in Australia where gay men and single straight men cannot use a surrogate to have a baby.
>
> …
>
> The State Government, to its credit, has been trying to change these laws for a long time. The last effort in 2019 was scuttled by the efforts of conservative Christian Liberal powerbroker Nick Goiran.
>
> …
>
> This new Bill is both overdue and reflects what modern WA families look like.
>
> It would be a shame if a conservative, religious minority is able to (again) hijack this debate, a possibility given the Government does not have a majority in the Legislative Council.
>
> Does the average West Aussie care all that much if a kid has a mum and a dad, two dads or a single parent so long as they have a loving home? I don't think so…

Kate has been writing artfully about discrimination against the queer community, in particular trans kids, for several years now. I know she has copped a lot of vitriol for that. Today I would like to acknowledge her important contribution to the public discourse around these issues.

I hope that members of this Parliament, as this bill winds its way through the upper house, keep this in mind; if they choose not to support the bill, I hope they also choose to avoid false stereotypes as they do so. Every member of this Parliament would say that they care about young people's mental health. In theory, I certainly believe they do, I just hope they also show it in practice. Gay and trans kids deserve our love, our understanding and our leadership. Words matter and laws like this one matter.

I received an email last night opposing this bill from the Australian Family Association WA branch. I will still emphatically vote with the medical professionals, who I trust to administer this legislation. Just as we trust doctors in our voluntary assisted dying laws, and our gun ownership laws, we trust doctors in these assisted reproductive and surrogacy laws. The Australian Medical Association, not the Australian Family Association, should be our guide.

This legislation is about the best interests of children in the present and the future.

(Member's time extended.)

Ms Colleen Egan: I would like to say to our rainbow young people: you are loved, you are valued and you deserve every happiness in life. You can have ambitions to achieve anything, including having a family. You deserve a future free from discrimination and I am proud that the Cook Labor government is bringing that future a bit closer with this bill. I commend the bill to the house.

Ms Jodie Hanns (Collie–Preston—Parliamentary Secretary) (1:55 pm): I thank you very much for this opportunity to contribute to debate on the very important Assisted Reproductive Technology and Surrogacy Bill 2025. I am going to make a short contribution today, but I want to place on record that I will be voting yes on this bill at the outset of my contribution.

I want to reflect on the fact that fertility is a fraught issue. Having a family is particularly challenging for many people in our community. I want to also reflect on the fact of the great irony of life as a woman—spending much of their reproductive life trying not to get pregnant, and then finding themselves in the situation in which having a family is not quite so easy. I am sorry, Premier, if that was inappropriate to say in the house.

I also want to say that in the great lottery of life, there are no guarantees about whether a person or their partner will be able to have children, regardless of their personal circumstances. For myself, I had two very healthy children. I always wanted three children. After two children, I then suffered three very significant miscarriages. With the third miscarriage, I nearly died. If not for the intervention of the amazing staff at Collie Hospital, I would not be here today.

I am very fortunate to have had two healthy children. My dreams for a third were put on hold as a result of those circumstances. I am very fortunate, but not everybody else is in the same situation. I have friends whose choices were taken away from them by cancer in their late 20s, by failed IVF or by trying unsuccessfully to have a child for 15 years and surprisingly finding themselves pregnant in their late 30s. Same-sex couples who would make the absolute best parents still could not become a family due to the settings of our political system and legislation. As a former teacher, sadly, I see many children born of heterosexual parents who suffer neglect, substance abuse in their families, family and domestic violence and, in extreme cases, sexual abuse. It is an absolute tragedy that these children, by the right of their birth, are born into families who sadly do not love them. Some of these children also end up in the child protection system. Across 30 years in the education system I have seen this all too often.

I think that we absolutely have to reinforce that surrogacy provides the choice for families to become families. We have a right for people to choose to become parents and for children to be born into a family that loves them. Let us not deny hope to those who love so deeply, like my friend Mr Stuart Aubrey, that they will move mountains to find someone brave enough to help them hold their dreams in their arms of a successful pregnancy. I believe very strongly that everybody who wishes to be in a family should be able to be in a family. Reflecting on some of the contributions of previous members, as long as that family is full of love, it does not matter what that family looks like, whether they are a single parent, a same-sex couple or a heterosexual couple.

The ability to provide a strong, loving home with firm foundations and to set young people up to strive, to love other people, to be kind, to be caring and to be empathetic is the greatest joy in creating a family and creating a community that leaves us all the stronger for the legacy of this bill.

I commend the bill to the house.

Debate interrupted, pursuant to standing orders.

(Continued at a later stage of the sitting.)

PORT HEDLAND CHAMBER OF COMMERCE AND INDUSTRY
KARRATHA AND DISTRICTS CHAMBER OF COMMERCE AND INDUSTRY
ONSLOW CHAMBER OF COMMERCE AND INDUSTRY

The Speaker (Mr Stephen Price) (2:00 pm): On behalf of the member for Pilbara, I welcome to the gallery today parliamentary guests from the Port Hedland Chamber of Commerce and Industry, the Karratha and Districts Chamber of Commerce and Industry, and the Onslow Chamber of Commerce and Industry.

DINNER SUSPENSION

Statement

The Speaker (Mr Stephen Price) (2:00 pm): Members, I would like to advise that the house will sit beyond 7:00 pm this evening and there will be a short dinner break from 6:30 to 7:00 pm.

QUESTIONS WITHOUT NOTICE

The Speaker: Members, it is question time.

PERTH CHILDREN'S HOSPITAL—CONTAMINATED WATER

436. Mr Basil Zempilas to the Premier:

I refer to the Premier's public statements last week that the sites of the lead exceedences are not in patient-facing areas or public staffing areas, which we know not to be true, and his public statements that his government is being transparent on this matter at Perth Children's Hospital.

(1) Will the Premier apologise for providing frontline health workers, patients and parents with incorrect information?

(2) Was he incorrectly briefed by the Minister for Health on the accessibility of these locations?

(3) If no to (2), what was the source of the information he based his public statements on?

Mr Roger Cook replied:

(1)–(3) I thank the member for the question. It is like last week, because he pretty much asked the same question last week to the Minister for Health. Of course, the Minister for Health clarified my comments and said

that my remarks were incorrect and that they were in areas that were accessible by the public and patients. However, she also clarified that they did not represent any risk to patients.

437. Mr Basil Zempilas to the Premier:

I have a supplementary question. Has the Premier spoken directly with the Minister for Health to inform her of his expectations that she is fully transparent with frontline health workers and the public?

Mr Roger Cook replied:

That is consistent with my public utterances. Of course, the Minister for Health is well and truly across these issues and made that very same assurance in this place and to the public last week.

DEFENCE INDUSTRIES—HENDERSON PRECINCT

438. Mrs Magenta Marshall to the Premier:

I refer to the Cook Labor government's commitment to diversifying our economy and creating jobs for the future.

(1) Can the Premier update the house on how Western Australia, particularly the Henderson precinct, will support the delivery of AUKUS?

(2) Can the Premier advise how this important project will create jobs for generations and make our economy stronger?

Mr Roger Cook replied:

(1)–(2) I thank the member for the question. She is a great advocate for defence industries, particularly from the perspective of her community in Rockingham. Last weekend, Western Australia received the clearest indication yet that defence will become one of the state's biggest industries, and that is saying something in WA, which has the strongest economy in the nation. We have our resources, agriculture, education, construction and health sectors, but, in coming years, defence industries will emerge as a leading source of local jobs.

The key to this growth is our strong partnership with the Albanese Labor government. On Sunday, the Minister for Defence Industries, Paul Papalia, and I stood alongside federal colleagues in Henderson: the Prime Minister, Anthony Albanese; the Deputy Prime Minister and federal Minister for Defence, Richard Marles; and the Minister for Veterans' Affairs and Minister for Defence Personnel, Matt Keogh. There at Henderson, the Prime Minister announced $12 billion in funding to advance the Henderson precinct. It is the start of what will be a $25 billion investment in the precinct over the next 20 years. As we know, the precinct will be the home of Australia's future submarine fleet. It will be where vessels like frigates and landing vessels are locally made. It will be where our domestic defence fleet is maintained in perpetuity. It will be the source of some 10,000 direct jobs over the next decade, two decades and beyond.

This is a truly massive opportunity for Western Australia and a massive component of our Made in WA plan. We are building what will become the largest shipbuilding and maintenance hub in the Southern Hemisphere. Members, this is a big deal. Thanks to the federal government, there is now serious funding on the table, but it will take more than that to fully realise the opportunity before us. It will take a team WA approach. It underscores the importance of the State Development Bill introduced in this house last week to make sure that these opportunities do not slip through our hands.

We live in globally uncertain times and, in times of global uncertainty, we need strong leadership, and that is what we are getting from the Albanese Labor government. Western Australia will need to have the agility and the clean energy to make sure that we can take advantage of the opportunities that the defence industries present. This is a huge opportunity to advance our Diversify WA strategy. Defence will become, as I said, one of the biggest industries in the state. The State Development Bill will give us the ability to get these things done. In the lead-up to the last election, we said that WA can and should make more things here, and this is our chance to do so. The continuous shipbuilding program for the Mogami frigates is a huge opportunity for Western Australia, and it will create generational access to skilled and quality jobs.

I want to take the opportunity to acknowledge the Minister for Defence Industries, Hon Paul Papalia. When we were elected in 2017, he took control of the defence industries portfolio. At that stage, defence industries was not even on anyone's radar, and now it is emerging as one of the biggest industries in this state. We are so excited about the opportunities that this represents for Western Australia to continue to make sure that we make more things here under our Made in WA plan, to diversify our economy and to make sure that we remain one of the strongest economies in the nation, creating quality, local jobs for Western Australians.

HEALTH—RADIATION THERAPY SERVICES

439. Mr Adam Hort to the Minister for Health:

I refer to the minister's trip to Canberra to see the Prime Minister and the federal Minister for Health and Ageing last month and her meeting with federal and state health ministers on Friday.

(1) Did she raise the need for funding for local radiation services for cancer patients in the east metropolitan area?

(2) Did she receive a commitment from either the Prime Minister or the federal Minister for Health and Ageing to provide funding for these services?

Ms Meredith Hammat replied:

(1)–(2) I thank the member for the question. There have been a couple of occasions when we have met with the federal health minister and, most notably, we hosted all the health ministers in Western Australia for our health ministers meeting on Friday. I thought what was very significant about that meeting was the fact that every state is reporting the challenges that we have identified here in being able to access appropriate care for older Western Australians and the pressures that is creating in hospital systems right around the country. As we know, there is a large number of older Western Australians in our hospitals today for whom care elsewhere would be most appropriate for them. They are medically cleared for discharge but are not able to get that care. I thought it was very interesting, in fact, that every state was on a unity ticket in sending that message to the federal government.

We are talking to our federal colleagues all the time on a range of issues. Obviously, the provision of appropriate aged care is an important issue. There have been many others as well. One of the things that we are regularly raising is the issue we have talked about—radiation services. I have said in this place before that that is a matter that requires the federal government to act on. We are having ongoing conversations with the federal government about a range of issues that are incredibly important, including this.

440. Mr Adam Hort to the Minister for Health:

I have a supplementary question. The minister was not clear in her answer. Did she receive any specific commitments to fund these services?

Ms Meredith Hammat replied:

If I had a specific commitment to fund these services, we would certainly be announcing that in the usual way.

PUBLIC TRANSPORT AUTHORITY—COMMUTER PAYMENT OPTIONS

441. Mr Hugh Jones to the Minister for Transport:

I refer the minister to last week's announcement regarding the rollout of SmartRider upgrades.

(1) Can the minister update the house on the progress of the announcement?

(2) Is the minister aware of any recent conversions to the public transport cause?

Ms Rita Saffioti replied:

(1)–(2) I thank the member for Darling Range for that question. We are rolling out affordable, accessible and efficient public transport, and one of the key projects has been the SmartRider upgrade and the ability, very soon, to pay for your public transport service with your credit card, phone or smartwatch. I know that people are very excited by this.

We are undertaking a trial, and that trial has commenced with choosing 50 people to ride the ferry service from South Perth to Elizabeth Quay, trialling their phones or credit cards. That trial is underway at the moment. Should we go through that trial successfully, we will move on to the wider bus and train network and will select 150 regular public transport passengers to undertake that trial. Just for reference, Transperth staff are also currently using the new technology.

This is part of the public transport transformation. It is about making sure that we have the best technology. It is also about having the most affordable fares, and that is why we not only dropped fares to a two-zone fare cap, but also will drop the price to a one-zone fare cap from 1 January.

As members know, the Liberal Party has been against public transport. It has been against Metronet. As we know, both the Nationals WA and Liberal Party are against Metronet, and we know that because they have been screaming about it every day. If I just mention the word "Metronet", the member for Cottesloe starts yelling, even though she was a big supporter of it a few months back. The Leader of the National Party, the party that had dedicated anti-Metronet stickers on their cars, claimed that no-one was living

along the Ellenbrook line corridor. He said that there were cow paddocks where, in fact, tens of thousands of people live.

The Leader of the Opposition has probably been the chief attacker of Metronet. Like the six opposition leaders before him, he has been attacking Metronet every day, saying that we should not be doing it and writing letters to us that say, "Stop building rail lines and rail stations, minister." He actually wrote a letter that said to stop building the rail lines and rail stations.

I was interested to see a post by the current federal Liberal member for Canning, Andrew Hastie, who was out and about with the Leader of the Opposition. They are besties! Do members know where he was? Members might be surprised, but he was at a train station! The Leader of the Opposition, who believes that we should not be delivering Metronet train stations, did a video at a Metronet train station. "Both-ways Baz" is at it again, members. This is the transcript of that video. The federal member for Canning, Andrew Hastie, said, "Now, Baz, I love trains." The Leader of the Opposition said, "Here it is. Here it is," and the federal member for Canning said, "Exactly. We're at Lakelands train station." Andrew Hastie then said, "This is a game changer for these people!"

We have a Leader of the Opposition who said that we were spending too much on Metronet. "They got another budget dominated by a single obsession—Metronet", said the Leader of the Opposition. Then, at the Lakelands train station, there he is, just chatting to some of the locals who say this is great. The Leader of the Opposition, the commentator who is on mute, has said that a Metronet station is great. He goes even further: he is not satisfied with just what we are delivering on Metronet; he wants more! The Leader of the Opposition who said that we are spending too much on Metronet and it is too much of our position now says that we need more Metronet. What does he stand for? The Leader of the Opposition, who criticised Metronet every day, then goes to a Metronet train station, Lakelands, and says that he has been talking to locals and they love it. Who knew that people like affordable, accessible and efficient public transport? Who knew that? Now he is saying that we should be building more public transport.

Leader of the Opposition, are you committed to the new Karnup train station?

Several members interjected.

Ms Rita Saffioti: Come on! Look at that. Leader of the Opposition, I am over here! Hello!

The Speaker: Members! Minister, we have a point of order. Can you please be seated?

Point of order

Mr Lachlan Hunter: I think we let the Deputy Premier continue with her performance, but she should wrap up her answer to the question.

Several members interjected.

The Speaker: Members, when you have finished—I will not uphold that point of order, member for Central Wheatbelt. Minister, if you could conclude your comments, please.

Questions without notice resumed

Ms Rita Saffioti: Sure. I was just trying to get an understanding of where the Leader of the Opposition stands on Metronet today. It is not easy to understand because a few days ago he was all for Metronet, but a few weeks ago he was anti-Metronet. He was sending us letters saying, "Stop building rail lines now." Member for Darling Range, the Leader of the Opposition wants us to down tools and stop building the Byford rail line. This is it. We cannot believe any word he says. Every day, he has a different position. He will say anything to anyone. He is the full-time commentator who stands for nothing, except rejecting anything we ever put forward.

I am glad that he supports the Lakelands train station. I think he is committing to a new train station; I saw that in an interview. I am glad he is on board and that the Liberal Party has committed to another Metronet project.

SHIRE OF EAST PILBARA—CYCLONE ZELIA

442. Mr Shane Love to the Minister for Emergency Services:

Welcome back, minister. I refer to damage to the Shire of East Pilbara's road network of at least $60 million from Cyclone Zelia in February 2025, difficulties the shire is having in accessing emergency funding, and the shire's letter to the minister of 19 August, which the minister's office had been expecting, requesting a roundtable discussion to resolve this matter. I note that later today a representative from the Shire of East Pilbara will be here to appeal to the Parliament.

Will the minister act to convene a roundtable of state, federal and local representatives to resolve this issue as requested by the shire?

Mr Paul Papalia replied:

We will probably not, member. There is a process by which those funds are accessed, and it is actually federal government funding. The council must meet a list of obligations and requirements to demonstrate that the funding dedicated to recovery is used in the correct manner and meets the obligations of the legislation. At the state level, that process is overseen by the Department of Fire and Emergency Services, which is in contact with the council and works closely with it. The process will be resolved as soon as the council provides the appropriate information.

443. Mr Shane Love to the Minister for Emergency Services:

I have a supplementary question. The council has provided reams of information. The problem is the assessment. Will the minister act to make sure that the emergency funding hits the mark in the East Pilbara?

Mr Paul Papalia replied:

I will act to ensure that funding provided by the federal government is provided in accordance with the law and the requirements. At a state level, all we do is deliver the funding once the federal government obligations have been met by the councils. It is not actually a state government matter.

That aside, the Department of Fire and Emergency Services works closely with the council and will, I am sure, provide it advice and assistance to ensure it is able to access the funds in due course.

HEALTH—GOVERNMENT PERFORMANCE

444. Ms Kim Giddens to the Minister for Health:

I refer the minister to the Cook Labor government's commitment to ensuring all Western Australians can access the health care they need, when they need it. Can the minister advise the house how this government is supporting programs that benefit Western Australian families?

Ms Meredith Hammat replied:

I thank the member for the question. It gives me an opportunity to speak about our government's $39.5 million commitment to expand access to Ngala's parenting service. I know many in this chamber will be familiar with Ngala. It has been providing support to Western Australian families for decades, and our government is very proud to support it and the parents of Western Australia. We know that parents can often face a range of challenges following the birth of a child. It can impact on the mental health and wellbeing of the family. It has been quite a few year since my kids were little, but I still remember the long days and nights, and I know many parents would say the same thing. That is why our government has invested $39.5 million to support more families to access the professional support offered through Ngala's renowned residential parenting service. Those parents can access it for free. Ngala is now taking bookings for the free service that provides professional support to WA parents going through challenging times after the birth of a child. The funding has also enabled Ngala to expand its residential parenting service from four to seven days a week. That means it will be able to provide free parenting help, including vital mental health support, to up to 1,734 families each year. From 13 October, families will be able to visit Ngala's purpose-built residential parenting service in Kensington for a day or stay up to three nights at no cost.

It was wonderful to be there this morning alongside the Premier; Ngala's CEO, Michelle Dillon; the member for South Perth; and also some recent clients, Jemma and Jacob and their beautiful seven-month-old baby, Ned, who I think it is fair to say, stole the show at this morning's presser. We are very pleased to be able to provide this support. We know how important the support Ngala provides is to Western Australian families. It is not just about providing assistance in relation to sleep, but also a range of services that help parents navigate those early days. A good night's sleep is just one part of the broader range of issues that parents might face. That is why Ngala also has available child health nurses, midwives, lactation consultants, clinical psychologists and social workers. We are very proud of our commitment to Ngala and the impact this will have on new families in Western Australia to ensure that they are able to access the health services they need for them and their newborn babies.

DB V THE STATE OF WESTERN AUSTRALIA—DEPARTMENT OF COMMUNITIES

445. Ms Libby Mettam to the Minister for Child Protection:

I refer to the judgement delivered on 9 September 2025 in DB v the State of Western Australia, which awarded the plaintiff almost $3 million in damages for child sex abuse suffered while a ward of the state.

(1) Is the minister aware of reported criticism from the plaintiff's lawyer that this case showed that normal practices adopted by the department and the state were not those of a model litigant?

(2) Will the minister order a review of the department's handling of this case?

(3) If not, why not?

Mrs Jessica Stojkovski replied:

(1)–(3) As the Attorney General pointed out to me, it probably sits more with him on the legal questions, but I would like to acknowledge the immense courage it takes for victim-survivors to come forward when they have suffered from abuse. One of the reasons this state government removed the limitation period for child sexual abuse claims was to allow such claims to come forward. I note that this case happened quite a number of years ago and that the practice in the department is very different now.

Ms Libby Mettam: That is not what they said.

The Speaker: Member for Vasse!

Dr Tony Buti interjected.

The Speaker: Attorney General!

Dr Tony Buti interjected.

The Speaker: Attorney General, please do not interject. Member for Vasse, you asked the question. Listen to the response from the minister.

Ms Libby Mettam: This—

The Speaker: Member for Vasse, I call you to order for the first time.

Mrs Jessica Stojkovski: I can tell the member for Vasse that the way the department handles things is very different from even when my family used to be a foster family. The department learns and adapts to new information and new practices that come through. I am aware of what the lawyer said because it was made public in the news, but I will not comment on the complexity of that individual case itself. I am aware that the department is looking into the case and that if any changes need to be made, they will be.

446. Ms Libby Mettam to the Minister for Child Protection:

I have a supplementary question. Minister, with respect, I have not asked about the role of the State Solicitor's Office—

The Speaker: Member for Vasse, supplementary questions do not have that sort of introduction to them, so no preamble. Ask the question, please.

Ms Libby Mettam: Thank you. Will the minister order a review of the handling of this case by the Department of Communities?

Mrs Jessica Stojkovski replied:

I have just said that the department is looking at the case, as is the case with any of the cases that come before the courts. The department always looks at them to see how it can improve its practice.

FRASER SUITES TOWER—SOCIAL HOUSING

447. Ms Colleen Egan to the Minister for Housing and Works:

I refer to the Cook Labor government's record $105 million purchase of Fraser Suites Tower for social housing.

(1) How is the Cook Labor government leading the delivery of new social and affordable housing in Western Australia?

(2) Is the minister aware of anyone who does not support this delivery?

Mr John Carey replied:

(1)–(2) I thank the member for her question. I am really proud that since 2021 our state government has made a record investment of $5.8 billion in social housing, affordable housing and homelessness programs, with a housing target of just over 5,800 social homes and more than 3,500 delivered to date. To get those kinds of delivery figures, you have to be innovative and think outside the box. I am really proud of our state government's big and bold decision to invest $105 million to purchase Fraser Suites. I have to say that it was praised by all the major stakeholders because we are converting short-stay accommodation into long-term housing and providing another means to accelerate the quick supply of housing.

I note that the Western Australian Property Council applauded our efforts, Shelter WA said that it was a game-changing purchase and Anglicare, whose offices are right across the road, welcomed the bold move. We are getting on with the job of converting that accommodation into long-term housing. Local and registered Aboriginal business Kardan Construction has commenced stage 1 of the refurbishment at the site. We established a stakeholder reference group with local residents and businesses to ensure a smooth and integrated approach with the precinct and we appointed a commercial tenancy agent to activate and liven up the commercial spaces. We will be making announcements with regard to that soon.

It surprises me—well, it does not really—that the opposition has it all ways. I note that the Leader of the Liberal Party in one moment supported it and in another commentary criticised it. This is what we are seeing now as an ongoing trend. Depending on who the Liberal is, or sometimes it is just the same person, they say different things. We are seeing this now as a regular pattern. Why is that? It is because when the Liberal Party has no policies, it has a vacuum and it is constantly on the run. It took me by surprise what Hon Simon Ehrenfeld said and asked, remembering that the Liberal Party took no social housing policy to the last election. One of the first questions I got from the member was:

> Will any emphasis or consideration be placed on river or city views when determining which apartments are allocated for social housing and which apartments are offered to the rental market as affordable housing?

The Liberal Party's key concern is that the poor people do not get good views. That is what they are stating. It is a classic Liberal approach to social housing. The second part of the question was:

> Has the government assessed the effect on property values that this project will have on existing properties in the immediate area?

It was not a concern about housing people or about people doing it tough; what they are worried about is real estate values. I can tell members this: in this market, everything is going up. Apartments are going out the door; there is very strong interest. But it is telling, because, ultimately, that side of politics does not care. The Leader of the Liberal Party shut down a women's shelter. The new housing spokesperson feigns interest in low-income renters, yet when that party had the chance, it voted against renters' rights and tenants' protections in the last Parliament. They are all over the place. Ultimately, it is about values. That side does not care. This side has a genuine commitment to accelerating the delivery of social and affordable housing. Our funding and investment in projects like Fraser Suites shows that.

NATIVE TITLE AND CULTURAL HERITAGE PROCESSES REVIEW

448. Mr Lachlan Hunter to the Minister for Aboriginal Affairs:

I refer to the review of the native title and Aboriginal cultural heritage processes, which is due to conclude this month, with the final report to be provided to the Minister for Aboriginal Affairs and the Premier. The terms of reference require consultation with key stakeholders, including the agricultural sector, yet the head reviewer has told the Pastoralists and Graziers Association of WA that personal interests are tangential to this review.

What consultation is actually taking place with agricultural and pastoral stakeholders and landholder groups, such as the PGA?

Mr Don Punch replied:

I thank the member for the question. Consultation is taking place in accordance with the terms of reference.

449. Mr Lachlan Hunter to the Minister for Aboriginal Affairs:

I have a supplementary question.

If major stakeholders like the PGA have been sidelined, how can the minister have any confidence that the final report will carry any legitimacy?

Mr Don Punch replied:

I think that is a pretty appalling indictment of the lead of the review, Mr Glen Kelly, who has a very strong reputation in this space.

Mr Lachlan Hunter interjected.

The Speaker: Member for Central Wheatbelt!

Mr Don Punch: In that context, he is undertaking the review in accordance with the terms of reference. The government will receive the report in due course.

Mr Lachlan Hunter interjected.

The Speaker: Hang on two secs, minister. Member for Central Wheatbelt, you have asked the question. Stop interjecting so the minister can respond.

Mr Don Punch: I have answered the question, Mr Speaker.

COMMUNITY SAFETY—EXTREMISM

450. Mr Rhys Williams to the Minister for Police:

I refer to the Cook Labor government's commitment to fostering safe and inclusive environments for all Western Australians.

(1) Can the minister outline to the house what steps are being taken to prevent hate crimes and violent extremism in our community?

(2) Is the minister aware of any opposing views or comments that may divide our community?

Mr Reece Whitby replied:

(1)–(2) I thank the member for Mandurah for the question and his obvious engagement in a range of communities in Western Australia to promote inclusivity and cooperation within our society. Building safe and inclusive communities is a key priority of the Cook Labor government. We all want Western Australians to feel secure at home, at work and in the community. This is critical. In recent months we have been reminded of the dangers of extremism, with high profile Neo-Nazi behaviour across the country. That is very disturbing and anxiety creating for people in our community, and for certain community groups especially. I want to make it clear that racism and hatred have no place in Western Australia. They attack our very values of respect, inclusion and tolerance. They attack our values as Australians and Western Australians.

Our government is supporting the WA police to take a strong and coordinated approach to prevent hate crimes and combat violent extremism. Earlier this year, our government's new laws came into effect banning the display of Nazi symbols and gestures in Western Australia. I would like to acknowledge the role of our current Attorney General and also our former Attorney General and former Minister for Police in progressing these very important changes and protections. I know that both Attorneys General and the police have played a critical role in reassuring certain members of our community that they have the protection of our state and its security officers, in terms of WA police. As I said, this important work is being supported by the WA Police Force, which has established a dedicated hate crime team—one of the first such teams in the country, in fact. Full-time investigators and online operatives focus on investigating and countering hate-motivated incidents. These cowardly acts will not be tolerated and offenders will face the full force of the law. I want Western Australians to know that the Cook Labor government stands with them regardless of who they are, what community they are part of or what background they have; we are standing behind you.

The member asked whether I was aware of any opposing views that may divide the community, and I will now get to that point. I guess this goes to the very role we have in this chamber, and how important it is for us to demonstrate with clarity where we stand on these issues. Last week, after the Parliament rose, a Liberal Party fundraiser was held at the Willetton Indian Community Centre featuring Senator Jacinta Nampijinpa Price. Members will be well aware of the senator's comments about the Indian community—comments that this government has condemned in the strongest possible way. They were comments that even the federal Leader of the Liberal Party has condemned. Not only has the federal Leader of the Liberal Party condemned those comments, but she also saw fit to sack the senator from the front bench and has also seen fit to apologise to the community on the senator's behalf. We now come to the observation of what our Leader of the Opposition had to say on this matter. Has our opposition leader taken the same strong approach as the federal opposition leader? I want to just quote what the Leader of the Opposition in this place had to say on social media about this matter:

> I think saying sorry is the appropriate thing to do and it is what I would do if I was in that position.

That was not exactly resounding condemnation, not exactly resounding clarity and not exactly unequivocal language! It was not exactly the condemnation that we saw from the federal leader. The Leader of the Opposition allowed this fundraiser, held in an Indian community centre, to take place. It was organised by one of his MPs, Hon Michelle Hofmann. Not only that, but also one of the members of his shadow cabinet, Hon Nick Goiran, was actually a guest of honour at this event.

Ms Amber-Jade Sanderson: He's a leader.

Mr Reece Whitby: He is a leader in your party. We know how much he leads! The question is: When will the Leader of the Opposition utterly reject the senator's comments and do as his federal leader has done—that is right: put your jaw forward and nod knowingly—and apologise for what the senator has done and, indeed, for holding that fundraiser with that senator?

Mr Lachlan Hunter interjected.

The Speaker: Member for Central Wheatbelt!

Mr Reece Whitby: We know that Senator Nampijinpa Price has not yet apologised, and who knows whether she ever will. The question is: Will the Leader of the Opposition apologise?

Several members interjected.

The Speaker: Members!

Mr Reece Whitby: Members opposite can make those comments and can joke, carry on and nod in an overly serious way, but these are real issues in the community. If you are in the Indian community, these are issues of concern. If you are in the Jewish community, these are issues of concern.

Mr Basil Zempilas: What about the Greek community?

The Speaker: Leader of the Opposition!

Mr Reece Whitby: What on earth are you talking about?

Mr Basil Zempilas interjected.

The Speaker: Leader of the Opposition!

Several members interjected.

The Speaker: Minister, sit down. Members of the opposition!

Mr Basil Zempilas interjected.

The Speaker: Leader of the Opposition! Minister, have you concluded?

Mr Reece Whitby: I will, Speaker. It was an odd response—very odd. As the self-appointed Messiah of the Liberal Party, do you have it in your power to apologise? Do you even have the courage to apologise?

The Speaker: Thank you, minister. The member for Nedlands with the last question.

OFFICE OF THE AUDITOR GENERAL—CHILD PROTECTION CASE MANAGEMENT SYSTEM

451. Mr Jonathan Huston to the Minister for Child Protection:

I refer to the March 2025 Office of the Auditor General's report entitled *Child Protection Case Management System—Assist*, which found significant weaknesses in the confidentiality and integrity of data. Can the minister assure the house that all the OAG recommendations, especially those relating to data storage, user access, logging and monitoring, have met the June 2025 implementation timeframe?

Mrs Jessica Stojkovski replied:

I thank the member for the question. This question was also raised during estimates recently. The Auditor General did a report into the management system. I commend the department, which had already instigated a project to replace the Assist client management system. The department worked really closely with the Auditor General and her team when she identified deficiencies in practice. Those deficiencies were things like saving documents to desktops. Those practices have actually ceased. The department has worked with the Auditor General to make sure that those holes have been addressed at a practice level in the department. It is continuing with the Assist program to ensure that we hold the information of some of the most vulnerable people in our state at a high standard for Western Australians. Yes, we are on progress to replace the Assist program to make sure that we have very good security around that data.

452. Mr Jonathan Huston to the Minister for Child Protection:

I have a supplementary question. Can the minister provide an assurance that the recommendations with a 31 December implementation timeframe will be met?

Mrs Jessica Stojkovski replied:

I know that the department is working through those recommendations. I do not have the exact nature of what recommendations will be met by 31 December in front of me, but I know that the department is working to ensure that the privacy and security of data, particularly on the Assist program, is safe.

The Speaker: Thank you, minister. That concludes question time.

QUESTION ON NOTICE 474

Answer advice

Mr Shane Love (Mid-West—Leader of the Nationals WA) (2:42 pm): I rise under standing order 80(2) to ask the Minister for Health why I have not received an answer to question on notice 474, which was due on 14 September.

Ms Meredith Hammat (Girrawheen—Minister for Health) (2:43 pm): I have signed a number of responses today. I will check that one specifically to make sure it is on its way to the member.

QUESTIONS ON NOTICE 282 AND 283

Answer advice

Mr Shane Love (Mid-West—Leader of the Nationals WA) (2:43 pm): I rise under standing order 80(2) to ask the Minister for Mines and Petroleum why I have not received answers to questions on notice 282 and 283.

Mr David Michael (Balcatta—Minister for Mines and Petroleum) (2:43 pm): I will make sure that we look at where they are up to and get them into the system as quickly as possible.

QUESTION ON NOTICE 285

Answer advice

Mr Shane Love (Mid-West—Leader of the Nationals WA) (2:43 pm): I rise under standing order 80(2) to ask the Minister for Transport why I have not received an answer to question on notice 285 and when I might expect a reply.

Ms Rita Saffioti (West Swan—Minister for Transport) (2:43 pm): I am pretty sure that I signed those off either yesterday or today so they should be on their way.

QUESTION ON NOTICE 300

Answer advice

Mr Basil Zempilas (Churchlands—Leader of the Opposition) (2:44 pm): I rise under standing order 80(2) to say to the honourable Minister for Tourism that an answer to question on notice 300 remains outstanding.

Mr Reece Whitby (Baldivis—Minister for Tourism) (2:44 pm): I am looking at that, and it will be returned shortly.

QUESTIONS ON NOTICE

Answer advice

Ms Libby Mettam (Vasse—Deputy Leader of the Opposition) (2:44 pm): I rise under standing order 80(2) to advise that there are 10 outstanding answers to questions on notice from the Minister for Health.

Ms Meredith Hammat (Girrawheen—Minister for Health) (2:44 pm): As I said, I signed off on a number of questions earlier today. I will get the numbers from the member and double-check. Some of them are still coming.

QUESTIONS ON NOTICE

Answer advice

Mr Liam Staltari (Carine) (2:45 pm): I rise under standing order 80(2) to ask the Minister for Education why I have not received answers to 63 questions asked on notice.

Ms Sabine Winton (Wanneroo—Minister for Education) (2:45 pm): The questions are making their way back to the member as soon as possible.

QUESTION ON NOTICE 317

Answer advice

Mr Lachlan Hunter (Central Wheatbelt) (2:45 pm): I rise under standing order 80(2) to bring to the house's attention that question on notice 317 was not answered by the deadline of 12 September by the Minister for Aboriginal Affairs.

Mr Don Punch (Bunbury—Minister for Aboriginal Affairs) (2:45 pm): I have been looking at that and I will get it through to the member as soon as possible.

QUESTION ON NOTICE 366

Answer advice

Mr Lachlan Hunter (Central Wheatbelt) (2:45 pm): I rise under standing order 80(2) to bring to the house's attention that question on notice 366 has not been answered by the deadline of 12 September by the Minister for Creative Industries.

Ms Simone McGurk (Fremantle—Minister for Creative Industries) (2:46 pm): It surprises me that the answer is overdue. I will confirm. There have been times in the past when the opposition has claimed that questions are overdue when, in fact, they were not. I am happy to look into that question and make a response.

QUESTION ON NOTICE 320

Answer advice

Mr Lachlan Hunter (Central Wheatbelt) (2:46 pm): I rise under standing order 80(2) to bring to the house's attention that question on notice 320, which was due on 12 September, has not been answered by the Minister for Disability Services.

Ms Hannah Beazley (Victoria Park—Minister for Disability Services) (2:46 pm): That also surprises me. I signed off on a number of things late last week, but I will get to the bottom of it and provide it to the member if it is not on its way already.

QUESTION ON NOTICE 325

Answer advice

Mr Lachlan Hunter (Central Wheatbelt) (2:46 pm): I rise under standing order 80(2) to bring to the house's attention that the answer to question on notice 325, which was due on 12 September, has not been provided by the Minister for Early Childhood.

Ms Sabine Winton (Wanneroo—Minister for Early Childhood) (2:47 pm): I am sure that answer will make its way back to the member as soon as possible.

QUESTION ON NOTICE 301

Answer advice

Mr Lachlan Hunter (Central Wheatbelt) (2:47 pm): I rise under standing order 80(2) to bring to the house's attention that an answer to question on notice 301, which was due on 12 September, has not been provided by the Minister for Health.

Ms Meredith Hammat (Girrawheen—Minister for Health) (2:47 pm): As I said, I signed off on a number. I will double-check those ones and make sure they go to the member for Central Wheatbelt as soon as possible.

QUESTION ON NOTICE 366

Answer advice

Ms Simone McGurk (Fremantle—Minister for Creative Industries) (2:47 pm): Mr Speaker, I will just provide some clarification. I have just inquired with my office. I am very conscientious about making sure that we get questions back in time. I tried to submit the answer to that question, but the office is full. The question is in the system; it has actually been submitted. The fact that the member has not received it does not make it late.

The Speaker: Thank you, minister.

Point of order

Mr Lachlan Hunter: We obviously rely on the Parliament and this chamber to provide us with those answers. They are not in the portal. When they are answered, they are printed out and put on our seats. We do not have them, so the minister should not accuse us of making up the fact that the answers are late.

The Speaker: Thank you, member for Central Wheatbelt. I shall not uphold that point of order, but it is an interesting situation.

Several members interjected.

The Speaker: Members!

Several members interjected.

The Speaker: Leader of the House and member for Central Wheatbelt.

Several members interjected.

The Speaker: Minister, thank you.

Mr Lachlan Hunter interjected.

The Speaker: Member for Central Wheatbelt, do you have any more questions or would you like to move on to the matter of public interest?

QUESTIONS ON NOTICE 327 AND 329

Answer advice

Mr Lachlan Hunter (Central Wheatbelt) (2:48 pm): I rise under standing order 80(2) to bring to the house's attention that there are a number of questions on notice to the Minister for Local Government, Hon Hannah Beazley—questions 327 and 329—that were also due on 12 September 2025.

Ms Hannah Beazley (Victoria Park—Minister for Local Government) (2:49 pm): Again, member, that does surprise me. I will look into that. I have signed off on a few things. In terms of the previous question the member asked me about, I have received advice that we received that by mistake and the member sent it to the wrong portfolio.

Several members interjected.

The Speaker: Members of the government!

QUESTION ON NOTICE 314

Answer advice

Mr Lachlan Hunter (Central Wheatbelt) (2:50 pm): They hate when we ask questions, don't they, Mr Speaker? I rise under standing order 80(2). I bring to the house's attention that there is one question, 314, by my mate the Minister for Veterans, Hon Paul Papalia, on 12 September 2025.

Mr Paul Papalia (Secret Harbour—Minister for Veterans) (2:50 pm): I am sure we have answered that one. It is probably on its way to the member right now.

QUESTIONS ON NOTICE 312 AND 315

Answer advice

Mr Lachlan Hunter (Central Wheatbelt) (2:50 pm): I rise under standing order 80(2) to bring the house's attention to two questions that remain outstanding, 312 and 315, to the Minister for Police, Hon Reece Whitby.

Mr Reece Whitby (Baldivis—Minister for Police) (2:50 pm): I am pretty efficient at signing off, like my colleagues, so I will interrogate that and see if it is stuck in a portal somewhere.

QUESTIONS ON NOTICE

Answer advice

Mr Lachlan Hunter (Central Wheatbelt) (2:50 pm): This is my final one. I rise under standing order 80(2) to bring to the house's attention that there are 10 questions to the Minister for Wheatbelt that remain unanswered—they must be with the member for Carine's questions—due on 12 September 2025.

Ms Sabine Winton (Wanneroo—Minister for Wheatbelt) (2:51 pm): They will be on their way to the member as soon as possible.

QUESTIONS ON NOTICE 278 AND 465

Answer advice

Mrs Kirrilee Warr (Geraldton) (2:51 pm): I too rise under standing order 80(2). I bring the house's attention to a number of questions on notice that have not been answered by the deadline, that is, questions 465 and 278 to the Minister for Education, Hon Sabine Winton. They were due on 14 September and 12 September respectively.

Ms Sabine Winton (Wanneroo—Minister for Education) (2:51 pm): They will be on their way to the member as soon as possible.

QUESTION ON NOTICE 277

Answer advice

Mrs Kirrilee Warr (Geraldton) (2:51 pm): I rise under standing order 80(2). I bring the house's attention to question 277 to the Minister for Health Infrastructure, Hon John Carey, which was due on 12 September.

Mr John Carey (Perth—Minister for Health Infrastructure) (2:52 pm): It is great to see the member in Parliament. It is on its way.

QUESTION ON NOTICE 279

Answer advice

Mrs Kirrilee Warr (Geraldton) (2:52 pm): I rise under standing order 80(2) and I bring to the house's attention question on notice 279. This one is actually to the Minister for Tourism, Hon Reece Whitby, due on 12 September.

Mr Reece Whitby (Baldivis—Minister for Tourism) (2:52 pm): I have just been informed by my office that some of the questions asked earlier of me have been submitted two weeks ago. I will interrogate whether there are technical issues.

Mr Lachlan Hunter interjected.

The Speaker: Member for Central Wheatbelt. Members!

Several members interjected.

The Speaker: Minister, sit down. Sit down.

Withdrawal of remark

The Speaker: Member for Central Wheatbelt, you will withdraw that. Stand up and say, "I withdraw."

Mr Lachlan Hunter: I withdraw.

The Speaker: We will not have people alluding to where people live. It is a serious issue.

Several members interjected.

The Speaker: No, members! That was a carry on from this particular point where it started. No more will we make insinuations or anything about where people live privately, okay? We are members of Parliament. It is not to happen anymore. No more questions? One more?

QUESTIONS ON NOTICE 294 AND 298

Answer advice

Mr Scott Leary (Albany) (2:53 pm): I rise under standing order 80(2) to bring to the house's attention two questions outstanding to the Minister for Health: 294 and 298.

Ms Meredith Hammat (Girrawheen—Minister for Health) (2:53 pm): I have signed a number. They will be on their way to the member shortly.

PERTH CHILDREN'S HOSPITAL—CONTAMINATED WATER

Matter of public interest

The Speaker informed the Assembly that he was in receipt within the prescribed time of a letter from the Leader of the Opposition seeking to debate a matter of public interest.

(In compliance with standing orders, at least five members rose in their places.)

Mr Basil Zempilas (Churchlands—Leader of the Opposition) (2:54 pm): I move:

> That this house calls on the Minister for Health to explain in full and with complete transparency all issues related to lead exceedences at Perth Children's Hospital.

The opposition is raising this issue as a matter of public interest because the government's lack of transparency and accountability to staff, patients and the public about lead uncovered in drinking water at Perth Children's Hospital is highly concerning. For the public to have full confidence in the state of our hospitals, particularly Perth Children's Hospital, the Minister for Health must be fully transparent in her answers today.

In seeking this full transparency, the opposition has taken what some might consider to be the unusual step of providing the Minister for Health's office some assistance, you might describe it as, with the questions we are about to ask. At the same time as we gave notice of this matter of public interest, that is, earlier this morning, we provided all the questions that are going to be raised. Western Australians deserve to have full confidence in our hospitals and the health system. For this, they need transparency, honesty and the government to take these issues seriously.

I and members on this side have repeatedly heard the government say that it is transparent, honest and accountable. Here is an opportunity for the Minister for Health and the government to demonstrate that they are indeed all of those things—transparent, honest and accountable—by answering the questions that we provided ahead of time directly to her office so that she would have the information that she needs.

I do not think I need to tell people in Western Australia that Perth Children's Hospital is the state's specialist paediatric hospital. It opened in 2018 and each year, hundreds of thousands of patients access PCH's emergency department, admissions and outpatient services. It is a very busy hospital touching the lives of hundreds of thousands of Western Australian families. Almost without exception, everybody who goes in talks about the high level of care and the incredible quality of the staff who see those patients—our young Western Australians.

That is one of the reasons why honesty and transparency on any issues that bring into question the quality of any facet of health delivery at Perth Children's Hospital, or for that matter any hospital in WA, deserves full scrutiny and accountability. Staff, patients, parents and, indeed, families of those patients at Perth Children's Hospital need to know that they have everything in front of them. They deserve to have full confidence in our health service. When there are questions, they deserve full disclosure and detailed explanation. Again, all the questions that are going to be asked have been provided ahead of time. There can be no excuses or reasons why these questions cannot be answered on behalf of the staff, patients and parents of the patients who attend Perth Children's Hospital.

That is why it is right to question the government today in this place on what it has known about the accelerated lead levels in drinking water at PCH since 2023, before they were exposed in the media and discussed in this place. We know in this place that high lead levels in the drinking water were an issue prior to Perth Children's Hospital

opening. The government of the day was open about the issues. This was when it was a hospital with no patients. It was a building site. It had not opened. This is in stark contrast to what we have recently seen in relation to a hospital with the most vulnerable of patients, that is, children—young Western Australians.

Back in 2016, the now Premier was the spokesperson for health. He called it a substance that strikes "fear into people's hearts." That is what he said about lead. Let us balance that out with what he said in late November 2017, when the newly elected Labor government was charging towards the official opening of the hospital. He was very up-front with the results of water sampling and analysis. The former Minister for Health, who was previously the shadow spokesperson for health, said that lead is a substance that strikes "fear into people's hearts." Then some year or so on, he described the results as promising, offering the testing results from just three weeks earlier at 33 locations within the hospital. Then, again, in March 2018, just four months later, the then Minister for Health declared "Perth Children's Hospital water gets the all clear". That is what he said: "Perth Children's Hospital water gets the all clear". The government willingly announced that 304 water samples had been taken at randomly selected locations across the hospital. So, it was full disclosure that suited his purposes at the time.

Let us fast-forward, shall we, to just 11 days ago, when there was no conversation in our community about lead in the water at Perth Children's Hospital, until such time as the front page of *The West Australian* carried the headline "Revealed: Lead back in the water: Shock as children's hospital still dealing with contamination crisis flowing from the taps". That was on Friday 5 September. Through the media, PCH frontline workers and other staff and PCH patients and their families learnt that 11 lead exceedences had been discovered between January 2023 and April 2025—results that were not disclosed by this government, the Premier, the health minister, the health infrastructure minister or any of the other health ministers. They were not disclosed by this government; it was exposed on the front page of the daily newspaper. That is very different behaviour from that seen seven and a half years earlier. Remember this comment: lead should strike fear into the hearts of every Western Australian.

The Premier had the opportunity to speak on the Friday. On Friday 5 September, he said:

> These issues have got life in the media today in 2025 but there's been no exceedance of any lead levels at PCH since April 2024, so this is well and truly in the rear view mirror …

So said the Premier only a short period ago—on Friday 5 September. Four days later in this place, the health minister revealed a further five lead exceedences had been discovered after April 2024 in samples taken on 5 August and 5 September—the very day that the Premier said that it was in the rear-view mirror—and later blamed her own department for not being told. That is all very well, but the minister was told on Friday afternoon. Why is it that it took four days for her to say anything about it to anyone and chose this place to do it? She did not do it on Friday afternoon when she learnt about it, or on Saturday, Sunday or Monday, but on Tuesday—four days later.

Let us refresh our memories. In total, 16 higher than national safety levels of lead in the drinking water at Perth Children's Hospital were found between January 2023 and 5 September this year. Remember, the Premier said that it should strike fear into the hearts of every Western Australian. On 5 September, one of the very days when some of those exceedences were recorded, he said that this issue was in the rear-view mirror. Details of the sample dates, locations and levels, revealed after opposition questioning in the other place last week, included one instance of 3.8 times the maximum allowable level in the recent testing in August and five times the maximum allowable level in testing in April 2024. I note that under more stringent guidelines applicable from June this year, that would have been more than 10 times the maximum allowable level in the *Australian Drinking Water Guidelines*. I remind all in this place that the government chose not to tell staff. It did not tell staff. It did not tell patients. It did not tell their families. It did not tell anyone at the time of the 11 exceedences between January 2023 and April 2024. The Premier said 10 days ago that it was not appropriate to necessarily make a public declaration.

I note again that earlier today the minister was given all 22 questions that I am about to pose, so there can be no excuse for not answering them. Plenty of notice has been given. Minister, on what dates was the government told about each of the 11 exceedences between January 2023 and April 2024? Whose decision was it, and on what basis was it decided, to keep this information secret from the public, PCH staff and PCH patients and their parents? What was the exact notification policy for parents, carers, staff and contractors when an exceedence was detected during that time?

Four days later in this place, the minister revealed that a further five elevated lead levels were discovered at two PCH sites, later blaming, as I said, her own department for not informing her earlier. She was told on Friday, but she did not tell us on Friday afternoon when she was told, or on Saturday, Sunday or Monday. She waited until Tuesday to tell us in this place. I ask: Given the already heightened and clear public concerns from the revelation of 11 exceedences, why did it take four days for the minister to publicly reveal these additional five exceedences after being notified of them on Friday 5 September? Whose decision was it to keep this information secret until revealed in this place? Did the minister ask the Chief Health Officer on what basis or by what measure he advised her that there was no risk to the safety of patients or staff as a result of these exceedences? What information did the Premier receive that led him to claim that these five results were not in patient-facing areas or in public or

staffing areas, only to be contradicted later by the Chief Health Officer that they were in two locations—one accessible to staff and the other accessible to visitors? When did remediation occur at the two sites tested on 5 August 2025 and were they in operation before being resampled on 5 September? What sampling protocol is used and how does this protocol compare with the 2018 CHO assurance protocols used prior to the opening of PCH? Why in the document tabled with the answer to Legislative Council question without notice 707 on 11 September 2025 is there no mention of retesting of the sites of the samples taken in the pantry and lounge on 5 August 2025 and in the lounge and two pantry samples taken on 5 September 2025? Was water testing undertaken at PCH between May 2025 and August 2025 and, if so, did any samples return positive lead levels? Has the Chief Health Officer recommended changes to the testing regime since the National Health and Medical Research Council halved the maximum safe level in the *Australian Drinking Water Guidelines* from 0.01 milligrams per litre to 0.005 milligrams per litre, which came into effect on 25 June? As publicly stated by the Australian Medical Association, will she reveal the full extent—that is what it has asked for—of what has been observed in all 16 lead exceedences? Will the minister give the public the respect it deserves and be completely honest and fully transparent about all 16 lead exceedences so that Western Australians can be confident in the safety of the water quality at PCH. I quote the Health Consumers' Council WA:

> In the absence of a clear and trusted information source where they can get the answers to the questions that they have, people do start to, potentially reach conclusions that might not be right …

I ask that the minister provide the following information to Parliament. Will the minister provide the full water-testing regime, positive lead-sampling results received, remediation taking place and retesting results at every location in Perth Children's Hospital since it opened in 2018? Will the minister outline to this place the dates the health department and her office were notified of these lead exceedences and advice provided to not notify the public of this information? Will the minister outline how many locations in PCH can be tested, how often each are tested and what criteria determines the locations that are tested since the opening of PCH in 2018? Will the minister confirm that all repairs or installations of plumbing products at Perth Children's Hospital are undertaken by a licensed plumber? I also ask that the minister confirms that all materials in contact with drinking water at PCH are compliant with the lead-free requirements of the Plumbing Code of Australia. What threshold of criteria beyond exceedence of the *Australian Drinking Water Guidelines* does the Chief Health Officer use to determine whether an exceedence is a risk to the safety of patients or staff?

I also ask: Who is responsible for making the final decision on whether an exceedence is publicly communicated? Given that the AMA has said that even a small amount of lead in the water can have a pretty significant impact on development, particularly in children, has Perth Children's Hospital or the health department offered precautionary blood lead testing to high-risk cohorts since opening? What laboratory and chain of custody procedures are used for current testing? Who audits the sampling and reporting? And will the government commit to a public dashboard for all WA hospitals showing monthly lead and *Legionella* results and exceedences and the remedial status to renew the public's confidence in the health system?

Over the last 11 days the public of Western Australia has made it abundantly clear that nothing short of full transparency is acceptable to return their faith in this issue at Perth Children's Hospital. After all, we are talking about lead in the water at a hospital, and not just any hospital but Perth Children's Hospital. The AMA said that it expects:

> … that any future instances of exceedance of lead levels, or any similar work safety concerns that require remediation are communicated by PCH management to doctors on the site in the most appropriate and timely manner.

The Australian Nursing and Midwifery Federation said:

> Along with all workers, nurses and midwives are entitled to a safe workplace, and the patients they care for deserve a healthy environment.

The Health Consumers' Council WA said:

> … we really encourage more transparency and information, that's written thinking about if these patients and families are reading this, what might they be worried about?

Today the government and the Minister for Health have an opportunity to renew public confidence in the water quality at Perth Children's Hospital. The minister has resorted to prepared talking points when we have asked questions in this place over recent weeks. That is fine, I suppose, if the minister is not certain of the answers that need to be given. However, that does not apply now because all the questions I have asked were provided to the minister's office earlier this morning. There was time for comments to be prepared and for her to answer those questions in the spirit in which they were asked.

We have repeatedly seen the Premier duck and dive and weave and refuse to take responsibility. We have seen the Labor Party make a mockery of its promised gold-standard transparency over and over again. But the minister now has the opportunity to answer the questions that we have given notice of—all of which are unanswered to date. It is incumbent on this government and the minister to be fully transparent. The experts are calling for this.

The staff of Perth Children's Hospital deserve this. The patients at Perth Children's Hospital deserve to know that the levels of lead in the water are safe. If they have gone over the prescribed level, the patients are entitled to be informed, as are their families. No-one should accept any less from this state government. This is a test of the government's transparency and integrity.

Again, I say that we are talking about lead in the water at Perth Children's Hospital, a topic the former shadow Minister for Health, the now Premier, described as something that should strike fear into the heart of every Western Australian. The National Health and Medical Research Council says that lead consumption can severely affect the central nervous system, with young children and babies the most susceptible. But still this government does not think that patients, parents or staff have a right to know when lead levels are high.

Today I provide those questions in advance, and I provide the minister with an opportunity to be transparent, honest and accountable and to demonstrate that the wellbeing of patients, staff, families and everybody who enters Perth Children's Hospital is the minister's first priority. It is not too much to ask for a full level of transparency and accountability instead of the usual deflect, deny, discredit or dismiss that we have seen so often in the 42nd Parliament of Western Australia.

Ms Meredith Hammat (Girrawheen—Minister for Health) (3:16 pm): Are there no more speakers?

Several members interjected.

The Speaker: Members, thank you.

Ms Meredith Hammat: Sorry, we have been caught on the hop because it is customary for members of the opposition to speak for the full period of time they are allocated on any matter of public interest, so I am surprised that they concluded their contribution after such a short time. It is worth noting for those opposite that it will not make any difference to the period of time we have to respond; it is the same amount of time. The opposition might want to note that for future reference.

We will not be supporting the matter of public interest that is listed on the notice paper today. This is a really important debate. I want to begin, importantly, by reiterating that the Chief Health Officer has advised that the water at Perth Children's Hospital is safe to drink. We have said that on every occasion and it is the case. This is important. It is the view of the expert, the Chief Health Officer, that the water is safe to drink. As I have said before, the safety of our patients and staff remains of the utmost importance to the government.

It is important that we reflect and include the advice from the Chief Health Officer. I tabled it for a very specific reason. It is because it is the view of our most senior expert in Western Australia. That is why we did it. He is the person best placed to give advice, and that advice should be followed. He said in his note to me, which I have tabled, but I am going to include it, because in the end his advice is the advice we follow:

> I have reviewed the five new exceedances recorded in August and September 2025 and can assure the community that the water at Perth Children's Hospital is safe to drink.
>
> The testing recently conducted during August was part of the Perth Children's Hospital well-established testing program and the September results were an outcome of Child and Adolescent Health Service proactively retesting to ensure the safety of all patients and staff.
>
> I have confidence in this testing, it is a proactive program so that the Child and Adolescent Health Service can undertake the necessary remediation when exceedances are detected. I am advised that these sites are currently offline and under remediation. Exceedances are typically isolated to specific outlets or fixtures, and do not impact the entire hospital water system.
>
> In June 2025, the National Health and Medical Research Council updated the Australian Drinking Water Guidelines and lowered the threshold for lead in drinking water, which now makes Australian standards some of the most rigorous in the world.
>
> The Perth Children's Hospital water testing program which completes about 740 samples annually, in approximately 52 locations, demonstrates the hospital has a committed program in place aligned to the national benchmark for drinking water safety. The testing program at Perth Children's Hospital is working, and it is identifying the results that the hospital needs to know and allows CAHS the opportunity to act on them and remediate the issue, which they have done.
>
> I can assure you that the water at Perth Children's Hospital remains safe to drink. The program in place demonstrates a strong commitment to national benchmarks for drinking water safety and ensures that any exceedances are promptly detected and addressed.

That is the considered view of our Chief Health Officer. The reason that correspondence is important is that it provides important context for the testing results. Although many people might have opinions, we listen to the opinion of the Chief Health Officer. That is his job: he provides expert advice. Of course, that is important to understand. That is why we have taken his advice on this issue and why we will continue to take his advice on this issue.

I want to underline the importance of the testing regime. As I have said before in this place, I am advised that there is a rigorous testing regime at the Perth Children's Hospital, and that is because of the history of that site. It is a matter of history that there were a number of problems with lead in the pipes and asbestos in the ceilings as a result of the construction work undertaken by the former Liberal–National government. That is the legacy they left behind. They left a children's hospital with ongoing lead problems and lots of asbestos remediation work needing to be undertaken. In our contribution today, we will reflect on that because it is an important part of the story of how we arrived at this place.

I am advised that the testing regime in place is rigorous. The opinion of the Chief Health Officer is that it is indeed rigorous and appropriate. The actions taken when exceedences are identified are an important part of the ongoing management of the situation. We will continue to listen to the Chief Health Officer, and we will take his advice about the steps we need to take.

I have put in place a new direction so that we can give the community confidence about the water testing and how it is reported to the department, the Chief Health Officer and to me as minister. That was the statement I made in Parliament last week. I have asked the director general of the Department of Health to implement a requirement that all health service providers regularly report the results of their water testing regimes to the department and immediately notify the Chief Health Officer in writing when an exceedence of the *Australian Drinking Water Guidelines* is detected. As part of that, the Chief Health Officer will be required to report to the director general monthly on exceedences, not just for lead but also for *Legionella* and other pathogens, and, importantly, on how those exceedences have been rectified. I have been clear that any exceedences that present a risk to patients or staff will be reported to me, as minister, and we will follow the advice of the Chief Health Officer to then perform appropriate notifications to ensure that there is no risk to patients or staff. Again, I come back to the advice of the Chief Health Officer: there is no risk as a result of the exceedences that have been identified. The water is safe to drink.

Many people may have heard this on the ABC on Friday. I know that the Leader of the Opposition loves to quote extensively from the media. I will not quote the whole interview, although I have the transcript. ABC radio invited a toxicology expert, Dr Ian Musgrave from the University of Adelaide, to talk about the exceedences that had been identified. He was clear, so I am quoting him:

> I would not say that those [levels] are dangerous. Again we're talking about these exposures have to be long term and so again these were identified and shut down so that they are no longer available …

He is reinforcing the importance of the testing program and how those levels are managed. It is quite a long transcript, and I am very happy to make it available to members opposite if they wish to see it. As an expert, independent of this state, he confirmed the advice that we had received from the Chief Health Officer about the appropriateness of the testing regime and the remediation that takes place, and the fact that the exceedences that have been identified do not present a health risk to the community, whether it is to patients or staff.

I want to reiterate the point I made: we are committed to transparency and making sure that we have appropriate monitoring in place. That is why we have put in place the new direction. It is to ensure that the results of testing happening at our health service providers are fed to the department and are considered by the expert. His job is to be an expert and provide advice to government. The results are fed to him and, if exceedences present a risk to public safety, I am advised. We have put in place additional procedures. We will continue to monitor the situation closely. We have released the results of the exceedences that were identified in August and September this year, as well as the exceedences that were identified earlier, and we have specifically provided the advice of the Chief Health Officer so that there is appropriate context for interpreting those results. We will continue to monitor the situation closely. As I said, this work will be ongoing because of some of the legacy of the construction work that was done by the Liberal–National government when building the facility. With that, I will bring my contribution to an end.

Sorry, perhaps I will address the long list of questions the member opposite provided as part of today's matter of public interest. Questions can be asked in this place in a number of ways: in question time and in questions on notice. It is not customary to use MPIs as an extended form of question time. It is, indeed, a time for debate and for considering issues. Actually, it is a time for the alternative government members to put their vision of what they would do if they were in government. As we stand here today, there is no sign of that at all. If the member wants to follow up those questions, there are a variety of ways that that can be done, but we are very happy to talk about the work we are doing at Perth Children's Hospital and across the board to ensure that we have appropriate testing in place. I think that the context for how we got here is important. I will leave that there so some of the other members may make a contribution.

Ms Amber-Jade Sanderson (Morley—Minister for Energy and Decarbonisation) (3:28 pm): I rise to speak to the motion. Of course, we will not be supporting this motion. There is some important context when it comes to the Perth Children's Hospital. These issues are related to the location of the hospital and the decision to build

the hospital there. There will be legacy issues in the hospital for some time to come, which is why there is so much active and proactive water testing at the hospital.

We will start with the location of Perth Children's Hospital, despite years of meticulous planning, and consultation and work with the community and the clinical workforce developing the Reid review. The Reid review was a blueprint for where we needed to locate hospitals. One of the recommendations was, of course, to build Fiona Stanley Hospital, decant Fremantle Hospital's emergency department to Fiona Stanley and scale down Fremantle Hospital. The other important part of the Reid review was to build the women's and newborns' hospital in the location where Perth Children's Hospital is, but prior to the 2008 election, the Liberal Party tore up all of that planning and expert advice. It threw it away and said, "We're going to build the children's hospital there," without actual references to evidence, consultation, discussion or reasons. Therefore, King Edward Memorial Hospital for Women, the oldest hospital at 100 years old, was to remain, and women still had its ageing infrastructure. The Liberal Party said, "We don't have any plan to do anything for the women of Australia, but we will build the children's hospital there."

Let us just go through the process of the bill. I am acutely aware that the Attorney General chaired a parliamentary inquiry into the processes of this bill and is far more of an expert than me, but I watched it very closely. The former government chose the location purely, I do not know why, by ignoring all the evidence and advice and the planning that had gone into where the hospital needed to go. The original date for the opening of Perth Children's Hospital was 2015. Not only was it due to open in 2015, but also it was too small. The then government knew it was too small. Offers were made by philanthropic individuals to provide another two floors to the hospital and those offers were declined by the then Premier, Colin Barnett. That is my understanding. The former Liberal–National government dug in and said that it would build the same number of beds, so that on the day it opened it was already at capacity. That is the Liberal and National Party's legacy for Perth Children's Hospital. It was due to open in 2015 but was unable to do so because of delays and a range of issues with subcontractors, including a number of tragic suicides of individuals who were not paid by the head contractor on that build. We remember that well. That was one of the reasons we changed the law to ensure that subbies got paid. It was terrible management. Then we found asbestos in the roof, we found lead in the water, 900 doors had to be replaced and I think 100 fire doors had to be replaced. Asbestos material was also found in the pipes—they were contaminated. That all led to an entire parliamentary inquiry. It took three years to open the hospital. In fact, it took three years and a change of government to open the hospital because the former Liberal and National government was unable to open it. There was testing, more testing, retesting and fiddling trying to change things. I think all the fittings were changed—thousands of fittings—across the hospital at enormous expense. There were delays and delays and delays. In the end, we had a change of government and the Premier, as Minister for Health, and the then Treasurer, Ben Wyatt, took control. They took practical completion from John Holland and that was the catalyst that got things moving and the hospital open. The hospital was eventually opened in 2018 under this government. We will not be taking any lectures from the opposition on how to manage infrastructure builds, and particularly Perth Children's Hospital, because we are now dealing with a legacy issue from the decisions that were made in 2006 when the former government chose that location. That is what we are dealing with now.

Several members interjected.

The Speaker: Minister, hang on. Members of the opposition, this is a matter of public interest. It works by you having your say and the government responding to the matter that the opposition has raised. You do not get to interject on the minister as she is responding. Minister, carry on.

Ms Amber-Jade Sanderson: We are now dealing with serious legacy issues across Perth Children's Hospital. There were massive infection control challenges around COVID that led to the closure of the basement car park because of the design. There was way too much emphasis on looking good and not enough on functionality. Ask anyone in the hospital and they will say the same. It looks amazing but it is very difficult to function in and to expand. On the day it opened, it was too small because the former government refused the offers of philanthropic partners to build extra floors. Despite campaigns and advocacy from patients, no extra beds were provided. It is our only quaternary children's hospital. It is the only highly specialised children's hospital in the state. There is nowhere else to decant acutely unwell children. That is why it is so important and that is why the former government's handling of it was so bad. To see this enormous fearmongering from the opposition about what was the result of extensive and proactive water testing because of these legacy issues is outrageous, frankly. The community should have confidence in our hospital and in the safety of the infrastructure because it is well looked after and is tested regularly. It is absolutely safe for people to access and use. They should have confidence in the clinical care they get there as well, despite all those legacy issues.

Another major legacy piece of infrastructure from the Liberal and National Parties, of course, was Fiona Stanley Hospital. That is something I watched extremely closely when we were in opposition and prior to when I came to Parliament. Fiona Stanley Hospital was the result of the Reid review planning that the south-eastern corridor was going to expand rapidly, and we have seen it continue to expand rapidly. That is one of the reasons the women's and babies' hospital will also be on that site. The Labor government put aside all the construction funding of, I

think, around $1.8 billion into an account that was paid for out of the royalties of the resources boom at the time to ensure that the hospital would get built after the change in government in 2008. The hospital was built with the money that was put aside by the strong and sensible financial management of the then Labor Gallop and Carpenter governments. What did we then see? We saw the wholesale privatisation of the hospital. A $4.3 billion contract was awarded to Serco for 20 years, with no business case. Just to give some perspective, that is twice the cost of the construction of the hospital. It was entirely handed over and privatised to a private operator. Never in Western Australia had that kind of contract ever been implemented. There were serious questions about how that contract came into place and the way that entire process came about. We know that Serco was assertively wining and dining members of the government at the time because we FOI-ed the diaries and there they were having dinner with Serco just before the government decided to award a $4.3 billion public contract to an overseas company to run the premier tertiary hospital in Western Australia. There were major issues that were well ventilated through the Langoulant report, which was done by the highly regarded John Langoulant, former head of the Chamber of Commerce and Industry of Western Australia. The compliance burden of reporting against all those indicators was ridiculous and impossible to report against. There were ineffective dispute resolution procedures and serious uncertainty around how to resolve those disputes.

We will not be taking lectures at all from the Liberal and National Parties about how to build and manage infrastructure when it is this government that has taken a sensible and planned approach to a record infrastructure build across Western Australia. Mr Speaker, I seek your assistance.

The Speaker: There are nine minutes to go.

Ms Amber-Jade Sanderson: Thank you very much.

In fact, the opposition went to the last election with a commitment to not build a hospital. That was the commitment it went with. It went to the last election with a commitment to not build a hospital and not to rebuild Royal Perth Hospital but to have a plan to rebuild Royal Perth Hospital and to cancel three other projects. Its commitment was to cancel three other projects. The opposition would cancel the brand-new women's and babies' hospital at Fiona Stanley Hospital, cancel the upgrade and expansion of Osborne Park Hospital and cancel the expansion of the neonatal facilities at Perth Children's Hospital. That was the opposition's commitment. It was to cancel—no, it would not support it. We will absolutely not take lectures from the opposition. It has a long history on this. We are proud of our record on health infrastructure and in delivering outstanding healthcare services across Western Australia. We are proud of our proactive management of the infrastructure legacy left by the former government.

Mr John Carey (Perth—Minister for Health Infrastructure) (3:38 pm): Just on a sidenote, that clock appears to be going forwards and backwards. I have no idea how much time is left. I will just talk for a bit. I do not know what is going on with the clock, but it jumped ahead and then stopped.

I just want to follow on from the last two speakers. I thank the member for Morley and reinforce what she said. The member went through the history of the site, which I think is critical to understanding the context and what our state government inherited and the challenges that that legacy has meant for Perth Children's Hospital. I note that we are seeing a deliberate campaign by the WA Liberals to undermine confidence in the Chief Health Officer in particular. As we know, that is a highly credible and respected position that provides the necessary expertise to inform decision-making by governments. Liberal and Labor governments will come and go, but, ultimately, we have to rely on the expertise and advice of those who have significant experience and excellent credentials. I know there is deep respect for the Chief Health Officer in the health profession and the hospital system, so it is disappointing that we are seeing a deliberate campaign to undermine public confidence in that role and the advice that that role provides to government. As the Minister for Health noted, the advice from the Chief Health Officer remains the same; that is, there is no risk to patient or staff safety, and the water is safe to drink. I note that the Minister for Health actually took the transparent action to table correspondence directly from the Chief Health Officer to provide further public confidence in that expertise and the advice that is being provided. I want to quote and put into *Hansard* what the Chief Health Officer said. He said:

> The testing recently conducted during August was part of the Perth Children's Hospital well-established testing program and the September results were an outcome of Child and Adolescent Health Service proactively—

I emphasise "proactively"—

> retesting to ensure the safety of all patients and staff.

He said this explicitly:

> I have confidence in this testing, it is a proactive program so that the Child and Adolescent Health Service can undertake the necessary remediation when exceedances are detected. I am advised that these sites are currently offline and under remediation. Exceedances are typically isolated to specific outlets or fixtures, and do not impact the entire hospital water system.

Again, it could not be made more explicit. That advice is very explicit. He went on to say:

> The Perth Children's Hospital water testing program which completes about 740 samples annually, in approximately 52 locations, demonstrates the hospital has a committed program in place aligned to the national benchmark for drinking water safety. The testing program at Perth Children's Hospital is working, and it is identifying the results that the hospital needs to know and allows CAHS the opportunity to act on them and remediate the issue, which they have done.

He ended with this explicit statement:

> I can assure you that the water at Perth Children's Hospital remains safe to drink. The program in place demonstrates a strong commitment to national benchmarks for drinking water safety and ensures that any exceedances are promptly detected and addressed.

It is explicit, it is clear, it was written to the minister and it has been tabled in Parliament. The line of questioning that the Leader of the Liberals raised got down to this: What laboratory and chain of custody procedures are used for current testing? Who audits the sampling and reporting? That kind of questioning deliberately and specifically seeks to undermine public confidence. As we have seen again and again by the WA Liberals, they attack not just the government—that is what they do—but also, now, the role of the Chief Health Officer and the expertise that he is giving to government. We have to rely on that advice because he has the expertise. If we did not, I believe we would really start to downgrade or distrust the trained expertise and credibility of people such as Dr Andrew Robertson. The government will not be supporting this motion. I recognise the efforts of the health minister in putting that on the public record and tabling that information last week. That is being transparent to Western Australians.

Division

Question put and a division taken with the following result:

Ayes (12)

Bolt, David	Huston, Jonathan	Rundle, Peter
Brewer, Sandra	Leary, Scott	Warr, Kirrilee
Hort, Adam	Love, Shane	Zempilas, Basil
Hunter, Lachlan	Mettam, Libby	Staltari, Liam (Teller)

Noes (39)

Aubrey, Stuart	Hammat, Meredith	Papalia, Paul
Baker, Geoff	Hanns, Jodie	Pastorelli, Daniel
Beazley, Hannah	Jones, Hugh	Pratt, Stephen
Bull, Dan	Kelly, Dave	Punch, Don
Buti, Dr Tony	Lai, Sook Yee	Saffioti, Rita
Carey, John	Marshall, Magenta	Sanderson, Amber-Jade
Clarke, Lorna	Maynard, Michelle	Sao, Ron
Collins, Caitlin	McGurk, Simone	Scaife, David
Cook, Roger	Michael, David	Stojkovski, Jessica
D'Anna, Divina	Michel, Kevin	Whitby, Reece
Egan, Colleen	Munday, Lisa	Williams, Rhys
Folkard, Mark	O'Malley, Lisa	Winton, Sabine
Giddens, Kim	Paolino, Frank	Healy, Terry (Teller)

Question thus negatived.

ASSISTED REPRODUCTIVE TECHNOLOGY AND SURROGACY BILL 2025

Second reading

Resumed from an earlier stage of the sitting.

Dr Tony Buti (Armadale—Attorney General) (3:49 pm): I will make a short contribution to the second reading debate on the Assisted Reproductive Technology and Surrogacy Bill 2025. There is no better point to start than to repeat some of the comments in the second reading speech of the Minister for Health after she introduced the bill. She said:

> The Assisted Reproductive Technology and Surrogacy Bill 2025 places the patient experience and the best interests of the child born via assisted reproductive technology at the centre of the reform. It does this by removing unnecessary barriers to access for all Western Australians, establishing a streamlined model for the provision of the technology in Western Australia and modernising Western Australia's statutory framework.

She continued:

> I would ask members to remember that ART has been legal in Western Australia since 1991. This bill should not then be considered an opportunity to debate the merits of ART and surrogacy itself, rather to consider how the legislative framework needs to be changed to reflect updates in technology and improve access to all Western Australians for the provision of this health care. I remind members that pursuant to

> the Commonwealth's Sex Discrimination Act, we as a Parliament cannot and should not restrict access to care for individuals on grounds such as sex, sexual orientation, gender identity, intersex status, marital or relationship status.

The minister's words in her second reading speech after the introduction of this bill clearly state that we have had assisted reproductive technology and surrogacy for many, many years and that we should be amending the legislation to bring it in line with updates in technology. She also said that under Commonwealth legislation, we cannot and should not discriminate on the basis of those various attributes that were mentioned. This bill is about providing better access for all Western Australians who have difficulty in conceiving or starting a family. This is landmark legislation. It will streamline and modernise our assisted reproductive technology laws. The bill will allow same-sex couples and transgender, intersex and single people to access ART and surrogacy, bringing Western Australia in line with other jurisdictions.

Although the individual story of each person differs, there is one common thread; that is, Western Australians want to start their own family and they want to be able to do that here in Western Australia. We as a Parliament should carefully consider any barriers that prevent people who desperately want to commence a family from doing so. I referred to the Commonwealth Sex Discrimination Act, but one can look further at the Universal Declaration of Human Rights, which states that everyone has the right to create and raise a family; it is recognised under our international human rights framework.

This law is incredibly important to ensure that we respect the dignity of all people, that all families are treated with dignity and that children are protected under the law regardless of their parents' sexual orientation. Those who may have a different point of view—it may be a deeply held view based on religious or other grounds—cannot say that the empirical evidence tells us that only heterosexual parents can be model parents or parents who can provide love to their children. They cannot say that children who are raised by two heterosexual parents is the only way to provide a caring and nurturing environment for children. The American Academy of Pediatrics states:

> … that children's well-being is affected much more by than their relationship with their parents, their parents' sense of competence and security, and the presence of social and economic support for the family than they are by gender or the sexual orientation of their parents.

Some people with religious conviction may state that they need to oppose this legislation, although the Jesus Christ and God that I was brought up with as a Roman Catholic loved everyone. If one were to read the Bible, as people who have deep convictions do, they will see that it refers to everyone being made in the image of God. If everyone is made in the image of God and Jesus Christ—Christians follow Jesus Christ, otherwise they would not be called Christians—and if Jesus Christ were standing here today as the Attorney General or the Minister for Health, he would not oppose this legislation. If I cannot convince people who hold a contrary religious view, that is fine; people have the right to their own religious convictions. They do not have to engage in the process that this legislation will allow, but they should not prevent people who very much want to start a family the chance to engage in the benefits that this legislation will provide.

The most important thing in raising a child is love, care and stability. There is nothing in this piece of legislation that will prevent that. If anything, we are denying certain people who would be very good parents from the ability to impart that love, care and nurturing environment to their children. What matters most for children is the quality of care, love, stability and support, not the sexual orientation or gender configuration of their parents.

We all have to consider this matter with our conscience. This legislation has been long in coming. It was brought in during the previous Parliament. Three Ministers of Health on this side of the house—the current minister and the two former ministers, the member for Morley and the member for Kwinana, who is the now the Premier—have worked on this legislation. The Minister for Health is very strongly committed to this legislation before us. All I ask is that everyone seriously consider the following: Should we deny those who desperately want to have biological children? If increases in technology allow that to happen, should we refuse them that ability and desire when, in the end, their child will grow up in a loving and stable environment? With those remarks, I commend the bill to the house.

Ms Libby Mettam (Vasse—Deputy Leader of the Opposition) (3:57 pm): I am the lead speaker for the opposition on the Assisted Reproductive Technology and Surrogacy Bill 2025; however, given the nature of the proposed legislation, opposition members will be afforded a conscience vote.

Members of the opposition have a range of views on this bill, which is reflective of the range of views across the community. I hope to cover most of my concerns and those that have been raised with me, although many of my colleagues will be putting their own views to the house directly.

Unlike the last attempt at reforming surrogacy laws in WA, this bill involves the repeal of three acts—the *Human Reproductive Technology Act 1991*, the Surrogacy Act and the Artificial Conception Act. My concerns are focused on the surrogacy aspects, with the removal of oversight and streamlining the process involved in surrogacy arrangements without effective safeguards as it relates to a biological mother and child. Before members exercise their conscience votes, as others in this place have stated, I urge all members of this chamber to carefully consider

the complexity of the matter of surrogacy and ask why this bill is proposing to introduce such changes to the legislation that could bring about long-term irreparable harm to those who will be impacted by it. Members' initial response may be that this legislation will simply level the playing field, that it will remove obstacles to parenthood that currently exist for some sectors of the community. Surrogacy laws were framed as a treatment for medical infertility. This legislation, while maintaining surrogacy as a treatment for medical infertility, will also make it legally available to accommodate social infertility. Medical infertility was the prime reason for allowing the development of surrogacy arrangements without payment, except for the recovery of expenses for treatment.

However, in adjusting the laws to make it possible for socially infertile couples and individuals through the use of surrogacy and artificial reproductive technology to become parents, this legislation also considerably diminishes the rights of the children created and leaves vulnerable women open to exploitation.

I will not be supporting this bill. Unlike members on the other side of the chamber who have tried to frame it as such, this bill is not a gay rights bill as I see it. Gay rights may be a consequence of some aspects of it, but it is not the central purpose of this bill. I will not support this bill because it does not make the wellbeing of children, who are the only voiceless and powerless participants in artificial reproductive technology (ART) and surrogacy arrangements, its principal priority.

Although my foremost concern is around the dilution of the rights of children born via surrogacy, my other concerns are the potential for the creation of children with no-one willing to raise them, the reduced regulatory oversight of surrogacy with little to no scrutiny of intended parents, the aggregation of the scrutiny of surrogacy arrangements to commercial interests, the increased potential for exploitation and the commoditisation of women, the posthumous use of genetic material without explicit consent before death and the pathway to provide it, the blind eye approach to Western Australians engaging in overseas surrogacy through commercial arrangements and the government's undue haste in introducing this legislation before the final report of the Australian Law Commission's review of surrogacy laws in Australia, which is due next year.

This bill does not protect or enhance the rights of children born via surrogacy. Instead, it creates much more opportunity for children to never have access to the knowledge of their genetic ancestry and to be misled into adulthood about their biological parentage. It also has the very real potential to leave children and then later adults in a position in which strangers and large corporations, through legally binding arrangements, will know more about the circumstances of their conception and gestation than they themselves will ever know. Although the regulations in this bill may well stipulate the entitlement to know, efforts to trace this genetic heritage will likely be confronted by big corporations with deep pockets and lawyers on retainers.

This legislation does not address the many questions and serious concerns about the rights of children conceived through ART and born of surrogacy arrangements. Although all adult parties and corporate entities may well be bound by legal agreements entered into by consenting adults with their own interests at heart, there is no provision in this bill for an independent advocate for the unborn child. For all recorded history until the introduction of ART, there has been one certainty around reproduction—that the woman who gave birth to a child was that child's biological mother. ART makes that no longer the case. In taking away that biological certainty, a responsibility exists to the ages to be very careful how we manage the moral, social, health and legal consequences of that. That is important when we remove scrutiny and oversight in this way.

When we frame legislation to facilitate the removal of that certainty, we must do so with the greatest of care. The special responsibility we have as legislators to children conceived using ART, who would not otherwise exist, was recognised as early as 1985. As others in this place have stated, this is not a new concept. The seminal Family Law Council report to the federal Attorney-General, *Creating children: a uniform approach to the law and practice of reproductive technology in Australia*, stated:

> The welfare and interests of children born of reproductive technology must be the paramount consideration. Reproductive technology should only be administered when appropriate conditions exist for ensuring the welfare of the child thus born.

Article 3 of the United Nations Convention on the Rights of the Child also recognises the responsibility of jurisdictions to legislate to make paramount the interests of children. It states:

> In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

This legislation does not meet that responsibility threshold. It makes no prior considerations or safeguards for the welfare of the children whose creation it enables. Instead, it creates conditions for future generations that are of a magnitude that will leave the forced adoption processes of past times in the shade, diminishing the rights of children.

It is a privilege to be a parent. Perhaps it is the greatest privilege anyone can enjoy, but it is not a recognised human right. The World Health Organization states that the act of becoming a parent is not a universally guaranteed

human right. As with many privileges, the privilege of parenthood is not uniformly conferred. Sadly, it will be denied to some. Even the passage of this legislation cannot guarantee parenthood for all.

The United Nations Convention on the Rights of the Child is based on the principle that young children are unable to speak up for themselves and the ease with which adult interests can be conflated with those of children, giving them no right of reply. That is why scrutiny is so important. Because of the accommodations the bill makes for social infertility, I urge those who support it to think carefully about the additional aspects of this bill before giving those interests priority over the interests of children who will be the voiceless, powerless and most vulnerable participants in this process. Not only does this bill not protect or enhance the rights of children born via surrogacy, but it also significantly diminishes them and reduces their conception and gestation, although usually driven by the real, earnest and sometimes desperate desire of individuals to have children, to commercial arrangements based on legal contracts with, in many cases, strangers and multinational companies. I acknowledge that the reality is an uncomfortable truth.

I will talk more about the abolition of the Reproductive Technology Council under this bill. Currently, the WA Reproductive Technology Council approves all ART surrogacy arrangements. Removing that approval mechanism alone will open the door to commercial surrogacy contracts, which, through the layering of non-disclosure agreements, would become virtually untraceable. For millennia, the creation of a child has involved a biological mother and a biological father. Under this surrogacy legislation, the creation of a child can now involve a biological mother and father potentially completely unknown to each other, a gestational mother—again, potentially unknown to either the biological mother or father—and an intended parent or set of parents overlaid with an ART provider with a responsibility for making these interested parties work in concert to produce a child.

It would seem at a minimum to be common sense that children born in these circumstances deserve independent advocacy. This bill removes the admittedly limited but currently independent advocacy of the Reproductive Technology Council, which under the current legislation must approve all requests for surrogacy arrangements in Western Australia. To add to this mix, there is the potential for the biological mother and father's genetic material to be sourced legally from an overseas country with far less stringent legislative and quality controls than our own and the potential for error is obvious. When those errors occur—recent media and constituent feedback to me proves that they do—the only person left without independent legal representation will be the child. Everyone else's interests would be protected with legal agreements.

Take the recent case of an Australian woman who carried and gave birth to a baby created by ART using her egg and sperm from an overseas donor. From birth, the mother had suspicions that the wrong sperm had been used, but this was not confirmed until months after the birth. There was never a question of relinquishing the child; it was genetically the mother's. The couple had bonded with it, but it was not what had been stipulated in their agreement with the ART provider. This mistake remained unreported and undisclosed for 11 years because the assisted reproductive technology company—Australia's largest—reached a settlement with the couple that included a non-disclosure clause. Under this legislation, the same scenario could well occur whereby the child is carried by a surrogate and has no biological connection to either intended parent and the mistake is discovered at birth before either intended parent has even seen the child. Who will bring up this child? Who will nurture this child? Under this legislation, it will be entirely possible that because the child is not genetically what was stipulated in the legal agreement between the ART company and the intended parents, it will not be them. The surrogate mother will have a legal agreement that ensures that she is not the child's parent. The biological parents—the donors—will have legal agreements that they are not be the legal parents. What an extremely tragic set of circumstances.

The common retort I hear from those who support the legislation, particularly in relation to the purpose of the bill, is that these sorts of disputes will be resolved by the courts. In the circumstances I have just outlined, I would ask them: Who should the court order to raise the child? Should it come down to who has the least watertight legal agreement? How would a court order someone to be responsible for raising the child?

This case further raises questions about the WA framework and who will ensure the long-term welfare of the child, who will ensure the child has access to their biological ancestry, who will ensure the child knows their cultural heritage and who will explain the circumstances of the child's birth and gestation to them. Who will pick up the pieces and make the child feel whole? These circumstances should have been prevented from ever happening. This bill should have been framed in a way that would make these circumstances impossible, but it has not been.

The routine use of non-disclosure agreements between ART providers and the intended parents is also deeply concerning. A leading WA obstetrician has confirmed to me that non-disclosure agreements between ART providers and intending parents are routine practice at almost all commercial ART providers or fertility clinics in WA. These agreements make full transparency almost impossible and adherence to regulations difficult to ensure. I trust that the minister can provide further clarity about this and, furthermore, explain why, in the interests of the child, non-disclosure agreements related to surrogacy arrangements should not be banned in WA.

I am sure that all in this chamber would have heard the heartbreaking case of baby Gammy. The baby Gammy case involved an Australian couple, David and Wendy Farnell, who engaged in commercial surrogacy in Thailand for twins, but brought home to Australia only their healthy daughter, leaving behind their son with Down syndrome and a congenital heart condition. The case brought attention to the ethical and legal complexities of commercial surrogacy, particularly in countries with less strict regulations than Australia. Instead of preventing these circumstances ever happening again, this legislation will, in fact, provide a clearer pathway for exactly these circumstances and many other equally tragic possibilities. This is what can happen when legislation allows the desires of adults to become conflated and override the welfare of children.

It alarms me that the minister, in introducing the bill to this place, characterised it as reducing regulatory burden and providing a streamlined model. This is about so much more than reducing red tape. This bill will make it easier for a woman to give birth to a child she has no biological connection to, for parents to negotiate and pay to create children they have no biological connection to and for people from anywhere in the world to be the biological parent of children they will never have any knowledge of. In saying that, I support the provision of more transparency and access to records for donor-conceived persons, but I do not believe this aspect of the legislation will have the strength to stop the circumvention of those provisions by non-disclosure agreements, commercial interests and unscrupulous overseas operators.

Although there is much emotion involved in considering this bill, the reality is that a legal agreement is the end result of a negotiation, and this bill deals with the negotiation of children. As legislators, we have a responsibility to not be lost in emotion but to deal with reality. This bill will take surrogacy beyond medical assistance for childless couples and, in doing so, will open avenues for exploitation and human commoditisation and the removal of those safeguards that should see this government doubling down on the regulatory framework and establishing a rigorous model of engagement that protects all individuals involved. Its principal concern should not be the reduction of red tape.

On the abrogation of oversight of commercial interests, under the existing *Surrogacy Act 2008*, there is a clear and monitored path to surrogacy. The WA Reproductive Technology Council is currently tasked with considering and approving all requests for surrogacy arrangements, including the approval of the surrogate mother and the reproductive material to be used. It reviews all genetic testing and surrogacy arrangements and any changes to information and consent forms. I have consulted with eminent and respected members and past members of the council and am aware of how seriously they regard their responsibilities and the potentially far-reaching effects of the decisions they make. As a former council member has expressed to me, the council has the authority to scrutinise surrogacy arrangements, make them conditional or even refuse them. A shift away from such an approach raises real questions about the commoditisation of children.

This bill will abolish the independent council and replace it with the Assisted Reproductive Technology Advisory and Review Board. The new board will have no role in providing approvals for surrogacy and will provide advice largely on consent. As the model for this new advisory and review board will be to take a health approach and not a community welfare approach, we can expect that this new board will consist of fertility and technological expertise, most likely sourced from the ART sector and fraternity of experts. Under this legislation, there will be no explicit regulatory approval of individual surrogacy agreements between any parties involved. There will be no legislative framework to oversee the appropriateness of surrogacy arrangements. There will be regulations but no mechanism to ensure adherence to them.

ART providers and other parties will undertake independent legal advice and counselling, and the final decision to approve the use of ART to facilitate a surrogate pregnancy under this legislation will rest entirely with the ART provider. There will be no requirement for character references or police checks for those seeking to use ART to create an embryo and engage with a surrogate. We will have a situation in which someone who is not sufficiently of good character to get a working with children check or a national police clearance will not be able to muck out cattle stalls at the Royal Show, but they will be eligible to have a surrogate child.

Let me return to the case of baby Gammy. After the details of this case were made public, it was also revealed that David Farnell had been jailed for three years in the late 1990s for sexually molesting two girls under the age of 10 years. While serving that sentence, he was charged with six counts of indecently dealing with a child under the age of 13 and was convicted and sentenced again. The parenting order giving the Farnells custody of their surrogate daughter included an extensive safety plan that was developed in partnership with the WA child protection service and prohibited Farnell from being alone with his daughter. The safety precautions to protect the Farnells' daughter would never have come about had the plight of their son never been made public.

I am sure we will hear, and we have heard, from those in the community who say that there are no qualification barriers for unsuitable individuals producing a child through normal methods. I have heard that argument and they are right, but do we really want to legislate to provide an assisted pathway to parenthood for unsuitable adults when we can provide safeguards through legislation?

If we compare the process with adoption or fostering, in contrast, a lengthy process is involved in looking at health, character, stability and parenting capacity, including the social worker visits and home assessments associated with that process. That is well beyond a clinical agreement. Although assisted reproductive technology providers will be required to work within the regulations of this legislation, this bill includes no framework for compliance monitoring or review. Exposure of noncompliance will rely on reporting rather than oversight. These are the types of shortcuts that can happen when we streamline a process.

The fertility and reproductive technology industry is big business. It is a very profitable business, worth close to a billion dollars in this state, with most of the ART companies in WA now belonging to national or international entities. The advisers and lawyers engaged in the pathway for surrogacy in this bill will all potentially profit handsomely by being involved. The United Nations Special Rapporteur on the Sale and Sexual Exploitation of Children acknowledged in a recent report the dangers and harms when profits of third parties are involved. The report stated:

> … the real threat of exploitation and commodification of children, and potentially of surrogates, is often related to the role of intermediaries. In general, this is due to the for-profit motives of private intermediaries, who have, as a guiding motive, the successful completion of the surrogacy agreement with little to no regard for the rights of those involved …

I do not believe the ART providers working in WA are money-hungry unethical baby-makers; they are not, but this legislation must cover all potentials. We pass at our own peril legislation that assumes only the most noble motives. As I have said, the only party to a surrogacy arrangement entered into under this legislation who will not have a lawyer representing their interests before the creation of a child will be the child. Although representations can be made to the Family Court by interested parties and welfare bodies after the child is born, the potential for lifelong adverse consequences resulting from the circumstances of a child's conception and gestation cannot be undone once a child is born. It is not good enough to act in the best interests of a child after it is born if we have trampled on those rights before it is born. There is no argument that can be put in this place to say that this legislation will make the welfare of the child paramount, if there is no enforcement framework to ensure adherence to regulations.

I turn now to the issue of the increased potential for the commodification of women and commercial surrogacy. This bill has failed to strengthen protections for women who become surrogates; in fact, it does the opposite. It will reduce the age limit for women to become surrogates to 18 years as well as remove the requirement that a surrogate must have already been a mother. The deliberate separation of a mother from her child and the associated psychological stress of breaking that natural maternal bond is significant. Enabling younger women who have not experienced pregnancy and the unique maternal attachment associated with it to become surrogates is reckless. That further underlines the blind-eye approach this proposed legislation takes when it comes to the welfare of women or surrogate mothers. Although the bill retains provisions to enable the Family Court to make orders around reasonable childbearing expenses, an approval vacuum is created by the removal of the Reproductive Technology Council. This vacuum diminishes not only the interests of children created through surrogacy, but also the welfare and interests of the surrogate mother. The term "reasonable childbearing expenses" offers a great deal of discretion.

Currently, Reproductive Technology Council approval is a means of independently assessing the understanding, motivations and health, including mental health, of a prospective surrogate mother. Although it does not provide a guarantee that the mother is not being manipulated or coerced into accepting a pregnancy, or complete protection against additional payments, it provides some scrutiny of the arrangement from the point of view of the welfare of the gestational mother. Under this legislation, the gestational mother will need to sign a contract prepared by an independent legal adviser, who will likely be paid for as part of the expenses met by the intending parents. Also, the Family Court has historically ruled in support of the intended parents for parentage orders, again pointing to a lack of agency or support for the gestational mother. Commercial surrogacy is currently banned in this state and across the country. Despite that, to my knowledge no case of commercial surrogacy has ever been tried before our courts. I support—as, I am sure, all members of the opposition will—the extraterritorial clause under this bill, but I recognise that it will not prevent commercial surrogacy being undertaken in WA, given the blind-eye approach we have seen across the country and within this state to commercial surrogacy, and the very fact that courts are dealing with these arrangements after a child has been born.

The discretion around what "reasonable costs" are also throws further ambiguity around the extent to which a surrogacy arrangement is truly altruistic and not commercial. I am unaware of any government agency that has the dedicated resources to actively uncover and investigate instances of commercial surrogacy. Certainly, no dedicated resources have been funded by the state government to pursue cases of commercial surrogacy entered into by Western Australians overseas. It could well be argued that it is a matter for the Federal Police; however, the logical extension of that would be that uniform surrogacy laws would be a matter for the federal government. They are not, which is why we find ourselves considering this legislation today.

All Australian states and territories prohibit commercial surrogacy; however, jurisdictions across Australia have long turned a blind eye to overseas commercial surrogacy arrangements entered into by Australians, with

increasing concerns that the same could well be happening with domestic commercial surrogacy arrangements. According to Professor Patrick Parkinson AM, a specialist in family law and child protection, former chair of the Family Law Council and former president of the International Society of Family Law, commercial surrogacy in Australia is not only permitted; it is also almost entirely unregulated. Professor Parkinson has said that, as a matter of practice and notwithstanding laws criminalising commercial surrogacy in every state and territory, almost no consequences flow from disobeying the law. He said that, indeed, the federal government—and, independently of the government, the Federal Circuit and Family Court of Australia—often aid and abet the circumvention of state and territory laws criminalising international commercial surrogacy. He said that there are no effective measures in place to ensure that children born to an Australian father will not have been carried in the womb by a woman who is living under conditions of slavery, and that there is a growing body of evidence that commercial surrogacy can lead to exploitation of women and children, and focuses on the commissioning of parents' wishes rather than the best interests of the child.

Again, in the case of baby Gammy, it is worth noting that Justice Thackray said that the case should draw attention to the fact that surrogate mothers are not baby-growing machines or gestational carriers; they are flesh-and-blood women who can develop bonds with their unborn children. Neither David nor Wendy Farnell suffered any legal consequences or detriments from having engaged in a commercial surrogacy arrangement in Thailand. This legislation only further facilitates the government's current blind-eye approach to Western Australians engaging overseas surrogates through commercial arrangements.

Just two months ago, a report presented to the United Nations General Assembly by the UN Special Rapporteur on Violence against Women and Girls recommended the eradication of all surrogacy.

The rapporteur's report said surrogacy was characterised by exploitation and violence against women and children, including girls, and argued that it commodified and objectified women's bodies, and exposed surrogates and children to serious human rights violations. This is why my argument is about the concerns of removing safeguards.

The rapporteur found that in jurisdictions that ban commercial surrogacy but allow altruistic surrogacy if the surrogate receives no formal compensation other than reimbursement for reasonable costs, the reimbursement is often so high that it effectively constitutes commercial payment. The rapporteur could well have been looking at the bill before us when she went on to say:

> Few jurisdictions that regulate surrogacy maintain frameworks that are genuinely non-commercial, hence surrogacy arrangements are "almost invariably commercial" in nature.

A record number of Australian children are being born overseas through surrogacy, with 376 children born in the year ending 30 June 2024. That number is almost double the usual number, which is typically 200. The number tops the previous record of 275 children born overseas via surrogacy, which was set in 2020. In the year ending June 2023, seven Australian children were born in Greece to surrogate parents. Also in 2023, Greek authorities raided the Mediterranean Fertility Institute in Crete, arresting senior staff on charges of human trafficking, falsifying records and mistreating hundreds of women who had agreed to act as surrogates. It would be reasonable to think that this might have alerted Australian authorities to the potential for abuse in commercial surrogacy arrangements undertaken in Greece by Australians citizens, and mechanisms might have been put in place to ensure Australians were not party to such abuses. The following year, the number of Australian children born in Greece to surrogate parents more than doubled to 15.

Given the lack of framework or government will to expose or prosecute commercial surrogacy, either internationally or domestically, it is not difficult to see the potential for illegal surrogacy agreements to flourish. It is easy to see how the exploitation of women—women in financial distress, women dealing with mental health issues and women who simply do not understand the illegality or consequences of their decisions—could occur when no-one is interested in looking at it, let alone prosecuting it. It could even be argued that the regulatory framework around puppy farming offers more protection for female breeding dogs than this legislation offers female humans.

This bill also sets out a pathway so the surviving partner of a deceased person may use the reproductive material or embryo of the deceased partner even in circumstances in which consent was not explicitly provided before death. This intervention is to facilitate the birth of children for whom one parent is deceased, without the explicit consent of the deceased parent. This is extraordinary. This is not medical infertility but social infertility. It is surely impossible to argue that the best interests of a child are upheld by them being conceived by a deceased parent. It represents a situation that would be significantly challenging for any child coming into the world and should not be supported.

In relation to births, deaths and marriages, the bill also amends the Births, Deaths and Marriages Registration Act to give greater recognition to persons born through surrogacy or assisted reproductive technology. Parents of children born to overseas surrogates will also be allowed to have their child's birth registered in WA in certain circumstances. Although it is important to have births accurately registered, the rigour of foreign processes in recording the facts of children born to overseas commercial surrogates cannot be guaranteed.

I will touch on the timing of this debate. This is the second attempt by the Labor government to introduce surrogacy legislation or to amend the surrogacy legislation as it now stands. The Labor government has made a habit of timing surrogacy legislation to not allow members to access the most up-to-date research on the matter. In 2018, the McGowan government raced to Parliament with the Human Reproductive Technology and Surrogacy Legislation Amendment Bill 2018 before the then imminent release of the government-commissioned review of the Western Australian *Human Reproductive Technology Act 1991* and the *Surrogacy Act 2008* by Associate Professor Sonia Allan. The bill was ultimately referred to a committee, the findings of which were in line with the Allan review's report and comments I had made in debate at the time: the bill was inconsistent with Commonwealth law and created discrimination against women while on the surface attempting to remove discrimination against men. It has taken Labor five years to bring the bill back to this place. Now that it is here, there appears to be a rude amount of haste by the government to get it done and dusted before the release of the Australian Law Reform Commission's review of surrogacy laws in Australia, which is due on 29 July 2026.

The Australian Law Reform Commission has been tasked to look at how to reduce barriers to domestic altruistic surrogacy arrangements, how surrogacy arrangements made outside of Australia should be addressed in Australian law, what the appropriate recognition of legal parentage is in Australia for children born of surrogates overseas, and how citizenship, visa and passport requirements for children born of surrogates overseas may be aligned. The Australian Law Reform Commission was also tasked to look at the information that should be available to children born from surrogacy arrangements, including what information should be included on a child's birth certificate to meet Australia's human rights obligations. Given that I and many others in this house have these concerns, I ask what the urgency is to bring this bill into Parliament now. Why can we not wait for the outcome of that important review?

One of the arguments presented here for bringing the legislation into this place and for the nature of the legislation is to bring WA's legislation into line with other states' and territories' legislation. To some extent, I sympathise with this argument; however, the principles of what we are talking about are too important to be ticked off in order to make a matching set. This is not about tax reform or licensing; it is about the human rights of children.

The arguments against the provision of this legislation are not unique to WA, and they are shared by women's groups around the world. Advocates against past adoption practices, such as ARMS, have also raised concerns about this legislation. In fact, in 2018, hundreds of women's human rights organisations from 18 countries released an international statement to request a global ban on "womb rental" or surrogacy. In an unparalleled global call for action, these organisations asked heads of government and state to deliver public remarks calling for a global ban on surrogacy during the 73rd session of the United Nations General Assembly. They also exhorted governments to consider withdrawing funding support to United Nations agencies that are supporting the legalisation of surrogacy. This is known as the "International statement for a global ban on womb rental" by the International Coalition for the Abolition of Surrogate Motherhood. These concerns are shared by many other countries globally, such as Sweden, Norway, Germany, Italy and France, which have banned surrogacy altogether.

Many would be aware that I was unable to be in this place last week during the contributions of most of the Labor members because I was part of a bipartisan delegation with the Minister for Defence Industries. After effectively being sidelined for several years in Parliament, this proposed surrogacy legislation is being introduced now with sudden urgency ahead of the Commonwealth review of surrogacy laws next year. The first attempt to introduce this legislation failed because it was flawed to the point that it was deemed unlawful because of its discrimination against women. Sadly, again, I do not think that this legislation is the best it can be. This bill has failed to address key concerns regarding the legal minefield and ethical considerations associated with children born under these arrangements, as well as addressing the significant concerns around commercial surrogacy and protection of women in these arrangements. Make no mistake, when these arrangements are not made with the best interests of the child or mother in mind, the damage is significant and can be lifelong. As a former member of the WA Reproductive Technology Council stated to me, according to my notes:

> The professionals in the industry who support the changes and therefore further reduction in regulation have a vested interest. Many of the clinics initially established in WA have been sold to large national conglomerates with shareholders whose interests are commercial. The less regulation for them the better.
>
> There is no imperative or urgency to change the legislation in the interests of best practice … There is the risk of undermining the rights of women and will challenging the very fabric of society.

The removal of the necessity for independent surrogacy approval risks commercialisation. Given that there is no urgency and that the Australian Law Reform Commission has been commissioned to review surrogacy, it would be prudent to delay any legislative change until that report is available.

I will leave my comments there because I understand that other members wish to speak.

Mr Shane Love (Mid-West—Leader of the Nationals WA) (4:41 pm): I rise to contribute to the debate on the Assisted Reproductive Technology and Surrogacy Bill 2025. This bill touches on some of the most deeply personal and sensitive issues that have come before this house. It goes to the meaning of family, the wellbeing of children

and the protection of women. We have heard many contributions from members opposite. I think just under half of the government members have spoken on this matter. I have not heard from the previous Minister for Health, the member for Morley, who may have had some information. Maybe she did speak but I might have missed it.

A government member interjected.

Mr Shane Love: I am sorry that I did not hear it. I was wondering whether she had made a contribution, seeing as she had worked on the formation of the bill.

I would like to thank the shadow minister, the member for Vasse, for the considered contribution that she just made. No doubt she has many busy hours ahead of her in consideration in detail. She will be very busy indeed trying to interrogate all the matters we have been discussing in this bill.

I want to make it very clear that I speak on this bill, which is a conscience matter for the National Party. Our members are always encouraged to form their own judgements on matters such as this. They are issues of deep personal concern and moral weight. I will be outlining today my own stance, which has been informed by the voices of the people and women in my life and in my electorate. It is my responsibility as a legislator to protect those who may not have a voice, and I take those considerations very seriously. Other members of the party may reach a different conclusion from me. I respect that right and note that this is not the first time we have had differences in the National Party, whether it be around the Voice or other matters, and we accommodate them as best we can, but I will not support this bill myself. That is not to say that I oppose every provision within the bill.

As members know, there are necessary and effective reforms contained in the legislation. All legislation needs to be updated from time to time. Some of the reforms will modernise outdated elements of the assisted reproductive technology framework and would, of themselves, be worthy of support. But I cannot ignore the serious concerns raised by the bill's expansion, if you like, of the surrogacy arrangements and the expansion of the collection of reproductive material posthumously. Surrogacy is not a simple or benign act; it involves risks to the individual—the surrogate—including physical, emotional and ethical. At its core, it creates circumstances in which children are intentionally separated from their mothers at birth. We have had contact with groups involved with forced adoption and other matters of trauma when children have been separated from their parents and we have seen that it can have severe consequences in the future when children are severed from their parents and stripped of their biological connections. As I said, the issue of enforced adoption was carried through the discussions in the last Parliament. I remember meeting a number of mothers whose children had been taken from them and I heard from some of the children themselves who expressed the effect of that experience that affected them all their lives.

The bill will expand surrogacy well beyond cases of medical infertility. It will allow almost any adult to enter into such an agreement regardless of age or circumstance. There will be no requirement for so much as a working with children check to ensure that the person should be entering into these arrangements. That means that a person with a history of violence or even child exploitation could, under this law, commission a child through surrogacy. There will be no limit on the age of people seeking to become parents through these arrangements. I have concerns about the lack of meaningful protection against overseas arrangements. We have seen commercial surrogacy occurring in Third World countries or countries where there is conflict and distress. I find it difficult to believe that a woman in Ukraine, Thailand or another country around the world is offering their services altruistically. I do not think I can believe that. We know that there are arrangements in countries throughout the world that are commercial by nature, however they may seek to be dressed up. In my view, the bill does not address those issues enough. The member for Vasse talked about the Australian Law Reform Commission's review into these matters, and that document refers to that to some extent. The bill needs to place the interests of children and women first and foremost, and I think it fails to do that.

I want to acknowledge at the outset that, quite obviously, I am not a woman and will never personally experience pregnancy. I have, however, in preparing my response today, taken care to listen to many women in my acquaintance of their experience of childbirth and their view of the legislation. There have been mixed responses. Some people do not feel they would have a problem having a surrogate or becoming a surrogate. They do not see that as an issue. However, others have said to me that the experience of pregnancy is more than just a mere inconvenience; it is a profound, often exhausting, experience that takes a toll on the body from conception to many months after birth. I think some of the discussions we had in the briefings and the like seemed to downplay that to some extent, reducing the consideration to matters such as loss of income during the pregnancy period and the short period of recovery postpartum. It seems to me that in the mind of the writers of the legislation, pregnancy is a brief disruption rather than one of the most significant physical ordeals that many women will endure. I do not think this legislation was written from the point of view of women, and, for that reason, I think it should be re-examined.

As I said, I have spoken to many women who, in one way or another, have been involved in not only pregnancy but also adoptions and other experiences and from people who have not been able to have children and have sought to either adopt children or use IVF and other means. One of the things about childbirth is that it is never as simple

as people think. For many people there is a lot of trauma. Many women experience miscarriages or have some sort of genetic condition that makes it more difficult for them to have a healthy child.

I am concerned by the reduction of the minimum age of a surrogate from 25 years to 18 years. I do not think that any convincing argument has been put forward to support that change. I think nowadays many 18-year-olds are still at school. There is a view in the discussions I have had with some of the people in briefings that people who are aged 18 can vote and join the Army and do all sorts of things. But I think there is also an acceptance that 25 is about the time when people hit actual maturity. If we consider what insurance assessors think about the age of drivers, typically drivers under 25 years of age are charged a lot more money for insurance because, in the view of the insurance companies, they have not grown up and do not have experience. Yet, without there being any real justification put forward, we see the surrogate age being dropped from 25 to 18. Many women at the age of 18 are probably marvellously mature, but I do not think that is necessarily a general state of being. At that age, it is quite likely that that pregnancy could be their first pregnancy, which I think was not encouraged in the previous practices. That change will bring potential risk to the young person involved.

The bill will allow the collection of reproductive material from a person who is deceased, without the express authority of that person before they became deceased. The consent of the spouse or de facto partner or, in the absence of that person, the next of kin will be required. We heard the minister talk in her second reading speech about express permission being required, but I am not sure that is clear in the bill. There seems to be a bit of inconsistency between a couple of provisions that will remain in the *Human Tissue and Transplant Act 1982*—proposed section 24D, which recognises the next-of-kin authority to consent to the removal of reproductive material, and clause 77 of this bill, which will remove that right. There are some issues around that that we might tease out in consideration in detail. I am not sure that the use of gametes posthumously to bring a child into the world deliberately after a parent has died is putting the child at the centre of the decision. I am not sure that for a child to be born from a parent who is already deceased is in the best interests of the child. I think there are some considerations there that we need to step back from. If we look at the principles and objects, the bill purports to put the rights of the child front and centre, but I am not sure that in every circumstance that has actually been the major consideration.

As the member for Vasse said, there are countries in the world, advanced democracies, where surrogacy has been banned altogether. France, Germany, Italy, Spain, Sweden and Norway are not normally countries we associate with repression or a lack of modern thinking. They recognise that surrogacy, whether altruistic or commercial, commodifies women and exposes them to harm. Even within the altruistic model, there is potential for coercion and subtle payments being pushed. Seeing the age limit reduced to 18 will make that even more of a risk, I think, and we could see coercion of young women to become involved in surrogacy.

It is quite obvious that commercial surrogacy goes on and that Australians participate in that overseas when they seek to commission a surrogate. I notice that the bill refers a lot to the industry and that experts in the industry have been relied upon. I would say that reproductive services is a very expensive and, I think, quite a profitable industry. In Western Australia, what began as small academic-led clinics have now largely been taken over. I think there are only large, sometimes international, conglomerates now operating in this field. There is a vested interest in expanding the number of people seeking to make use of the services. It must be hugely profitable because we know that internationals have come in and bought everybody out. They do not do that for no reason. They do that because there is money in what they are doing. I do not know that those conglomerates are primarily concerned with the best interests of the children who are a result of their services. I am not saying that they are not worthwhile and have good governance and have good guiding principles and ethics within them, but, fundamentally, they are there as a profit-making business and that will surely colour their thinking and their determinations.

There is also widespread use of non-disclosure agreements. Some clinics in recent years have made headlines for the wrong reasons when there have been some serious errors, such as incorrectly marking donor products. Monash is an example. That means there is little protection for those women and families. The member for Vasse spoke about the current law reform review. I will maybe touch on that in a minute.

Members might remember that there was a famous case in commercial surrogacy that revolved around baby Gammy going back, I think, to 2013. I read some of the Family Court judgement about what happened in the circumstances of that case. The twin sister of baby Gammy was named Pipah. The department of immigration appeared to support what was blatantly a commercial surrogacy and that is highlighted in the text of the subsequent Western Australian Family Court judgement. As background, I will read a couple of paragraphs of that judgement so people can get a feel for what went on at that time. We are talking about a birth that occurred in 2013, but the issues do not change, the economics do not change and the circumstances do not change that much.

(Member's time extended.)

Mr Shane Love: I quote paragraph 6 of the brief explanation of the decision:

> The lives of the Farnells and Mrs Chanbua—

The surrogate—

> were set on a tragic collision course when the Farnells saw a documentary about commercial surrogacy in Thailand. The Farnells had been trying to have a baby for years, including undergoing 10 cycles of IVF. They knew that commercial surrogacy was illegal in Australia, and saw Thailand as their last chance.
>
> The Farnells gained the impression from the documentary that commercial surrogacy in a country with a developing economy is a "win-win" situation for intended parents and birth mothers. They therefore engaged a business called Thailand Surrogacy to find them a suitable woman. The proprietor, Antonio Frattaroli ("Antonio"), told them that he paid his surrogates more than other agencies did.
>
> After taking medical advice, the Farnells abandoned their plan to have embryos created from Mrs Farnell's eggs and instead decided to combine Mr Farnell's sperm with ova from an unidentified woman.

This is the kicker at the end:

> They were assured by the Department of Immigration that any resulting child would receive Australian citizenship.

We can see that an assurance was given by the department of immigration. That demonstrates to me that the framework turns a blind eye to these practices. I will go further into the case to explain some of the concerns. Paragraph 9 states:

> At around the same time—

This was around the same time that the Farnells were looking for a child—

> Mrs Chanbua found herself in debt, which prompted her to offer her services as a surrogate mother. She was introduced to Thailand Surrogacy by an agent. She already had two children, but was told by her agent that she was too young to become a surrogate. She therefore assumed the identity of an older relative using fake papers.

We do not know what goes on in other countries, yet we have a system that seems to allow some of these circumstances that end up with commercial surrogacy occurring. This woman was in debt and was under the approved age in her country, but she was undertaking surrogacy out of desperation to repay that debt. We turn a blind eye and pretend that does not happen; that is just irresponsible. As many will recall, baby Gammy was a twin. He was the boy who was carried by Mrs Chanbua. Baby Gammy had Down syndrome. In the end, Gammy stayed in Thailand and his twin sister, Pipah, came to live with the Farnells in Bunbury.

One of the criticisms of the bill we are considering today is that, as I have said, there is nothing in it about needing to check a person's background or criminal history before they can commission a child through a surrogate. In this case, Mr Farnell, who alongside his wife had commissioned that surrogacy, was in fact a person who had a record as a child sex offender. I will read a little bit around what happened there. It states:

> … someone contacted the Department for Child Protection and Family Support ("DCP") to express concern that Mr Farnell had a child in his home. The concern arose from the fact that Mr Farnell is a child sex offender, albeit there is no evidence of him reoffending since his release from prison in 1999.

Someone who was a convicted sex offender was able, in that case, to keep the child with the blessing of the department. I would have thought that such a record would preclude him from having a surrogate baby, but even in this country that is not the case.

As I said, the pressures that existed for women then still exist now, and they might be tempted to become involved in surrogacy. The Australian Law Reform Commission's issues paper 52 states:

> The number of Australians using surrogacy to form a family is increasing each year. It is hard to know the exact number of surrogate births each year, but it has been reported that 76 children were born through domestic surrogacy in 2020. Department of Home Affairs' data indicates that 275 children were born through international surrogacy in the same year. This number increased to 375 in 2023.

It appears that most surrogacy actually occurs overseas. In order to address the issues around surrogacy, I think the situation requires a national response. I question why the government is rushing through such a fundamental change ahead of the national review that is currently underway. The Australian Law Reform Commission is due to report on surrogacy laws in 2026, with the aim of achieving consistent national legislation. Why is Western Australia jumping the gun on such far-reaching and fundamentally fraught reforms? Surely it would serve Australia to have a nationally consistent approach that addresses some of the matters around making sure that no commercial surrogacy is supported by the framework overseas.

The objects and principles are laid out in the bill, yet we will see a reduction in safeguards for women and children with the change from a council to a board and a reduction in decision-making powers. Fundamental amongst the principles outlined in the bill is that a person performing a function under the proposed act is to have regard to the wellbeing and best interests of the person born from ART or surrogacy, the surrogate and the participants themselves. Who will be the arbiter of that and what protections will be made available to ensure that that actually occurs? I am concerned about that. The bill will make some very important changes and refers to matters that are

deeply personal for everybody concerned. However, if the bill is truly about compassion, it needs to protect the vulnerable and place the welfare of children above the welfare of adults. That compassion should respect the immense sacrifice of women right across the world and not just those involved in altruistic surrogacy in Australia. By expanding surrogacy, stripping away safeguards and commodifying women and children, this bill fails that test. I conclude by going back to the baby Gammy case and a quote from the judge in that very complex situation. He said:

> Added to this muddle were not only cultural differences, but also differences in the levels of sophistication of the actors. Their ability to recall what happened, and in what order, has been impaired by the anxiety felt for the health of the babies, and by the tensions that arise when a woman's body is rented for the benefit of others and where the unit of exchange is measured in the life of a new human being.

Mr Jonathan Huston (Nedlands) (5:06 pm): It may not be known, but, from the very beginning, I came into politics as a liberal and not a conservative. That has been very important to me for my whole life. I was brought up in the Catholic tradition, I went to a Catholic school and I am one of eight children. My parents never considered us to be a conservative family; we were a liberal family. That is what I am going to talk about today. There are many ways to talk about this debate, such as the technical issues around safeguards, which are very important—they have been raised and I have appreciated each one of those points. I have also appreciated the personal experiences of people in the chamber who are looking for a personal change for their journey. As it turns out, I am the father of two IVF daughters. I was very fortunate to have them. I remember that when we first went for our discussion with Dr Mazzucchelli, who has passed now, he said there was an 18% chance of being successful. We were successful in both situations the first time around. Dr Mazzucchelli said, "Someone's got to be the 18%; it might as well be you." It is another point that my third child is a gay man. I have three children. He is in a long-term gay relationship, and I am very proud of him. I am very lucky to have had my first two children through IVF, and then little Nick came along all by himself. Although those things are important and are great parts of my life journey, they do not at all inform my position on this bill.

As liberals, we are focused on freedom and individual choice. This bill is about people and freedom. To me, it is about the right of every Western Australian to decide how they will shape their own destiny. That is where I come into politics from at every level and the point that I take every time I make a decision. This is in fact us making a decision about who gets the right to love, in a way. As a liberal, the last thing I would ever do is tell someone how, when or to what extent they should love. It is an individual freedom. It is primary, classic liberalism. For more than two centuries, the history of western civilisation has been a growth of this individual journey of freedom, from the divine right of kings and the nobility to the end of slavery, the beginning of the suffragettes and voting rights for women, and gay rights. This is just one more step in a journey of liberalism that has taken 200 years and has always been about giving the individual the right to choose the way they live their life. That is the prism through which I have looked at the Assisted Reproductive Technology and Surrogacy Bill 2025 from the very beginning. Of course, there are safeguard issues. I listened very carefully to many of the things that have been said and I agree that some issues need to be measured, but I also have great faith in the institutions of our medical, justice and community services professions to make adjustments to those things or call out behaviours that will bring out those individual cases that were clearly identified by the Leader of the Nationals WA, for which I have due regard. I have called upon this liberal tradition in Australia; this is a very simple decision for me. It all goes back to the role of individuals and the extent to which, if someone was to choose this option and go down this path, how would they harm anybody else? Would anyone else's life be impacted or affected? I would like to hear from someone who thinks that could be the case. I cannot think of any way. I think of two people or one person being very happy and providing love to a child. What could be more beautiful than that? It is really that simple. This is really the exposition of liberalism as I see it. I do not choose to speak too often in this place; members have now learnt a little bit about me. I make my decisions on that basis, although I certainly respect those members around me who have a different point of view.

We come to the bill itself and what I call the modern individual. This is just reform; it is part of the journey of western civilisation. It may be narrow, technical and legalistic, but whatever barriers are found along the way can be corrected. It is about the right of individuals, men and women and couples and families to decide for themselves how to bring life into the world. It is about recognising that modern families take many forms and that love is not confined to a single mould. The dignity of the individual belongs to each person equally. This is not about breaking tradition; it is about fulfilling the great liberal tradition, which I stand by and believe in—the trust that the individual empowers the family and that extends the frontiers of freedom.

For over 200 years, this arc of civilisation has bent, sometimes violently, but always towards freedom, as I see it. Tonight, I say that we must, we should and we will do this. For me, there is only one choice. To vote against this bill would be to betray the story of liberalism. I have come into public life at a more senior age than many others. It would be to deny the very principles that have brought us to this chamber. It would be to silence the freedoms of those generations that came before us that fought and died.

I thought I might also share with members what some of the people of Nedlands think about this bill. I will read out a few views. The best one is from a grandmother, Deborah from Nedlands. I will read out what she said because it gives an angle of what grandparents think, which is something we do not often talk about. According to my notes, Deborah—that is her name—from Nedlands said:

> As the mother of a gay couple, I feel deeply overlooked by the current surrogacy laws. These laws do not just deny my son and his husband the opportunity to build their family—they deny me as a mother the chance to become a grandmother. It is heartbreaking to think that my son may have to leave behind his family, friends and community just to access a basic right that is freely extended to others.

A grandmother or grandfather's perspective is one that we do not often think about. Deborah continues:

> I've always believed that I'll never be happy until my son has every right and opportunity that his father and I have been afforded. The current law sent a painful message that our children are not equal and their families are less valued. This is not only unjust, it is profoundly disheartening. I'm well aware that this affects any person who's unable to conceive. What happened to our great progressive state now falling so far behind?

I think that is a reference to other states of the Commonwealth. She continues:

> I want you to know that we stand firmly behind this fight for equality. While it is difficult not to feel anger and frustration at the barriers placed in our path, it is equally important to recognise the progress being made thanks to advocacy groups. I feel ongoing frustration that we even need to discuss this issue, let alone we are still waiting.

According to my notes, Shane from West Perth writes:

> My two friends have tried unsuccessfully three times to have a baby, and this law will change a lot of options for them. I support these changes and hope you see everyone deserves the chance to be a parent.

Ladies and gentlemen, I certainly want to say something very important. I deeply respect my colleagues and their different views on this issue. We are sometimes criticised for the variations that exist within the Liberal Party. It is not a weakness. Rather, the ability to have different points of view in our party room and different points of view between us and not be robotic is a strength. Members of the media can make fun of that, but we are proud of it. We will stand forward and stand together. Even though people around me might not vote the same way that I will vote, we respect each other. It is not personal. It is the journey of our own political trail and path that we tread. For me there is only one choice. To vote against this bill would be to betray the story of liberalism, of which I am proud, deny the principles that have carried us into this chamber and silence the very freedoms for which generations have fought. It is about the tradition of freedom, the dignity of the individual and the tradition of liberalism. We trust the individual—that is what we do as liberals. We trust family and we trust freedom. For all these reasons and the liberty of the individual, which is fundamental to me in my political journey, I shall vote in favour of this bill.

Mr Basil Zempilas (Churchlands—Leader of the Opposition) (5:17 pm): I, too, rise to add my commentary and points of view to the debate on the Assisted Reproductive Technology and Surrogacy Bill 2025. The debate has been conducted with care and respect and has also displayed great informed consideration. I thank the Deputy Leader of the Liberal Party, the Leader of the Nationals WA and the member for Nedlands, members on this side of the house who have spoken before me. I also extend my thanks and appreciation to all those who have spoken on this bill in this house in the days that we have been debating and discussing this important topic.

I think we would all agree that our responsibility as legislators demands nothing less than careful, respectful and informed consideration, as has been highlighted and captured by a number of the presentations that we have heard. Many of us have come to this place with that in mind, particularly when dealing with such a complex piece of legislation. Yes, at times this environment becomes quite robust and boisterous. There are strong views and certainly we divide on party lines on a number of occasions, but there are also times when freedom of speech is very important. As members have heard captured by opposition members, we on this side of the house will decide on this matter with a conscience vote.

I, like many others in this place, have informed myself of the medical and social complexities contained within the bill by gaining perspectives from those representing the rainbow community, surrogate families and people on the other side of the debate. I thank them all for their open, informed advocacy and the very many and varied perspectives that we have been privileged to hear. I have also listened with great intent and interest to speeches of many members in this place, some of whom I have acknowledged, including members from both sides of the chamber, who gave their presentations prior to today. I want to take a moment to reflect on some of what we have heard. Some of the stories have been deeply personal. I thank members opposite for sharing stories and information from their own lives that is particularly personal. I think it has been of great benefit to all those who have heard this debate and discussion, and it will stand the test of time for people to reflect on. I want to thank and respect those who have shared their stories about pregnancy and parenthood, their surrogacy or assisted reproductive technology journeys, their stories about their children and their experiences as a member of the LGBTQIA+

community. In particular, I would like to acknowledge my friend and neighbour from the electorate of Scarborough. One of the great things about being an elected member, particularly when school communities and other sporting groups are involved, is often having the opportunity to attend a great number of events. In my case, as the member for Churchlands, I acknowledge the member for Scarborough—I hope it is okay to call you "Stuey" at this point—whom it is always a great pleasure to share the stage or those situations with. I would like to think that we have been able to build not only a healthy respect for each other but also a great friendship that comes from being in this place and together representing people who are neighbours. I was very pleased to be in the chamber when the member for Scarborough began the debate on this topic. I thanked him then and I thank him again publicly for sharing his story, and the personal nature of it, and for informing everybody in this house of his point of view. I thank the member for Scarborough for that.

Some members have relayed examples of those who have been, are or could be involved in surrogacy arrangements of their own and others have eloquently expressed their concerns. I understand those concerns. Those concerns revolve around the interests of surrogates and children born out of surrogacy and the need for the interests of the child to be at the centre of all decision-making. That, too, is a point of view that I understand and respect.

The issue of the timing of this legislation has also been raised. We have heard that the Australian Law Reform Commission is due to report mid–next year on its review of surrogacy laws; it is reasonably imminent. However, existing legislation, as we know, means that some Western Australians cannot access surrogacy and the wait has been long to become a parent via assisted reproductive technology without having to resort to surrogacy overseas.

When notice of this bill was given, I had anticipated being contacted by a great number of people in the Churchlands community and, indeed, for that matter, a great number of people from around the state. In fact, it has not been the case. There has not been a great number of people contact me or a great deal of correspondence to my electorate office or to the opposition office, and that is okay too. Those who did contact contacted respectfully and made their points in a dignified and kind manner. But, as is often the way in this place and as has already been highlighted by those behind me, ultimately the decisions on matters such as this rest with us, as local members. I and, I am sure, many on both sides have discussed this topic and this bill with members of their own family, those close to them and people they interact with in other ways on a daily basis and sought their views and asked what they think about the bill. I, too, have done that.

After careful consideration, I will support the bill so that this can become a reality—that those Western Australians who cannot access surrogacy will be able to access surrogacy—and that the law in Western Australia recognises and respects equally the rights of all in this state to raise a family. It is a very relevant and pertinent point that if the barriers no longer exist in other jurisdictions around Australia for people to become surrogates or to access surrogacy, why should those barriers exist in Western Australia? As those of us who are lucky enough to be parents know, there is really no greater gift. I thank those members for the respect they have shown not only in this debate on this very important bill but also to each other in this chamber. I thank you, Acting Speaker, for providing us with the opportunity to put our comments on the record.

Mr Lachlan Hunter (Central Wheatbelt) (5:25 pm): At the outset, I want to be crystal clear: I support same-sex couples having access to surrogacy in Western Australia. I have met with same-sex male and female couples in my electorate who have shared their heartfelt stories of hopes of becoming parents. I have spoken with advocates in favour of this legislation—passionate people who are seeking fairness, equality and recognition of modern family structures. I have also taken the time to listen to those with reservations, including experts, former regulators and medical professionals who have raised serious and valid concerns. I have met with a professor of obstetrics and gynaecology and a former member of the Reproductive Technology Council of Western Australia. These are people who understand the complexity of surrogacy not just in theory but in practice from both a medical and an ethical perspective.

What is clear is this: although the intention of this bill may be good, the execution raises serious questions that this Parliament has a responsibility to ask and to answer. Legislate on facts, not emotion. Our job in this place is to legislate on facts, not emotion. Sometimes that means asking uncomfortable questions. Sometimes that means standing firm and being brave, even when the easier option is to cheer along. This government has been in power since 2017. It has had eight long years to bring this legislation to Parliament, and it was good to see the former Minister for Health apologise to the people of Western Australia that it has taken so long and dragged its feet on this very issue. It should be ashamed that it has taken this long to deliver reform, and it should have been on the agenda years ago. Now, in 2025, we find ourselves rushing a bill through Parliament just months before the Australian Law Reform Commission is due to deliver its findings on a nationally consistent approach to surrogacy laws. That is right; a national review is currently underway and is due to report in early 2026. So I ask: Why are we jumping the gun? Should we not be working towards a harmonised, consistent model across Australia rather than creating an outlier for our state once again?

One of the most concerning elements of this bill I found as I was speaking to my constituents is the proposed age limits or lack thereof. Under the *Surrogacy Act 2008*, surrogates must be at least 25 years old. Under this bill, that threshold will be dropped to just 18 years old. A woman who has just become an adult and who may have never

given birth and never experienced the physical, emotional and psychological toll of pregnancy will now be able to legally become a surrogate. An 18-year-old is legally an adult, yes. It is important to acknowledge that many young women at this age have not yet had the life experience to fully understand the long-term implications of becoming a surrogate. Surrogacy involves significant physical and emotional demands, and there is a genuine concern about the potential for psychological impact, as well as the risk of exploitation, particularly among younger and more vulnerable individuals. Likewise, the intended parent will be able to be as young as 18. Again, although legally an adult, an individual at this age is often still developing the emotional maturity, financial stability and life experience typically associated with raising a child. It raises important questions about whether someone so early in adulthood is truly prepared for the significant responsibilities involved in commissioning and parenting a child. Surely the best interests of the child must be paramount. At a minimum, we should retain the requirement that at least one intended parent is over the age of 25 or make exceptions for a younger age limit only when there is a compelling medical reason.

I am also deeply concerned that this bill does not include mandatory criminal checks for surrogates or intended parents. The idea that someone could acquire a child through surrogacy without background checks is just astounding. We require working with children checks for teachers, volunteers and sports coaches but not for someone acquiring legal parentage over a child.

There are tragic real-life examples that show how catastrophic the consequences can be. In one case, a man in Victoria used surrogacy to father twin girls and went on to sexually abuse them from just weeks old. In another case, a child obtained through surrogacy was exploited by a couple and featured in online abuse material from just 21 months of age. In the United States, a sole parent acquired a child through surrogacy and that child died six weeks later from severe child abuse. These are rare and horrifying examples, but they are real and they highlight just how important proper vetting is, especially when the process involves intentionally creating a child or transferring legal parentage.

Let me be clear: I am not suggesting that every surrogate or intended parent is a risk, but we do not do background checks because we think people are guilty; we do them to protect the innocent. This bill could have been an opportunity to lead and collaborate, and to bring Western Australians into a consistent national framework, particularly for something as sensitive and consequential as surrogacy. Instead, we are left with a bill that was drafted in haste, delayed because of politics and rushed in execution. It is a bill that will open the door for potential harm without significant guardrails. Yes, I support same-sex couples accessing surrogacy—that is a matter of equality and fairness—but support for equality does not mean abandoning good process or child safety. When it comes to creating life and literally bringing a child into the world we cannot afford to get it wrong. We need stronger safeguards and better consultation, and we need to wait just a little bit longer for the Law Reform Commission to report so that WA does not make the same mistakes that other jurisdictions are trying to fix now. Let us do it properly, let us do it carefully, and above all, let us do it in the best interests of the children we are bringing into this world. Thank you, Acting Speaker.

Mr Scott Leary (Albany) (5:32 pm): I rise to make my contribution to debate on the Assisted Reproductive Technology and Surrogacy Bill 2025. I applaud the speakers from the other side who have given us their journeys, especially—as the Leader of the Opposition said—the member for Scarborough, and the strength it took to give that story to the Parliament. I fully understand where that is. I think those of us lucky enough to be parents have all been through that journey. My wife and I suffered a horrendous run of miscarriages on our way to having two wonderful sons, so there is light at the end of the tunnel. It is very rewarding to be a parent and it is not something that we take for granted.

I think the family dynamic has truly changed. I know that in my own electorate of Albany, we are now multicultural and we are sensitive to everybody's needs within our area. That dynamic has truly changed and there are now some wonderful same-sex couples, as there are heterosexual couples. I do not think we should be chastised or hung out for what our beliefs are or what we choose as a lifestyle. We are all individuals and we are entitled to make those choices. I have faith in the system that this legislation will do the right thing to offer protection; protection of children and surrogates is paramount. My concern is that if this legislation does not go through, the surrogacy that is currently operating will go further underground and put surrogate mothers at further risk. Surrogacy arrangements are contractual obligations; that is the way that they run. We need to make sure that these laws are put in place and will be upheld, and that those people will be protected.

The decision I make in supporting this bill has not come just from myself; I also take information on board from my extensive networks and friendship groups within my community. One of the things I pride myself on is making an informed decision. This is not just a decision that I am making as the member for Albany, but an informed decision from the majority of the electorate that I have spoken to and from the information that I have gathered. That is me finished! Thank you very much. I commend the bill to the house.

Mr John Carey (Perth—Minister for Planning and Lands) (5:34 pm): The Deputy Premier was going to speak next, but I am happy to speak on the Assisted Reproductive Technology and Surrogacy Bill 2025. For me, this legislation is about a single truth, and that is that families and the definition of "family" has significantly changed

and broadened during this century, going beyond the traditional notions of the nuclear family model. In today's society the definition of what makes a family is so different, when we think about it. It can be a single parent, it can be same-sex couples with children, it can be childless couples, it can be blended families and, in some cases, it can even be a chosen family, which has been the case for me over the past decade. These changes are a direct result of changing attitudes in society towards marriage.

I have to say this: none of the families that I have mentioned are of less value than another. All should be valued, and all can create a loving and caring environment in which to raise a child. That is why I support this legislation: because the definition of families and how we view and understand families has fundamentally changed, and it reflects our society today. It has also been well discussed in this chamber that the changing definition of family has been matched by rapid advances in IVF technology and other assisted reproductive technology. I think it was best summed up in an article in *The Guardian*, "Seven ways IVF changed the world—from Louise Brown to stem-cell research". It states:

> Egg donation and surrogacy, the freezing of embryos, and techniques such as mitochondrial transfer and genome editing alter long-held views about biological relations, kinship and the constraints of time, space, gender and genetics on procreation.

We know that those advances have meant that, more than ever, people are utilising this technology to create their families. I refer also to a study reported in an article on the University of New South Wales website that states:

> A world-first estimate shows assisted reproductive technology (ART) is now part of everyday life for millions of families across the globe, with one ART-conceived baby born every 35 seconds.

There is a fundamental change in the way that families are both viewed and understood, but also created. The article continues:

A recent study published in *Fertility and Sterility* estimates between 10 and 13 million babies were born via in vitro fertilisation (IVF) in the 40 years since the world's first IVF infant was born in 1978.

I suppose what I am trying to demonstrate very clearly is that those two trends have intersected: our understanding of family and changes in technology. The advancement in technology means that the ways in which those families are created have changed. It is also evident that that is normalised; it is no longer viewed as deviant. It is a normalised part of decision-making, particularly for ageing couples.

I am going to put something on the public record now, because I have actually been part of this process. I was approached by a couple to be a sperm donor. I had never given consideration to this issue before, but I considered the matter seriously and I was prepared to do so. However, it is on the record that my mum was then on her brave journey against terminal brain cancer, so accordingly I did not opt to do it at the time. However, I was again approached to be an anonymous donor and, given the critical demand, I did so. In accordance with the current law, I can say that there are a number of loving families right now that have children as a result of that decision. Although I will never be a parent myself, I wanted to assist, support and help childless couples, single women and lesbian couples to experience the joy of parenthood and fulfil their dream of having a family.

I want to respond to some of the debate. I have to say, listening to the debate, that I was really disappointed to hear some of the commentary by the member for Vasse, the member for Central Wheatbelt and the Leader of the Nationals WA. I want to talk about some of the issues that were raised because we hear them again and again.

First, the member for Vasse talked about the idea that not everyone has the right to have children. I say, as I have demonstrated, that technology has changed and the way that families form has changed. My questions are: Where does that technology end? Who do we give that technology to? Is it just heterosexual couples who can have that technology, if we have a husband and wife and one of them is infertile? Is it the case that we should only give that technology to heterosexuals or should we not give that technology to all—heterosexual and homosexual? Do we believe just in the idea that you can fertilise or you cannot, and that is nature? Well, we now know that in vitro fertilisation and assisted reproductive technology are changing that.

Second, we heard about criminal record checks. This really got to me and really made me sad. Both the member for Vasse and the member for Central Wheatbelt talked about criminal checks. I noticed this and I want to say this on the record. Currently, there is no requirement for criminal record checks. Members may have a different view, but there are no criminal record checks for parents in society. If members want to get into that whole debate about licensing and checks for parents, go forth, but currently we do not do that. Here is the rub: the only time we talk about criminal checks is when we include homosexual couples. That is the truth of it. We talk about criminal checks when we talk about same-sex couples, particularly gay men, being parents. Then, we need a criminal check. We do not need them for heterosexual couples, not in the current way that society is organised, but we need a criminal check because of those deviant gay men. Can I say this? Essentially, this is a view that is held by a part of the WA Liberal Party. It is not isolated. I put this on the record as an openly gay man because again and again we see the view that gay men are deviant. We are not to be trusted. We have to have criminal checks. This narrative is perpetuated by members of the WA Liberals, like Phil Twiss and Nick Goiran. I want to put this on the record

because it is critical. I note that the WA Liberal president said at the time that these ideas were "ventilated". No; these ideas were not just ventilated. These ideas, which were said in public, were the clearly held beliefs of these people. Then we wonder why there are accusations of gay men being paedophiles. By the way, last week on my social media people were mocking me about doorknocking: "Don't keep doorknocking Trinity College and the boys primary school." That narrative is facilitated by poor leadership from people like Hon Nick Goiran and Hon Phil Twiss.

I remember that, when Hon Nick Goiran was talking about gay marriage, it was reported in the ABC that he posed a hypothetical situation about a half-brother and half-sister who wanted to marry and have children. That is what he said. I quote:

> And so I'm just asking those promoting the case for same sex marriage to ensure that their argument is sound in logic.
>
> I'm saying that logically then, if it's one consenting adult with another consenting adult, then you need to apply the logic to their full argument.

He equated same-sex marriage with incest. We wonder why narratives that attack gay men, gay women and members of the LGBT community continue. Of course, Phil Twiss has made a huge number of comments in the public narrative that are all about demonising and attacking the LGBTQI community. It has been repeated again and again. I do not think it is funny, and I know I have mocked it before, but this includes the fact that he wrote—this was reported in the ABC—that we need to reclaim the symbol of the rainbow to what God meant it to be and:

> That the homosexual lobby has usurped a biblical symbol of God's mercy (but also a reminder of his judgment) is insulting at least but utterly blasphemous.

Right now, this is the kind of venom spewing out of elected officials in our upper house, elected officials who also want to shape this legislation and who do not believe that we, members of the LGBTQI community, are worthy of being considered as having loving relationships, being able to marry or having children. That is their view. It has not changed. It is there. They are active members of the Liberal Party, like Nick Goiran, a senior leader and a powerbroker. It has got to be called out.

Of course, we also know that there are other candidates because we see other comments. I think that we need to be clear and I want it on the record. We had, of course, Thomas Brough, the recent candidate for Albany. I actually felt sorry for the member for Vasse having to stand next to him. The Liberal candidate for Albany:

> … falsely claimed the community should be aware paedophiles, or what he dubbed "minor-attracted persons" were part of the "+" in LGBTQIA+.
>
> "I would encourage people to look into what minor-attracted persons are …

Let us be very clear. A Liberal-endorsed candidate at the last election said that paedophiles belong to my community. I mean, how do you have a dialogue like that? How do we stamp out that kind of prehistoric view when we have the Liberal Party endorse it?

Even in the seat of Mandurah, Owen Mulder talked about same-sex couples:

> Same-sex couple on the other hand is a direct violation of God's law, which whether we acknowledge it or not, we are all subject to (and will eventually be required to give account to)

I put that all on the record to remind Western Australians. People may think that the WA Liberal Party is a moderate party, but it is not. It has a deep and extreme wing that will do whatever it can.

I will refer to other comments made by the member for Vasse. We have heard before about the timing of the bill. Every time we send progressive legislation up to that house, on point, Hon Nick Goiran rolls out the same lines: "We need more time. This has not been considered. It has not been a proper process." We have heard that now from the member for Vasse and the member for Central Wheatbelt. Can we put on the record that this has not been a rushed process? That is a lie, and it is a lie that is used by conservatives to delay and attack progressive reform. It is well-known part of the playbook. They did it on abortion reform. They do it again and again. This reform has to wait.

Well, let us go through the history of it. This has actually been quite the opposite; it has been an exhaustive process. Associate Professor Sonia Allan did an independent review back in 2019. On 18 August 2021, the government tabled its response. In May 2022, a ministerial expert panel was appointed. Then, from 2023 to 2025, the Department of Health held ongoing engagement with targeted stakeholders. Do members know what the surrogacy lobby said? It said that we were taking too long. The member for Central Wheatbelt says that on one thing, we are rushing it and, on the other thing, we are taking too long. There is no coherent argument here. Let us be very clear. This has been a very long process, particularly for the LGBTQI community. It has actually taken a very long time to get here and it has been an exhaustive process. I support the length of time it has taken because ideas have been tested and debated. It has been in the public arena. Let us put to bed this nonsense by conservatives who want to defeat progressive reform. Let us be clear what is going to happen in the upper house. We know that Hon Nick

Goiran and his extreme ideologues in the upper house will do everything they can to stop, slow down and defer this legislation. He will take every bit of time and say it is about proper scrutiny. No, it is not, because ultimately they oppose progressive reform.

I have to say I really appreciated the member for Nedlands' speech. It gave me faith and hope. The member talked about individual liberty. It resonated with me. I believe fundamentally in the rights of individuals and their freedom of choice. What I have come to realise is that people like Hon Nick Goiran, Hon Phil Twiss and his gang of "The Clan" do not. They have an extreme and narrow view of the world that they want to impose on everyone else. They do not care about freedoms of the individual. They are very narrow ideologues who want to impose their will on the lives of every Western Australian. I cannot believe I am saying that I am agreeing with the member for Nedlands, but I meet him in the middle. I do believe in the freedom and liberties of the individual. I hope that the member is the future of the Liberal Party. We cannot allow these dominant and regressive conservative forces that have a dominant role in the WA Liberals to dominate a potential future Liberal government, because then there would be regressive change.

I will end on this. I strongly endorse this legislation. It might not be perfect, but the reality is that the definition of family and our understanding of what families are has changed forever, whether the conservatives like it or not. The reality is that technology right now is also fundamentally change that is facilitating new ways of seeing families and is a modern reflection of society. I have one hope: that in the upper house the progressive forces—those who believe that all Western Australians should have and enjoy rights, including a family—will win the day.

Ms Rita Saffioti (West Swan—Deputy Premier) (5:52 pm): I rise to make a very brief contribution to this debate on the Assisted Reproductive Technology and Surrogacy Bill 2025. Firstly, I want to acknowledge the incredible and powerful contributions of the member for Perth and the member for Scarborough. Their contributions in this place and the points they put across are very, very important. Can I say there have been some incredibly powerful contributions from many people on this side. I thank members for those contributions.

As many people would know, I am a proud mum of three. Like thousands of Western Australians, my path to parenthood was not easy and had its challenges along the way. I will not document them this evening, but I do remember the complete grief and devastation when I realised the challenges that I would face. The fact that possibly I was not able to have children was a devastation beyond description. Of course, with technology we got through it and I am now the proud mother of three. Like I said, for me the idea of not having children was complete grief and devastation. Now I think about those who wanted children and have faced the inability to have children, and what this bill will do to allow more people to have access to being a parent. I think that is a fundamentally good thing.

To judge and say that these people should not be or have access to being a parent is, I think, a discriminatory and wrong thing. If you have never experienced being denied the ability to have a child or the law preventing you from having a child, I think it is ignorant to stand up and say that being a parent is a privilege and not a right. The ambition of many to have children is something that we cannot stop or thwart. Not every person wants to have children. I acknowledge that there are many people who choose not to have children, but those who want to have children need to be given the ability to do that. It rests not only with heterosexual couples, the traditional nuclear family, but everyone in our community. This bill removes the barriers that exist for many in the community who want to become parents. As I said, this bill in particular will make assisted reproductive technology and surrogacy available to all persons who seek access, regardless of sex, gender identity, sexual orientation or relationship status. It will do this by removing discriminatory barriers, including the requirement for medical infertility. I very much support the removal of all discrimination in this field. Being a good parent, as we have heard on this side, is not about someone's sex, gender, or marital status; it is about whether they want to bring into being and care for a child in this community.

I was quite disappointed by the member for Vasse's 50-minute contribution in which she demonised some parents and the fact that some people want to become parents, and claimed that only a certain sector of the community could be bad parents. I think the member for Perth outlined the fact that there are some parents out there who have not gone through assisted reproductive technology or surrogacy and have not been good parents, but the member for Vasse does not list all of those who exist in the community. This bill removes discrimination.

Also, I want to point out some of the claims made about surrogacy in the past. The reality outlined in the *Ministerial Expert Panel on Assisted Reproductive Technology and Surrogacy: Final report* is that between 2008 and 2022, 24 children were born in Western Australia through altruistic surrogacy and 400 children were born through overseas surrogacy arrangements. The idea that the system has been abused is just wrong. It is clear that removing the barriers for altruistic surrogacy in WA will assist more people to access surrogacy in this state and not have to go overseas. I think that is a good thing. We are making it easier to access altruistic surrogacy in the state and we are removing the discrimination that exists.

I agree again with the member for Perth: I do not believe in someone dictating to somebody else how they should use their body. The Liberal Party wants to insert itself into our households and lives.

Another point is I know a lot of families, of both heterosexual and same-sex couples, who have accessed surrogacy overseas and also within the state. They are good parents. They fought hard to get that child, and those children are being cared for and are incredible. There is an idea that somehow this does not protect the children, but what I have experienced is that the children who have been born through these arrangements are very well cared for and thriving. I remember when I initially came to Parliament and this issue was raised, I had emails from families in the suburbs who were struggling to access surrogacy. Many did go overseas. We do not want to demonise parents. Who am I to judge? We do not want to demonise people who have struggled to have children and then worked to make sure they can bring children into this world and care for them. I do not believe in demonising parents or children. I do believe in making sure that we can facilitate the aspirations of Western Australians who want to be parents, regardless of their relationship status, gender or sexual orientation. As I said, I am very much about letting people choose and making sure that we remove the barriers of discrimination because I know many families who have experienced this process who are loving parents and whose children are thriving. The idea of demonising that process and somehow saying that those children are not being cared for is insulting. I know many families who would be insulted by some of the claims that have been made today.

I support this bill. We will go into consideration in detail on it. I very much support the work that has been done. It has not been rushed. I have gone through the Allan report and the ministerial expert panel that explored all these issues, including the number of people born through altruistic surrogacy in this state, the barriers and overseas surrogacy. As I said, no-one can stop me from accessing technology to become a parent, so I am not going to be part of stopping others who aspire to be parents. I do not feel like I have the right to stop other people from becoming parents. We have seen the technology change over the years. We do not prevent other people from accessing technology for other purposes. As I said, I do not feel that I have the right to say to someone that they cannot be a parent.

Mr Roger Cook (Kwinana—Premier) (6:01 pm): I would like to make some brief comments on the Assisted Reproductive Technology and Surrogacy Bill 2025 and thank all members for their contributions. I rise to not only support the bill, but also stand for every Western Australian who has been told that they do not belong. I rise to stand for every person who has been denied the right to build a family because of who they are, how they identify or who they love. When I gave my first speech in this place back in 2008—good Lord that seems like a long time ago now!—I said that the measure of any society is the way it treats the most disadvantaged and defenceless. I said that the wealth of a few is worthless if, for others, the basic human rights that they deserve are being undermined by laws, economic systems, political and social policies or simple indifference. Although the world has changed a lot since then, I have not wavered in that belief. If anything, it has deepened. Every time I hear another story of someone who is denied the chance of becoming a parent because a law tells them they cannot, I think of my own family and my own children and am reminded why I am here in Parliament. I am here to build a Western Australia that reflects the kind of society we all aspire to—one that is fair, inclusive and compassionate.

I had the opportunity to be in this place when we passed the voluntary assisted dying legislation. That was important legislation that provided compassion, inclusivity and fairness to those who were facing an end-of-life experience. It was an important debate. Today we once again have an opportunity to pursue the aspirations I spoke of. I spoke recently at the launch of the Attorney General's new book, A Considered Act, which covers the debate and progression of the laws around voluntary assisted dying. I said at time that, in some respects I think that is when Parliament is at its best—when members of Parliament combine to consider a bill that is fundamentally about compassion, fairness and inclusivity. As I said, today we have yet another opportunity to do just that.

On that note, I want to acknowledge the contributions of the many colleagues we have already heard from on this bill. Each one is a testament to the kind of Western Australia that we are fighting for. The member for Scarborough spoke powerfully and with courage about the barriers this bill will remove for same-sex couples. He called on all of us—every one of us in this chamber—to allow him the chance to be a father. That is not a political plea; that is a human one. The member for Willetton, a GP, called for clarity and protection in our law for parents, children and clinicians because when the law is unclear, there is no guidance and families suffer, and when clinicians are unsupported, health care suffers. The member for Maylands shared Linda's story with us. Linda's son Stu cannot build a family in WA because of the bias embedded against him in our current law. He does not want special treatment; he wants the same chance as everyone else—the same joy, the same love and the same future. The Minister for Child Protection spoke of her own journey with IVF. She said that although it was tough, she was lucky to have access to IVF when others do not. The Deputy Premier made similar reflections just now. Their stories are a reminder that access to care of any kind should not depend on luck or identity.

The member for Kimberley, a mother of rainbow children, called for dignity in our system so that one day her son can have a child if he chooses to. Her words were a call to action and a call to hope. The Minister for Energy and Decarbonisation, the former Minister for Health, who led the development of this bill after I so spectacularly failed to develop it in an effective form and before the current Minister for Health could take carriage of it, spoke of the need to remove discrimination and improve access to assisted reproductive technology services in WA. She spoke about how our laws are currently the most discriminatory laws in the nation when it comes to accessing surrogacy

and IVF. She spoke about how this bill will remove discrimination based on gender, gender identity and relationship status, and recognises the importance of trust and compassion in the relationship between clinicians and individuals. In their contributions, Minister Carey and the Deputy Premier talked about the importance of all members of Parliament having compassion and sensitivity when we speak about people who are simply trying to access the same sorts of services that many of us take for granted and not to demonise them simply because they want to assert the same rights as everyone else in the community.

Many of us know people who have accessed IVF and surrogacy opportunities around the world and we all know the incredible love and care they provide for their children. As members of Parliament, we should not try to deny others the same opportunity to care for a child and to discriminate against them simply because they want to call themselves a parent.

To all the members who have spoken on this bill and shared their stories of heartbreak and hope, thank you. In particular, to the Minister for Health, thank you for leading the carriage of this bill with integrity and strength. May I add that this is the minister's first bill as Minister for Health. You have led in this place as a minister, and what a landmark piece of legislation it is to start with. This is a proud moment in our Parliament and for our state and I want to congratulate the minister on behalf of every one of us here tonight.

This week each of us will be required to make a choice to progress WA towards either the kind of society I aspire towards, one that is fair, inclusive and compassionate, or a society that continues to block hopeful parents from building a family. This is a turning point in WA's journey towards equality, dignity and justice. This bill is more than legislation; it is a declaration that every Western Australian, regardless of who they are or who they love, deserves the chance and the choice to have a family.

For too long, our laws have placed unnecessary barriers on the path of prospective parents. This bill tears down those barriers. It modernises access to fertility treatment, surrogacy, genetic testing and donor information. It cuts red tape and opens doors that should never have been closed. This reform is about dignity. As we have always seen in this place when we come to these pieces of legislation, we stand tall with many other states in Australia to provide people with the same opportunities.

This bill is about recognising the rights of same-sex couples, single people, transgender and intersex Western Australians to access the same opportunities as everyone else. It is about saying clearly and proudly that love makes a family. Our laws must reflect that truth. With the passing of this bill, WA will join the rest of the country in embracing inclusive evidence-based policy.

I have said it before and I will say it again: I cannot let WA be a laggard. With the passing of this bill, we will catch up; in fact, we will lead the nation. We will place the best interests of children born through ART and surrogacy at the heart of our law, and we will make it easier for those whose children are born overseas to be recognised as exactly what they are—parents. We will ensure safety and quality through the licensing of fertility clinics. We will empower donor-conceived people with access to vital information about their genetic heritage, because every person has the right to know where they come from and to make informed decisions about their futures.

This bill would not be possible without the advocacy of Surrogacy WA, Equality Australia, Rainbow Futures WA and Gay Dads WA. I have met with them all. I have heard their stories, their testimony and their pleas for fairness, and I believe the Parliament should now stand together to give them just that. I acknowledge former member Hon Peter Foster for the work he did as a member of Parliament. It saddens me somewhat that he is not in this place—well, in the other place—to have the opportunity to debate this bill. But we know the power and the courage and the strength of his convictions, which have helped drive this policy process. I want to acknowledge him and he should be very proud when this legislation hopefully passes through the Parliament.

We are fulfilling a promise to all Western Australians today to deliver modern laws that reflect the values of today: fairness, inclusion and compassion. This bill is not just a win for families; it is a win for justice. It is a win for equality. It is a win for every person who has ever felt excluded by a system that did not see them.

I thank all members for their contributions, those who have indicated their commitment towards supporting the bill, though I respect those who have said that they cannot support it. I thank everyone right across this chamber who will now stand with people of conscience to exercise a vote at the end of this debate. I want a future in which every Western Australian can dream of parenthood and know that their government stands beside them. I thank every member of all parties who have committed themselves to supporting this bill today. I commend the bill to the house.

Ms Meredith Hammat (Girrawheen—Minister for Health) (6:13 pm) in reply: It is my great pleasure to conclude the second reading debate on the Assisted Reproductive Technology and Surrogacy Bill 2025. In doing that, I want to echo the words of our Premier by thanking everyone for their contributions as we have worked our way through a number of speeches.

I acknowledge, first of all, that members on both sides of the chamber have conducted themselves in a civil, considerate and compassionate manner, but I particularly want to acknowledge those members, so many members, who have shared their personal stories and shared stories from their constituents as well. All of these stories are a powerful reminder that although everyone has a different story, all of those people, all of us, are united by the love that we have for our children and for the desire to have a loving family.

There have been many good contributions, but I particularly want to acknowledge the member for Scarborough who commenced our debate with a very powerful and personal story. I want to acknowledge the contribution by the member for Perth, the member for Kimberley, the Minister for Child Protection, and our Treasurer for her contribution as well.

It takes a lot of courage to come into this place and to share a personal story, not only with the people in this chamber, but to share it for all of history as we commit to *Hansard* some of the most personal and private moments, no doubt, that people here have endured and navigated. There have been so many of those stories and I found them all incredibly moving. I thank you very much for sharing them and recognise your courage in doing so.

Some of the issues that have been raised by members will be addressed in consideration in detail, so we will come to some of the concerns that have been outlined. Several members have been very clear in their contributions and correct in the fact that reproductive care is a critical component of health care. It is something that every person should have access to, so I thank members who have supported our view that all members of our community should be able to access assisted reproductive technology (ART), including surrogacy, regardless of sexual preference, sex, gender identity or relationship status.

I thank the member for Swan Hills for her contribution. She raised a particular concern in relation to some of her constituents about the interpretation of clause 64 of the bill. Before we go to consideration in detail, I want to clarify for her and her constituents that clause 64 is essentially a prohibition on what is commonly referred to as "family balancing", which is in line with every other Australian jurisdiction and with the National Health and Medical Research Council's *Ethical guidelines on the use of assisted reproductive technology in clinical practice and research*. It ensures that intended parents cannot choose the sex of their potential child unless there is a medical justification, such as a high risk of transmission of a life-limiting condition.

I state again, as I did in my second reading speech, as a reminder for members, that when we get to consideration in detail, as we soon will, this legislation should not be an opportunity to argue again whether assisted reproductive technology and surrogacy should be legal. It is about changing the eligibility for people to access it and streamlining the regulatory framework.

I also want to acknowledge those opposite for their contributions. I thank the member for Vasse, the shadow minister, for her contribution. We will deal with a range of her concerns when we get to consideration in detail. I acknowledge the Leader of the Opposition and others for their support of this bill. It is important to note that this bill puts the best interests of the child at its heart, and at the heart of decision-making for consideration. It is closely followed by that of the rights of a person to become pregnant as a result of ART and surrogacy.

I acknowledge both former health ministers, who have contributed to the journey to get the bill this far, as I did in my second reading speech. I thank the Premier for his contribution this evening, and I also thank him for his earlier work when he was Minister for Health. I again acknowledge particularly Minister Sanderson for her patient and careful deliberation on this bill during her time as Minister for Health. We would not have come this far without the work of so many people over such a long period of time. In that spirit, I also acknowledge Sonia Allan for her work and also members of the ministerial panel who provided detailed recommendations, again, as I acknowledged in my initial speech. Finally, I acknowledge all those who have advocated for these changes. I acknowledge them for their steadfast patience.

We know that the time for this bill is now. I thank the community members who have advocated for this. I acknowledge that they have waited long enough for these reforms. Members opposite, because we are bringing WA in line with other states, we do not need to wait for the Australian Law Reform Commission (ALRC) review. We have spent many years in careful consideration of the bill that is now before the house and it is now time to act on it.

There will be some amendments we consider as we go through consideration in detail. I want to conclude my contribution this evening by once again acknowledging the efforts that everyone has made in bringing this legislation to this point—those who have advocated for it, those who have worked on it and those who have come into this chamber, shared their stories and contributed to the debate that we have heard here. As I said earlier, I found it incredibly moving and I thank you all for that contribution.

Our government supports the view that change is required and that better assisted reproductive technology and surrogacy services should be provided to the Western Australian community. The bill before us provides a real opportunity for improvement and appropriately reflects the social views of the people of WA, as is evident by our

extensive community consultation. I am looking forward to discussing the detail of this bill as we move into consideration in detail.

I commend the bill to the house.

Question put and passed.

Bill read a second time.

Sitting suspended from 6:21 pm to 6:50 pm

Leave denied to proceed forthwith to third reading.

Consideration in detail

Clause 1: Short title

Ms Libby Mettam: Can the minister advise how much resourcing has gone into the drafting of this legislation in terms of person-hours that have been spent on drafting these laws?

Ms Meredith Hammat: Obviously, it is not easy to provide the exact number of hours that have been spent drafting the bill, and I would reference the work that happened prior to the drafting in the panel and the Sonia Allan review. I am advised that approximately 14 people including drafters, people from the State Solicitor's Office (SSO), the Department of Health and the Department of Justice worked on the bill to bring it to this place.

Ms Libby Mettam: If and when the bill is passed, does the minister anticipate that an information or education campaign will be required to inform the fertility sector, if you like, and what sort of resourcing would go into that? I have further questions on this. Can the minister give us an idea of the shape of the information campaign?

Ms Meredith Hammat: We envisage an implementation period of about 18 months will be required after the passage of the bill. That is the period necessary for the Department of Health, fertility clinics and the community to prepare for and be properly educated about the bill and the processes and their obligations under it. The department is proposing to develop forms. There will be guidance material, policies and other administrative documents. The department will also provide support, education, training and guidance for fertility clinics and other stakeholders to ensure that providers are prepared for the implementation of the new act.

Ms Libby Mettam: Which department will be running the campaign—is that the right word for it? Will it be the Department of Health or will it be directed by the Premier's office?

Ms Meredith Hammat: It will be the Department of Health.

Ms Libby Mettam: What quantum of funding does the minister think will be required to be allocated to his campaign and how will that be provided?

Ms Meredith Hammat: No funding is allocated as such at this stage specifically, but we will give consideration to what is required, and if there is a need for additional funds we will consider that as well.

Ms Libby Mettam: Will this legislation, if passed, require additional FTE in the Department of Health and, if so, how many additional FTE? Further to that, has that FTE been budgeted for?

Ms Meredith Hammat: Member, there is a current team at the Department of Health that will provide support for clinics as part of the transition, and it will continue as required. At the moment, that team is 4.5 FTE.

Ms Libby Mettam: Can the minister clarify that 4.5 FTE have been dedicated to putting this legislation together and will then undertake the role of delivering the campaign? At what stage were staff employed to do this task, given the significance of what we are dealing with?

Ms Meredith Hammat: It is a policy team. It has been working for some time and will continue to work through the implementation phase as necessary.

Ms Libby Mettam: How long has the policy team been dedicated to this task for?

Ms Meredith Hammat: I am advised that it is since 2022.

Ms Libby Mettam: Is this the only policy area that the team has been dedicated to, or is the 4.5 FTE tasked on other roles as well?

Ms Meredith Hammat: I am advised that it is are a dedicated project team.

Clause put and passed.

Clause 2: Commencement

Ms Libby Mettam: Does the minister have an expectation as to when the legislation in full will come into operation? If passed, when will clause 2 be complete?

Ms Meredith Hammat: Once the bill has passed Parliament, there will be an implementation period of 18 months.

Ms Libby Mettam: Can the minister provide a breakdown of the 18 months in terms of what will be involved in the implementation of the legislation?

Ms Meredith Hammat: As I was saying earlier, this period is to allow clinics, the community and the Department of Health to prepare for it. The Department of Health will develop regulations, forms, guidance material, policy and other administrative documents necessary to implement the new act. It will establish the Assisted Reproductive Technology Advisory and Review Board and provide support and education for fertility clinics and other stakeholders.

Ms Libby Mettam: Did the minister say that there will be the establishment of an implementation committee?

Ms Meredith Hammat: It is not an implementation committee. I referenced the establishment of the Assisted Reproductive Technology Advisory and Review Board. The member will be familiar with that board as it is one of the things to be created by the act.

Clause put and passed.

Clauses 3 and 4 put and passed

Clause 5: Principles

Ms Libby Mettam: There is no principle requiring that intended parents must be fit and proper persons, which means there is no requirement for background checks, working with children checks or criminal checks. Why has the government not included a fit and proper person test for intended parents or even the working with children check? We are talking about intended parents of any background. Raising this concern is not about being discriminatory against sexual orientation; it is about what sort of checks are in place for intended parents.

Ms Meredith Hammat: The principles of the act were drafted with reference to the ministerial expert panel. One of the central things in this legislation is the best interests of the child. That was the recommendation of the MEP and that is what is reflected in those principles, as well as the other recommendations that panel made.

Ms Libby Mettam: Can the minister assure the house that a person who would be ineligible for a working with children card will not be able to be an intended parent under this legislation and, if not, why?

Ms Meredith Hammat: I would point the member to the recommendations of the Allan review. That review canvassed in some detail the problems with implementing a blanket criminal record screening or some kind of other working with children check. There are a number of reasons why doing that does not provide watertight assurance. Even with those checks, it would not provide the assurance that the member is seeking. That is why it has not been included.

Ms Libby Mettam: I know the member for Cottesloe has a question. I have some further ones on this point.

Ms Sandra Brewer: I refer to clause 5(b) on line 28, which is the definition of persons who become pregnant. Can the minister provide an explanation as to why that was not a defined term in the bill?

Ms Meredith Hammat: That is referred to in one of the clauses. There is no definition because a person who becomes pregnant is a well-understood concept.

Ms Sandra Brewer: I note that the definition of "deceased person", "donor-conceived person" and every other sort of person in the bill is defined. Why was "person who becomes pregnant" not defined?

Ms Meredith Hammat: It is not defined because it is a well-understood term and not likely to be misinterpreted by courts.

Ms Libby Mettam: Just on this section, can the minister define "wellbeing and best interests" as it pertains to this principle?

Ms Meredith Hammat: Through the first principal, the bill aims to bring some parameters to the meaning of "best interests of the child" by referring to the child's physical, emotional and mental health, safety and rights.

Ms Libby Mettam: Will the legislation provide recourse, or is there any consideration of that, for a person who becomes, or tries to become, pregnant as a result of ART or surrogacy arrangements and does not believe that that process protected their wellbeing or best interests?

Ms Meredith Hammat: Can I ask the member to repeat the question.

Ms Libby Mettam: Yes. Will the legislation provide any recourse for a person who becomes, or tries to become, pregnant through that process, as a result of ART or surrogacy arrangements, who believes their wellbeing and interests were not protected, whether it was by the fertility provider or otherwise?

Ms Meredith Hammat: It is a guiding principle for the interpretation of this act. As such, it would underpin consideration of any provision in this act.

Ms Libby Mettam: The minister said that it is a guiding principle in terms of protection and the best interests of the individual who is seeking to become pregnant. Is there any provision in the bill relating to circumstances in which an individual, as a result of this process, believes that this principle has not been met? Are there any consequences?

Ms Meredith Hammat: Sorry, member, I want to properly understand the question. Is the member talking about people who might be unhappy with the service they receive from a licensed provider and are seeking redress? Is that what the member's question goes to?

Ms Libby Mettam: It could be. I refer to an individual who has sought to become pregnant, as outlined in this section, who believes their best interests have not been met—this could be in a range of ways—under this legislation.

Ms Meredith Hammat: There are mechanisms for people who are unhappy with the service they have received from a licensed provider. They can complain about the service directly to the licensed provider, which should have a complaint management policy in place. They can also complain to the Department of Health, as regulator of ART services in WA, or to the Health and Disability Services Complaints Office (HADSCO). They can also lodge a complaint with the Reproductive Technology Accreditation Committee if there has been a breach of the provider's code of practice. They can also lodge a complaint with the Australian Health Practitioner Regulation Agency (AHPRA) if it relates to a specific practitioner.

Ms Libby Mettam: In relation to those established avenues for complaint, is the minister able to provide any information about how many complaints have been received about the current process in place, whether it is AHPRA, HADSCO or others?

Ms Meredith Hammat: We do not have information on historical complaints available. There are other avenues to access that information if the member wants that.

Ms Libby Mettam: The stated principles relate to wellbeing and best interests. What evidence will a person be required to demonstrate that the wellbeing and best interests of a person born as a result of this bill's arrangements are paramount? This is a flip of my other question. What evidence will a person be required to demonstrate to prove that, if anything? How is it defined?

Ms Meredith Hammat: In terms of making the assessment about access, the bill requires that a medical practitioner certify that the procedure is appropriate for the person, and in doing that, they have to consider the person's current and likely future physical, psychological and social circumstances. This will be done by medical professionals and supported by a team usually consisting of nurses, scientists and counsellors to ensure that ART is the appropriate treatment for that person.

Ms Libby Mettam: How is that process undertaken? Can the minister provide further clarification on the counselling element—perhaps a summary—as I know we will be dealing it with it in greater detail when we get to other parts of the bill?

Ms Meredith Hammat: It will probably be more helpful if we deal with these sort of considerations as we work through the details. The bill provides for both assisted reproductive technology and surrogacy. Although, I am advised that in both cases, counselling and a clinical decision is part of that. It is probably more helpful to work through the details of the bill and address those issues.

Ms Libby Mettam: Clause 5(2)(c), which we are dealing with, states:

> the physical, emotional and mental health, wellbeing and safety of persons provided with assisted reproductive technology services or who participate in surrogacy arrangements (including donors, contributing parents and intended parents) should be protected;

Does the legislation provide for how such persons are to be protected and what recourse is available for those who do not believe that this principle has been met?

Ms Meredith Hammat: Again, I think it would be more helpful if we deal with these considerations as we move through the detail of the bill. The best interests of the child is a guiding principle that underpins the bill and the legislation. It is much easier to talk about the specifics of how that will apply as we come to the specific provisions of the bill.

Ms Libby Mettam: Clause 5(2)(i) states, "assisted reproductive technology services provided by licensees should…" and goes on to define the requirements. Why is that "should" and not "must"?

Ms Meredith Hammat: Member, I will just kind of make the point that we are in the principles section of this bill. In describing a principle, it is a most appropriate way to express a principle. Again, this is bearing in mind that the section of this bill that we are in talks about principles.

Ms Libby Mettam: I appreciate that, minister, but language is important. There is a significant difference between "should" and "must". We are talking about transparency, protecting the privacy of persons and being safe and human centred. That goes to my question about why it is not "must".

Ms Meredith Hammat: I suppose again I will just make the point that this is a principles section. As we move through the bill, there are specific requirements and they are expressed in those sort of more mandatory terms of "must". Given these are principles, they are described in that way. I think it would be helpful to consider the specific provisions as we move through the parts of the bill. The member will be able to see then the mandatory provisions in respect of the different sections of the bill.

Ms Libby Mettam: The reason I raise this, as the minister understands, is because assisted reproductive technology services provided by licensees only "should" protect the privacy of all persons who contribute or benefit from the services, not "must" protect them, and it only "should" be safe and human centred, not "must" be safe and human centred. I hope that point is clarified. There is a difference in terms of the language and what it means.

Ms Meredith Hammat: I will just make the point that as we move through the detail, the member will see that there are specific provisions, particularly around such things as protecting the privacy of persons. There will be specific provisions about that, which are expressed in more mandatory terms. This sets up the principles that underpin the act. As we come to specific clauses, the member will see there are specific requirements and, in some cases, penalties for noncompliance.

Ms Sandra Brewer: The background to discussing the principle in clause 5(g) is because advocates that I met with during consideration of this bill suggested that they wanted to see a future in which commercial surrogacy was available. The expression of "trade in the reproductive capabilities of persons" and that description is quite different from clause 4(b)(i), which says "prohibiting surrogacy arrangements for reward". Can the minister please explain why prohibiting for reward was not a principle and why it was expressed as "trade" in the reproductive capabilities of persons?

Ms Meredith Hammat: There are two different sections of the act and they are referencing two different things. The principles section, which is what we are on, obviously underpins the objects and is broader in nature than the objects. We set out in the objects of the act to prohibit surrogacy arrangements for reward. I think that is understood.

In the principles section where we reference "trade in the reproductive capabilities", we are referencing materials as well. It is not just in relation to surrogacy; it also includes things like sperm donation, egg donation et cetera. They are different concepts and they are different sections.

Clause put and passed.

Clause 6: Terms used

Ms Libby Mettam: I understand, minister, that most terms point to definitions provided in different sections of the bill further on, but I refer to the definition of department as:

> … the department of the Public Service principally assisting in the administration of this Act;

Can the minister be more specific as to which department will be principally assisting with the administration of the act? I have a good guess given the minister's previous answers, but I ask for clarification on this clause. I have a follow-up.

Ms Meredith Hammat: It clarifies that it is the Department of Health.

Ms Libby Mettam: Will there be another department established within the Department of Health or is that the four-and-a-half person policy committee?

Ms Meredith Hammat: The Department of Health is expressed in this way so that in the event there is some change to the name, that would also be incorporated. The team I referred to earlier is a policy team that has been working on this issue. The Department of Health already undertakes some licensing functions as a separate and distinct function in the department and that will continue under this legislation as well.

Ms Libby Mettam: I refer to the surviving partner. I know we will be dealing with this in another part of the bill. What evidence will be required for a surviving partner to prove they were the deceased person's partner immediately before the person died, particularly if there is a dispute as to who the deceased person's partner was?

Ms Meredith Hammat: We will come to this at a specific provision, but it is a married couple or a de facto couple.

Clause put and passed.

Clause 7: ART services

Ms Libby Mettam: The government has made a significant effort to point out that surrogacy arrangements for reward are prohibited. However, this clause allows services to be performed for reward. Will there be oversight of the profits made for surrogacy services? Where will the profits be directed?

Ms Meredith Hammat: This clause relates to services that provide assisted reproductive technology. It is not to be confused with the prohibition on surrogacy for reward, which is a very different concept. These are the services that the member would be familiar with that already provide assisted reproductive technology as a matter of their business.

Ms Libby Mettam: I have a further question. Why is the government proposing that new ART procedures be added by way of regulation and not through legislation, given significant nature of these reforms?

Ms Meredith Hammat: Can I just clarify whether we are on clause 7 or clause 8?

Clause put and passed.

Clause 8: ART procedures

The Acting Speaker: Member for Vasse, can you please re-ask your question for clause 8.

Ms Libby Mettam: Why is the government proposing new ART procedures to be added by way of regulation and not through legislation given the significant nature of the changes?

Ms Meredith Hammat: That is so we can provide for advances and changes in technology over time.

Ms Libby Mettam: I refer to clause 8(1)(d), which provides for regulations to prescribe an ART procedure. Do you have an expectation of what the regulations might include?

Ms Meredith Hammat: I am advised that an example is that testicular or ovarian transplantation might be a future procedure regulated under the ART act rather than human and tissue transparent legislation. Again, it is just to acknowledge that there will be changes over time.

Ms Libby Mettam: I thank the minister for providing that example. Did the government look at examples from other jurisdictions when it comes to the provision of regulations? To what extent was the government informed by other state jurisdictions?

Ms Meredith Hammat: There would be nothing at this point that would look different to other states. The provision is to allow a consideration of changing technology over time, so that could be updated by way of regulation rather than legislative change, which would be more efficient.

Clause put and passed.

Clause 9: Reproductive material and embryos

Ms Libby Mettam: Clause 9(2) provides examples of reproductive material as defined at subclause (1). Is this an exhaustive list? If not, does the minister have other examples of what reproductive material could include?

Ms Meredith Hammat: Reproductive material is broadly defined in recognition of the potential for technological advances that might expand the types of material that may be used for purposes of assisted reproduction in future. The examples given at subclause (2) are based on current ART procedures, which use sperm and eggs to conceive a pregnancy.

Ms Libby Mettam: Clause 9(1) defines reproductive material as:

> Material taken from a human body for the purpose of being used to conceive or create an embryo …

Noting this definition is broad to allow for the advances in technology, does it mean that reproductive material will be more broadly defined to include cells for the purpose of cloning? Will there be a more expansive understanding of what could be included?

Ms Meredith Hammat: I just refer to my previous answer but I would add that cloning is prohibited under the bill. There is a specific prohibition on that.

Ms Libby Mettam: Clause 9(3) provides the definition of an embryo. It is a nationally accepted scientific descriptor. Is the wording used in this legislation to define an embryo exactly the same as the wording used to define an embryo in other jurisdictions' legislation?

Ms Meredith Hammat: I can advise the member that this definition is widely used in other jurisdictions such as the Commonwealth, the ACT and Queensland, as well as across independent and international ART regulatory bodies.

Ms Libby Mettam: Is the minister able to explain how it differs from the other state jurisdictions that the minister has not mentioned?

Ms Meredith Hammat: I cannot answer that question specifically for the member other than to acknowledge that the Commonwealth, the ACT and Queensland all have more recent legislative frameworks and that we are consistent with those. Other states may have other definitions because they are older.

Clause put and passed.

Clause 10: Partners and couples

Ms Libby Mettam: Clause 10(1) defines a person as the partner of another person if they are married or in a de facto relationship. Is "de facto relationship" defined by other legislation? Otherwise, what evidence would be required to prove that two partners were in a de facto relationship?

Ms Meredith Hammat: I am advised that "de facto" is defined by the Interpretation Act. It is a matter for the Family Court to decide based on the consideration of normal factors such as the length of the relationship, the living and financial arrangements and the joint ownership of property et cetera.

Ms Libby Mettam: Clause 10(2) defines a couple as two persons being married to each other or in a de facto relationship as a couple. Can the minister explain the necessity for this clause and the difference between this clause and clause 10(1) in respect of how this legislation pertains to the two subclauses?

Ms Meredith Hammat: The two terms are used in different contexts of the legislation. For example, a reference to a couple in relation to an embryo means that embryo belongs to them as a couple. In that context, that would be referred to, whereas the relationship, in this bill, would be a surviving partner, for example. They are different contexts in the bill.

Clause put and passed.

Clause 11: Person's or couple's reproductive purposes

Ms Libby Mettam: I refer to clause 11(1)(b) in conjunction with clause 11(2), and the use of the words "as a result of another ART procedure". Can the minister outline what that means? Could it include a separate procedure that is not specifically intended for the person to whom clause 11(1)(a) would apply?

Ms Meredith Hammat: Sorry, can I ask the member to repeat that question so we can get the proper references in the clause? Thank you.

Ms Libby Mettam: I am referring to clause 11(1)(b) in conjunction with clause 11(2) and the use of the words "as a result of another ART procedure". Can the minister outline what that means? Could it include a separate procedure that is not specifically for the intended person to whom clause 11(1)(a) would apply? I am wondering whether clause 11(1)(b) means an ART procedure that is performed for someone else but ultimately is given to another person when the ART procedure referred to in clause 11(1)(a) is not successful.

Ms Meredith Hammat: There are two different concepts in clauses 11(1)(a) and (b). Paragraph (a) would be, for want of a better description, a one-step procedure, like artificial insemination, whereas paragraph (b) refers to a procedure when there would be two steps such as the creation of an embryo, which would involve not just one step but two.

Ms Libby Mettam: In clause 11(1)(b) is reference to the words "as a result of another procedure". In that context, can the minister outline what that means?

Ms Meredith Hammat: For example, the implantation of an embryo would be one procedure but the creation of it would be a separate procedure. It could be part of one treatment for an individual but there would be more than one step to create the embryo and implant it.

Ms Libby Mettam: For further clarification on that, in this instance, does paragraph (b) mean an ART procedure performed for someone else but ultimately given to another person?

Ms Meredith Hammat: I can confirm that clause 11(1)(b) does not include procedures collected for one person and performed on another. It is for one person. It might be something that has a number of stages to achieve the desired outcome.

Clause put and passed.

Clause 12: Birth parent

Ms Libby Mettam: Under what circumstances could someone be deemed to be the birth parent if they have not given birth to the child?

Ms Meredith Hammat: There is an existing comparable provision in section 5 of the Artificial Conception Act. It is not a new provision.

Clause put and passed.

Clause 13: Contributing parents

Ms Libby Mettam: Clause 13 deals with contributing parents and clause 9(2) provides examples of reproductive material. Can the minister provide examples of contributing parents as defined by clause 13?

Ms Meredith Hammat: It is when material is collected from a person who intends to become the parent—for example, sperm collected then used in assisted reproductive technology. The person who contributed the sperm will be the parent of that child.

Clause put and passed.

Clause 14: Intended parents

Ms Libby Mettam: This clause is pretty straightforward but I just ask for the record: At what stage does an intended parent become an intended parent? At what point is that confirmed as it relates to this section of the bill?

Ms Meredith Hammat: It would be at different points depending on whether a person was using assisted reproductive technology or using surrogacy. For ART, it would be at the point they provide consent as part of the normal process around that. For surrogacy, it would be the point at which they enter into the agreement that is provided for in the bill.

Clause put and passed.

Clause 15: Donor

Ms Libby Mettam: Under clause 15, a person who is a contributing parent can become a donor and vice versa if the person's intent to be, or not to be, a parent is clear. What is required from the person to ensure it is abundantly clear they intend to be, or not be, a parent? What sort of documentation will it require?

Ms Meredith Hammat: There is a consent form that a person would need to sign, which would make that clear.

Clause put and passed.

Clause 16: Surrogacy arrangement, surrogate, intended parents and overseas surrogacy arrangement

Ms Libby Mettam: Clause 16 deals with surrogacy arrangements, surrogates, intended parents and overseas surrogacy arrangements. Can the minister outline how a surrogacy arrangement under this definition compares with surrogacy arrangements under the *Surrogacy Act 2008*, which is to be repealed?

Ms Meredith Hammat: I am advised it is comparable to the *Surrogacy Act 2008*. It has only updated terminology.

Ms Libby Mettam: What are the significant differences between the two?

Ms Meredith Hammat: I am advised there are no significant differences in the definitions.

Mr Peter Rundle: On clause 16, is there any requirement to have a written or contractual arrangement?

Ms Meredith Hammat: Yes, there is for surrogacy.

Mr Peter Rundle: Is that witnessed, legal or can it actually be just a piece of paper written in amongst those, or is a statutory declaration or any other legal format required?

Ms Meredith Hammat: There is a requirement to get independent legal advice and it is common practice for these agreements to be drafted by lawyers.

Clause put and passed.

Clause 17: 5 family worldwide limit

Ms Libby Mettam: Can the minister explain the reasoning behind the "5 family worldwide limit"? Is this consistent with the limits in other jurisdictions?

Ms Meredith Hammat: The "5 family worldwide limit" is comparable to what currently exists in Western Australia. It is appropriate in relation to the size of Western Australia and the population. Donor-conceived persons and recipients strongly supported the retention of this limit to reduce the overall number of donor siblings and reduce the risk of consanguinity. Other jurisdictions around Australia have a variety of five-family limits and some have 10-family limits. The Australian Capital Territory, New South Wales, Victoria, South Australia and Queensland all have a 10-family limit.

Ms Libby Mettam: The minister stated that this is an existing limit. Does the minister have any advice on how often that limit has been met or whether there have been appeals to change the limit?

Ms Meredith Hammat: It is an offence to breach the five-family limit unless—there have been only a few occasions when the board has provided for anything different.

Ms Libby Mettam: What process must be undertaken to confirm the number of families worldwide that are related to the donor?

Ms Meredith Hammat: Licensees are required to verify donor identity. It is an offence for donors to provide a false identity. That provides certainty for that limit in Western Australia.

Ms Libby Mettam: Further to that, what procedures, processes or resources will there be within government to confirm the number of families worldwide related to the donor for each procedure performed under this legislation?

Ms Meredith Hammat: To reiterate, licences are required to verify the donor and there are offences if they provide a false identity. The Department of Health has a monitoring and compliance process to identify that is used in assisted reproductive technology treatment for more than five families. Data is held in the existing reproductive registers and it is used for this purpose. That will continue under the new legislation.

Ms Libby Mettam: The ART providers self-regulate and the government oversees the work they do; is that fair to say?

Ms Meredith Hammat: In addition to what I have already outlined about requirements on the licensee, the obligation is on the donor and the Department of Health's monitoring and compliance process. The Reproductive Technology Accreditation Committee also has an annual accreditation process that seeks to identify whether the ART provider is compliant with the five-family limit, and those outcomes are shared with the department as part of the licensing process. There is quite extensive oversight.

Ms Libby Mettam: The minister touched on the other jurisdictions that have a five-family limit. Were any jurisdictions identified with a limit lower than five and, if so, what were they?

Ms Meredith Hammat: Where there is regulation in Australia it is either five or 10 families—five is the minimum.

Ms Libby Mettam: I note that clause 17(1) indicates that the limit is a principle. Does that mean that more than five families worldwide could be related to the same donor and that it is not prohibited? Is that what that means?

Ms Meredith Hammat: It would be up to the board to approve any circumstances that would be limited. One example might be where people have moved from a state with a higher limit—for example, Queensland, where there is a 10-family limit. A person having used the provisions in that state might move to WA and seek to add to their family, and they would have to make an application to the board to get approval for that. That might be an example of where that would be considered, but it is something the board would have to agree to.

Ms Libby Mettam: Clause 17(2) does not limit the number of children for any family. Does that include the number of surrogate children within the one family?

Ms Meredith Hammat: This clause is about donors, not about surrogates, and, to be clear, it is a five-family worldwide limit not a five-child worldwide limit. The clause relates to donors.

Clause put and passed.

Clause 18 put and passed

Clause 19: Requirement to hold licence

Ms Meredith Hammat: I move:

> Page 16, line 8 — To insert after "subsection:":
>
> imprisonment for 2 years and

Ms Libby Mettam: I have been briefed about clause 19, but for the purposes of *Hansard* can the minister provide clarification on what this amendment is about?

Ms Meredith Hammat: There was a drafting error identified after the introduction of the bill. This amendment inserts an additional penalty of imprisonment for two years for this offence. A breach of the requirement to hold a licence is a significant offence and the penalty is intended to align with other significant offences, such as those in clauses 25(1) and 26(1).

Ms Libby Mettam: How does this penalty compare with those of other jurisdictions?

Ms Meredith Hammat: The amended clause was developed in consideration of what applies in other jurisdictions.

Ms Libby Mettam: For further clarity, clause 19(1) states that a person must not provide an ART service unless they are licensed to. Does this allow for a person who is not medically qualified to acquire a licence and employ medically qualified people to perform an ART service?

Ms Meredith Hammat: To clarify, this relates to a licence to conduct a service and the penalty if you do not have that appropriate licence. There are separate provisions if individuals who are not appropriately qualified deliver services, but this is for a service. Other provisions will apply, for example, to the people performing the procedures.

Ms Libby Mettam: How is the penalty determined? Is there a reason for this particular figure? Can the minister clarify why incarceration is not included?

Ms Meredith Hammat: Firstly, I clarify that the amendment I moved will insert the word "imprisonment". Perhaps the member could rephrase the question.

The Acting Speaker: Member for Vasse, there were a couple of versions of the schedule of amendments. Do you have a copy of it?

Ms Libby Mettam: Yes. Can the minister explain the quantum of this and why incarceration was not originally included?

Ms Meredith Hammat: The quantum is consistent with other provisions of the bill. I clarify that this was a drafting error. It was always intended for there to be a penalty that included imprisonment for those people who might conduct a service without a licence, as I said, because of the seriousness of doing so.

Ms Libby Mettam: I have not had the chance to look at the explanatory memorandum or other references to incarceration. Was incarceration mentioned in the second reading speech or explanatory memorandum?

Ms Meredith Hammat: I do not think that I specifically spoke about licence holders in my second reading speech, but there are a number of other provisions that include serious penalties, such as fines and imprisonment, in other sections of the bill.

Ms Libby Mettam: How does the penalty of incarceration compare with other jurisdictions?

Ms Meredith Hammat: We considered in particular those jurisdictions that have a more recent legislative framework and considered their schemes as part of drafting this legislation. We do not have the specific provisions that apply in every other state to this requirement of holding a licence. I am advised that a fine and imprisonment is broadly consistent. We can undertake to get more specific information.

Ms Libby Mettam: As the minister described, the exclusion of incarceration was a drafting error. Was the absence of incarceration in this clause of the bill raised by any stakeholders since it was introduced?

Ms Meredith Hammat: It was picked up by my advisers.

Amendment put and passed.

Clause, as amended, put and passed.

The Acting Speaker: We now move to clauses 20 to 49. I do not in any way want to rush anyone this evening at all, but if you do know what numbers you want to pull out for questions, let me know. Otherwise, we can go through them one by one. I have been advised that I can move them en bloc.

Clause 20: Provision of ART services restricted to licence premises

Ms Libby Mettam: Can the minister advise how the penalty of $50,000 was determined and how it compares to other jurisdictions?

Ms Meredith Hammat: This is broadly in line with an existing provision—section 27 of the *Human Reproductive Technology Act 1991*.

Ms Libby Mettam: Can the minister explain why incarceration was not considered for this clause?

Ms Meredith Hammat: I assume the member is asking that question in relation to clause 19. The reason was the seriousness of a breach of clause 19, in which a service might seek to provide services without being appropriately licensed. Licensing is an important part of the overall scheme because it will provide assurances about the safety and quality of the services being provided. The delivery of a service at an alternative premises will have less serious consequences for the quality of those services and the safety of people accessing them.

Clause put and passed.

Clause 21: Access to ART procedures provided by licensee

Ms Libby Mettam: Clause 21(1) will enable a person to access an assisted reproductive technology procedure if a medical practitioner certifies that the procedure is appropriate for the person, having considered the person's current and likely future physical, psychological and social circumstances. Can the minister outline what criteria a medical practitioner will use to consider whether a person's physical, psychological and social circumstances would warrant them being eligible to access an ART procedure?

Ms Meredith Hammat: The bill is specifically designed so that that decision will be made by a clinician. It will be a clinical decision. A clinician is the best person to provide that assessment.

Ms Libby Mettam: Is there any guidance for clinicians on how that determination will be made or will that be provided as part of the regulations?

Ms Meredith Hammat: It is a clinical decision. We would rely on them to make a clinical decision using their best judgement. The framework is that they will make a clinical decision. They will use their judgement to make that decision.

Ms Libby Mettam: Noting that a medical practitioner in the medical profession is defined as a person registered under the Health Practitioner Regulation National Law (WA) Act, will they be required to specialise as a psychologist or other specific field within the medical profession?

Ms Meredith Hammat: The answer is no.

Ms Libby Mettam: Clause 21(3) states:

> Subsection (1) does not apply to a person who accesses an ART procedure for the purpose of being a donor of reproductive material.

Why is the government not requiring a donor to be assessed from a physical or psychological perspective as well?

Ms Meredith Hammat: Donors will not require certification by medical practitioners as they are not the person who is seeking or undergoing the ART procedure for the purpose of reproducing and becoming a parent. Donors are not considered a parent. It is a very different decision.

Clause put and passed.

Clause 22 put and passed

Clause 23: Appropriately qualified

Ms Libby Mettam: Clause 23(2) refers to a person being appropriately qualified to perform an ART procedure only if:

> (b) in the case that a specific qualification or experience is prescribed as a requirement to perform the ART procedure — the person has the prescribed qualification or experience; or
>
> (c) in the case that a class of persons is prescribed as persons who are qualified to perform the ART procedure — the person is a member of the prescribed class; …

Does the minister have examples of the qualifications or experience that will be prescribed in the regulations?

Ms Meredith Hammat: For example, regulations might prescribe appropriate qualifications for embryologists so that other scientists can perform ART procedures such as embryo creation.

Ms Libby Mettam: Will further regulations be drafted around what is considered "appropriately qualified" in this section of the bill?

Ms Meredith Hammat: Yes.

Ms Libby Mettam: Are those regulations drafted, or is that still to be done? If they are drafted, can the minister table a copy?

Ms Meredith Hammat: The regulations have not been completed as we are working our way through the bill now.

Ms Libby Mettam: I perhaps should have asked this earlier. What will be required when drafting those regulations? Does the minister have an understanding of what will be set out, or is more work needed to determine what those regulations will look like?

Ms Meredith Hammat: In terms of regulations relating to this clause dealing with what "appropriately qualified" means, licensing regulations are already in effect. There is an existing framework in relation to this. Obviously, throughout the bill, other heads of power will require work on regulations. The work on regulations is a mixture of existing regulations that may need to be updated, which is the case for this particular clause, and the drafting of new regulations once we have finalised the bill.

Clause put and passed.

Clause 24: ART procedures to be performed or supervised by appropriately qualified persons

Ms Libby Mettam: Under clause 24, the penalty for a licensee committing an offence under each subclause is imprisonment for two years and a fine of $50,000. How has the minister arrived at this penalty? How does it compare to other jurisdictions?

Ms Meredith Hammat: These penalties are broadly consistent with other states—as I say, in broad terms.

Ms Libby Mettam: Are these new offences? I imagine there have been offences in place in the past, but is this new, and to what extent?

Ms Meredith Hammat: It is a new provision. It will create an explicit requirement that procedures must be performed or supervised by an appropriately qualified person so that we can strengthen accountability, patient safety and quality.

Ms Libby Mettam: The penalty under clause 19 now includes imprisonment. Clause 24 includes imprisonment as well. Can the minister explain the justification for imprisonment under this clause?

Ms Meredith Hammat: This clause deals with ensuring that an appropriately qualified person performs or supervises the procedure. The member referred to the amendment in clause 19, which went to the licensing of a facility. These are all important provisions that will ensure that appropriate safeguards are in place to assure people of the safety and quality of the services that they will access, by putting in place strong penalties when that is not followed.

Mr Shane Love: This clause refers to licensees committing offences. I think part 7 refers to officers in the case of a corporation and who would be the licensee in that circumstance. What would be the circumstance in which a person who was part of a corporation that was the licensee could potentially face imprisonment as an officer of that corporation?

Ms Meredith Hammat: I refer the member to clause 226 in division 2, which makes clear the liability of officers for offences of body corporates contained in the Criminal Code.

Clause put and passed.

Clause 25: Requirement for medical practitioner to certify ART procedure is appropriate

Ms Libby Mettam: This clause requires a licensee to ensure that a medical practitioner has certified that an ART procedure is appropriate for a person seeking to use ART for reproductive purposes. Will there be a form or certification that must be kept or provided to a relevant authority demonstrating that the medical practitioner has certified that an ART procedure is appropriate?

Ms Meredith Hammat: The licensee will be required to keep a record of that certification from a medical practitioner. The Department of Health, through its licensing function, has the power to ensure compliance with that.

Ms Libby Mettam: Is certification already process in place or will this be a new process?

Ms Meredith Hammat: The requirement for a medical practitioner is a new provision in terms of providing for access to ART.

Ms Libby Mettam: Will this be verbal certification? Will there be a register? What form will this take?

Ms Meredith Hammat: There is no prescribed form as such but it will be one of the records, along with important records relating to procedures, that licensees are required to keep.

Ms Libby Mettam: The penalty aligns with provisions at clauses 24 and 19. Is it consistent with other jurisdictions?

Ms Meredith Hammat: We considered legislation in other states in framing those provisions.

Clause put and passed.

Clause 26: Performing ART procedures on children

Ms Libby Mettam: Under clause 26, ART procedures are not to be performed on anyone under 18 years of age, with an exception for collecting reproductive material for future use in the event a person is at a reasonable risk of becoming infertile before becoming an adult. Will there be criteria, guidelines or other requirements for medical practitioners to follow or a requirement to provide evidence that confirms a procedure is consistent with this clause to collect reproductive material from a person under the age of 18?

Ms Meredith Hammat: It will be a clinical decision. I refer the member to subclause (3)(a), which requires:

> a medical practitioner has certified that there is a reasonable risk of the person becoming infertile before becoming an adult …

There is paragraph (b) as well.

Ms Libby Mettam: I certainly empathise with that provision. What process will be involved in seeking access for a child as it relates to this provision of the bill?

Ms Meredith Hammat: Given subclause (3)(a) identifies that the person is at risk of becoming infertile, it is likely that person will already be receiving treatment from a medical practitioner—maybe in relation to chemotherapy or some other condition that would contribute to that risk of becoming infertile. It will require clinical judgement, bearing in mind that the child under 18 will probably already be in the care of medical practitioners for a condition that is contributing to that risk of becoming infertile.

Ms Libby Mettam: I take it that this legislation is consistent with other jurisdictions. Can the minister clarify that?

Ms Meredith Hammat: Member, this is one of the recommendations of the expert panel that considered the best way to progress these things. We have taken on the panel's recommendations in drafting these provisions.

Ms Libby Mettam: Does the minister have any data from other Australian jurisdictions on the ages of people undergoing ART procedures?

Ms Meredith Hammat: I do not have that information with me.

Mr Shane Love: We are on clause 26, "Performing ART procedures on children". I see that clause 26(3)(b) states:

> the procedure is performed for the purpose of storing the reproductive material collected for the person's future use.

The explanatory memorandum says:

> An exception is provided for a collection procedure if a medical practitioner has certified there is a reasonable risk of the person becoming infertile … Once they reach 18 years of age, they can decide what is to happen to the material.

Subclause (4) reads:

> A licensee commits an offence if reproductive material collected from a person when the person was under 18 years of age is used in an ART procedure before the person reaches 18 years of age.

I am a bit confused as to whether a person has to personally use the material once they reach 18 years of age or whether it can become part of some other ART procedure. Could the minister just clarify that for me, please?

Ms Meredith Hammat: When the person turns 18, they will be able to decide what happens to the material that has been collected. They may choose to use it at a much later stage. They might choose to dispose of it. They might choose to donate it. On becoming 18, they can make that decision.

Mr Shane Love: Subclause (3)(b) states:

> the procedure is performed for the purpose of storing the reproductive material collected for the person's future use.

That would not necessarily apply in all circumstances. It is for whatever use the person wants to give that material and it does not have to be used by them personally.

Ms Meredith Hammat: Paragraph (b) specifically refers to the purpose of the collection. It can be collected only in those circumstances—as we have talked about, the risk of the person becoming infertile—and for potential future use. But, of course, at a future point in time, that person might have their own view. If the person is under 18, they might collect it as a way of ensuring that they have options as they get older. At some point in time they may choose to use it, or they may choose that they do not wish to use it, in which case they would have another series of decisions to make. But it can be collected only for the purposes of their personal use. It cannot be collected for another purpose.

Clause put and passed.

Clause 27: Exceeding 5 family worldwide limit

Ms Libby Mettam: Why is the penalty for breaking the five-family worldwide limit not included in clause 21?

Ms Meredith Hammat: Those two clauses deal with different things. Clause 27 relates specifically to when there is an exceedence of the five-family worldwide limit and clause 21 deals with access to ART procedures provided by the licensee.

Ms Libby Mettam: Under clause 27(1)(b), the licensee commits an offence if they know or ought to have known that using the reproductive material or embryo in the procedure is likely to result in the five-family worldwide limit being exceeded. How will it be proven that a licensee ought to have known that a procedure was likely to result in the five-family worldwide limit being exceeded?

Ms Meredith Hammat: The licensee would need to demonstrate that they had taken reasonable steps to both verify the donor's identity and ensure that they had collected the appropriate disclosures from that donor.

Ms Libby Mettam: How would they prove that reasonable steps had been taken, and what measures would need to be in place to illustrate that?

Ms Meredith Hammat: As I said, licensees will be required to verify a donor's identity. The bill also enables the disclosure of donor information between licensees within the state, nationally and internationally for this purpose. As I have said previously, it is also an offence for a donor to provide a false identity. There are provisions to collect information about donors and provide the steps they have undertaken previously.

Ms Libby Mettam: Will the department require additional resources to monitor this provision? If so, does the minister have advice about the resourcing that the department will require?

Ms Meredith Hammat: This is a current provision. The Department of Health also has a licensing requirement for this. The five-family limit is not a new provision.

Ms Libby Mettam: Is this not anything new, or what is the substantive change? Can the minister clarify that?

Ms Meredith Hammat: This provision is comparable to clause 8.1 of the Human Reproductive Technology Directions 2021. It is an existing provision. Enshrining it in this bill will strengthen the authority regarding the five-family worldwide limit.

Ms Libby Mettam: What if a person who is party to an ART procedure was conceived from a sperm donation in which the identity of the donor was unknown? What would be the obligations on the licensee to establish compliance with the "5 family worldwide limit" requirement?

Ms Meredith Hammat: To reiterate, there is a requirement on the licensees to verify the donor's identity. They cannot be an unknown donor. There are also offences if donors provide a false identity. Individual donors will be penalised if they provide a false identity and, as I said, the bill also enables the disclosure of donor information between licensees, both within the state, nationally and internationally. Penalties would apply if licensees did not identify the donor or if the donor was being obscure or provided a false identity. There are a number of provisions that underline the offences for this.

Ms Libby Mettam: Am I correct in understanding that a register is associated with the donors? Will that be established as part of this provision or does a register already exist?

Ms Meredith Hammat: I am advised that the Reproductive Technology Register has existed since the Human Reproductive Technology Act was introduced sometime ago. It is not new to have a register.

Ms Libby Mettam: Are any changes anticipated to be made to that register as a consequence of this legislation, or will it be pretty consistent with the way it operates now?

Ms Meredith Hammat: Overall, it will be consistent. It is quite likely that it will be revealed as part of the implementation of the new act, but it already operates and I am advised that no specific provisions would fundamentally change its operation.

Mr Shane Love: Clause 27(2) states:

> Subsection (1) does not apply if the Board approves the 5 family worldwide limit being exceeded in relation to a specified donor and a specified ART participant or intended parent.

Can the minister expand a little bit on the circumstances in which that might be considered?

Ms Meredith Hammat: I am happy to do that. I provided an example earlier. Some states provide for a 10-family limit. For example, Queensland has a higher limit. The board might give approval in the circumstance when people have been resident in Queensland, where there is a higher limit, and they move to Western Australia seeking to add to their family, having already reached or maybe exceeded in Queensland the five-family limit before coming here. When a different jurisdiction is involved, the board may approve that the family could have another child in those circumstances if they wished to use the same materials. That is one example—when people have moved from another jurisdiction—but the board would need to approve it in those circumstances.

Mr Shane Love: Thank you. That is the decision-making power in clause 27(4), which states:

> The Board may decide to give the approval or to refuse the application.

I just want to expand more on any circumstances other than the simple exceedence of the five-family limit because they come from a different jurisdiction, as the minister outlined. Are there any medical grounds or any other specific grounds that might give rise to why a donor may be favoured, if you like, to go beyond that five-family rule?

Ms Meredith Hammat: Nothing immediately springs to mind. I guess the provision gives the board the opportunity, bearing in mind that the board will be made up of people with some specialities in this area, to give consideration to a particular circumstance, but it would be the circumstances of the family. To be clear, this is about giving the board the opportunity to weigh up those circumstances. Nothing that my advisers are suggesting would be another example.

Clause put and passed.

Clause 28: Disclosure of information permitted to ensure compliance with 5 family worldwide limit

Ms Libby Mettam: Can the minister advise whether the information sharing is restricted to data associated with ART procedures, or can data from other sources be used?

Ms Meredith Hammat: As I was outlining during consideration of the previous provision, licensees will have the ability to access information about donors. This provision enables information sharing between licensees so they can monitor and enforce the donor limit, ensuring compliance and safeguarding donor conception. It facilitates the

"5 family worldwide limit" provision and the sharing of information that I referred to in answer to the member's questions on the previous clause.

Ms Libby Mettam: What protections are in place under this clause to ensure that information is not misused and that the private information of all people captured by this clause is protected?

Ms Meredith Hammat: Clause 267 deals extensively with confidentiality and the importance of that, particularly in relation to licensees. Clause 28 relates to information to assist in the enforcement of the "5 family worldwide limit". As I said, there are extensive provisions elsewhere in the bill relating to confidentiality to provide the safeguards the member referred to.

Mr Shane Love: Is there intended to be any regulatory framework around what due diligence is required to give some further guidance, especially when dealing with someone from an international environment?

Ms Meredith Hammat: The due diligence is on the organisation to ensure that it is complying with the five-family limits. Ensuring that the licensee undertakes that sharing of information that I referred to is quite important to ensure that those provisions are observed and maintained. It requires the licensee to undertake that due diligence to satisfy themselves. As I have said, there are provisions in the legislation that enable them to make inquiries with other providers within the state, nationally or even internationally.

Clause put and passed.

Clause 29 put and passed

Clause 30: Application of Division

Ms Libby Mettam: Can the minister address an issue under this clause or point to the appropriate clause? We have recently seen reports in the media of a mix-up at Monash IVF when a woman gave birth to another person's baby, which raised the issue of parentage. I accept that the legislation will attempt to prevent this and we cannot legislate for every scenario. However, have these parentage issues been considered? How will this legislation deal with such scenarios?

Ms Meredith Hammat: The Family Court would deal with and determine the question of parentage. During the drafting, we were cognisant of those cases that have received publicity.

Ms Libby Mettam: Can the minister clarify that? I missed the second half of what she said.

Ms Meredith Hammat: I said that the parentage orders would be a matter determined by the Family Court. Obviously, the cases that the member referred to are on the public record and were considered throughout the drafting of this legislation. Fundamentally, it will be up to the court to make the determination about parentage.

Clause put and passed.

Clauses 31 to 33 put and passed

Clause 34: Deceased person

Ms Libby Mettam: Can the minister clarify the purpose of clause 34?

Ms Meredith Hammat: This is a new provision. The posthumous use of reproductive material in embryos is not currently allowed in WA. There is no framework for recognising parentage in this situation, so it has been introduced through this clause.

Ms Libby Mettam: I understand that the term exists in other jurisdictions. Are the provisions relating to posthumous use the same as what is proposed in this clause?

Ms Meredith Hammat: There are quite extensive provisions dealing with posthumous use, which might be an appropriate time to talk about those sorts of provisions, with your agreement, Acting Speaker.

Clause put and passed.

Clause 35: Licensee must keep required records

Ms Libby Mettam: Clause 35 carries a penalty of $50,000 for failing to comply. Is this consistent with other jurisdictions? Does it also compare with penalties for breaches of other Western Australian legislation of a similar nature, if any?

Ms Meredith Hammat: I am advised that it is broadly comparable to an existing provision in section 44 of the *Human Reproductive Technology Act 1991*.

Ms Libby Mettam: The period of time for record keeping will be prescribed in regulations. Does the minister know or have an expectation of what the period of time will be? I am sure she mentioned it in debate on the previous clause.

Ms Meredith Hammat: The regulations will prescribe an appropriate period that aligns with record keeping requirements in other jurisdictions. For the member's information, other jurisdictions require records to be kept for a period ranging from 50 years to 99 years.

Clause put and passed.

Clause 36: Required records: ART procedures

Ms Libby Mettam: This clause sets out the information that must be kept by a licensee providing ART procedure services, including prescribed information. Can the minister provide the details of what the prescribed information will include?

Ms Meredith Hammat: I am advised that some existing provisions will be revised as we develop the regulations. For the member's information, an example would be data required by data submission specifications and other requested annual reporting requirements, for example, posthumous collection, posthumous use et cetera. That is an example of what that might include.

Ms Libby Mettam: Why will additional information be prescribed in regulations and not in the legislation?

Ms Meredith Hammat: The clause already details quite a lot of requirements. Referring to the example I just used about data, the requirements in that example are quite technical. There would be a lot of detail about the appropriate data so it is more appropriate that that is in the regulations rather than in an act, given, as well, that data requirements might change over time.

Ms Libby Mettam: Will the regulations require the keeping of records to verify compliance with clause 21, particularly with respect to the certification of one's future physical, psychological and social circumstances?

Ms Meredith Hammat: Yes, they will.

Ms Libby Mettam: Will the regulations require any information pertaining to evidence of compliance with the "5 family worldwide limit"?

Ms Meredith Hammat: Individual records are required to be kept. As we talked about, that is one of the steps a licensee would need to satisfy themselves of. The expectation is that that will be kept as part of that individual's record, along with the certification we talked about from the medical practitioner. They would be kept in a collection of that individual's records for the service.

Mr Shane Love: I am looking through this. The required records that the licensee has to be kept are outlined here, but I am not so sure about where they are kept. What happens in the event that a licensee ceases to exist because the company falls into administration or a licensee that is not a corporation ceases to practise? What happens to the information that has been accumulated?

Ms Meredith Hammat: In the event of a licence surrender or cancellation, the Director General of Health may require the former licensee to transfer the records. In the event of a licence term ending, the Director General of Health may require the former licensee to transfer the records or keep the records at a specified place and in a specified form. In the event of a licensee being otherwise unable to provide ART services, the Director General of Health may authorise an interim licensee to keep the records. There are clauses dealing with all those things.

Mr Shane Love: Was there ever any thought about keeping a central register of this information?

Ms Meredith Hammat: There is a central register held by the Department of Health called the Reproductive Technology Treatment Register.

Mr Shane Love: Can I confirm that all the information outlined here is held on the register?

Ms Meredith Hammat: It is not all those items. There are data submission specifications that advise licensees about what needs to be reported and held in that central register. There is a central register with some information but not all the information. Licensees will be required to collect their own records, as would be expected in a medical organisation.

Mr Shane Love: But we are talking here about records that might extend from 50 to 99 years, so they are not necessarily just any old records. There might be reasons why this information is sought by the progeny of assisted reproductive technology. I would have thought that keeping the information in some sort of register, rather than leaving it to a hodgepodge of platforms to store, would guarantee that access more or less into perpetuity. That is a question, even though it sounds a bit like a statement.

Ms Meredith Hammat: That is why there are specific provisions that deal with what happens to those records when a licensee closes a business, but there is important information in that central register as it relates specifically to donors, which is the kind of information that may be sought by a person after those more extended periods that the member referred to in his question.

Clause put and passed.

Clause 37: Required records: storage

Ms Libby Mettam: This clause requires a licensee storing reproductive material or embryos to keep prescribed information. Does the minister have an indication of what that prescribed information will include?

Ms Meredith Hammat: Again, for the member's information, this is comparable with an existing provision in section 44 of the *Human Reproductive Technology Act 1991*. An example might be the identity of participants, and it might be written consent, as required under the bill.

Ms Libby Mettam: The minister said they were examples. Will other information be required? The minister mentioned that this is the extension of an existing provision. Is this exactly the same as what is currently in place under a different act?

Ms Meredith Hammat: Yes, that is right. This is an existing provision. There are some regulations. We will consider it more during the implementation. To provide some further examples to the member, it might include the identity of a person whose reproductive material or embryos were stored, the date of storage and the type of material et cetera.

Clause put and passed.

Clause 38 put and passed

Clause 39: Licensee must give information to CEO for register of identity and register of ART procedures

Ms Libby Mettam: Once again, can the minister explain how the quantum of the penalty in this clause was determined and why it does not include a jail term? How does this penalty conform or compare with other jurisdictions?

Ms Meredith Hammat: This is about the licensee providing the Director General of the Department of Health with the information the department requires. It does not provide the same safety and quality risks as other provisions we have talked about. The penalties are broadly consistent with what we understand to be the case in other jurisdictions.

Clause put and passed.

Clause 40: Licensee must correct inaccurate information

Ms Libby Mettam: Can the minister explain how this penalty was determined and how it compares with other jurisdictions?

Ms Meredith Hammat: I can advise the member that the penalty is lower than the penalty for keeping records, considering the consequences for a donor-conceived person. There is no equivalent penalty in other jurisdictions. The introduction of this offence in WA goes further than other jurisdictions, bearing in mind that this penalty will apply when a licensee has already provided information but, having discovered it is inaccurate, they have not updated it. It is considered not as serious as when no information has been provided. As I said, there is no equivalent penalty in other jurisdictions.

Ms Libby Mettam: Does this apply when inaccurate information is provided in good faith?

Ms Meredith Hammat: This relates to when information is provided to the Director General of the Department of Health for the Reproductive Technology Register. This clause in particular relates to when information has been provided but it is inaccurate. Presumably that has happened in good faith. It puts an obligation on the licensee to correct the inaccurate information so that the licensee is attentive to making sure that incorrect information is corrected as soon as possible.

Clause put and passed.

Clause 41: Confidentiality of information recorded under this Division

Ms Libby Mettam: Does the penalty in this clause already exist in the current framework?

Ms Meredith Hammat: An existing provision is broadly comparable with sections 48 and 49 of the *Human Reproductive Technology Act 1991*.

Ms Libby Mettam: As I asked before, is it comparable with other jurisdictions?

Ms Meredith Hammat: As I have outlined, it is broadly comparable with an existing provision that is, I am advised, not inconsistent with other provisions around the country.

Ms Libby Mettam: The intent of this clause largely remains unchanged, as I understand it. Is that because no feedback was received in relation to the objectives of this clause?

Ms Meredith Hammat: The clause deals with confidentiality. Of course, we have provisions now. It is important that we have provisions in this bill as well.

Clause put and passed.

Clause 42: False or misleading records

Ms Libby Mettam: Can the minister provide an example, or examples, of the types of false or misleading records that this clause might anticipate?

Ms Meredith Hammat: It is hard to answer specifically. It will be case by case. It is important that the bill have a provision so that licensees do not create false or misleading records. Obviously, record keeping is an important part of what the bill provides for, so we want to be clear about our expectations in relation to that.

Ms Libby Mettam: Can the minister advise whether a defence to a claim of creating a false or misleading record is that the information was erroneous and not deliberately false or misleading? If so, what evidence would be required to prove a claim of creating a false or misleading record?

Ms Meredith Hammat: That would ultimately be a matter for the courts to make those decisions or judgements on.

Ms Libby Mettam: Again, how was the quantum of the penalty determined in this case? Does it currently exist? Is it comparable with other jurisdictions?

Ms Meredith Hammat: I can advise it is comparable with section 50 of the *Human Reproductive Technology Act 1991*.

Clause put and passed.

Clause 43: Licensee must provide access to information

Ms Libby Mettam: I refer to clause 43(3), under which a person born as a result of an ART procedure who reaches 16 years of age attains the right to access prescribed information. Is the age of 16 years consistent with other jurisdictions? Do any jurisdictions require people to be of an older age, such as 18 years of age, before they can access information?

Ms Meredith Hammat: It might be helpful to understand that this is an existing provision. It is comparable with section 49(2d) of the Human Reproductive Technology Act and part 8.5 of the Human Reproductive Technology Directions 2021. It was part of amendments to the HRT act in 2004 that people aged 16-plus would be able to access information. It is an existing provision. I can also add that Queensland has 16 years, plus other states have 18 years. They have a variety of other provisions.

Mr Peter Rundle: The birth parent will obviously be able to access the information prescribed. Will any other people outside that circle also be able to access that information?

Ms Meredith Hammat: Can I clarify which subclause you are referring to?

Mr Peter Rundle: It is subclause (3).

Ms Meredith Hammat: Just to clarify, the child born from the ART procedure will have the right to access information about their birth parent. That information will be accessible only by the child born of an ART procedure.

Mr Peter Rundle: Subclause (4) says:

> … another person who has parental responsibility for the child has the right to access prescribed information …

At what age of the child will the other person be able to access that information? Will it be from birth?

Ms Meredith Hammat: The person who has responsibility for the care of the child born from ART will have the right from birth to access the information. It might be relevant to the care of that child to understand their genetic history.

Mr Shane Love: What will be the limitation, if any, on a person who has parental responsibility for the child wanting to access that information, and what would be the purpose for which the person would need that information?

Ms Meredith Hammat: It will be prescribed in regulations, but it would include things like de-identified medical information or updates to it so that there is access to relevant information about the medical history of the child.

Mr Shane Love: It would not be the same range of information that the child could get once they reach the age of 16 years.

Ms Meredith Hammat: That is correct; it would not be the same.

Clause put and passed.

Clause 44: Contact preferences

Ms Libby Mettam: Will there be a prescribed form or format through which a licensee will be required to provide written notice of another person's contact preferences? Will it need to be paper based or will it be electronic?

Ms Meredith Hammat: There is no prescribed form as such, but there is a requirement that contact preferences be kept as part of the record.

Ms Libby Mettam: What obligations will there be on the licensee to ensure records are kept up to date in the event that a person's contact details change?

Ms Meredith Hammat: There is no obligation on the clinic to proactively contact donors but, obviously, if donors contact the clinic, there is an obligation to keep those records updated.

Ms Libby Mettam: There will obviously be consequences if a clinic is not able to reach out and contact the donor, and this legislation does try to deal with that. Will there be any obligation or recourse in relation to that? Are there consequences that will be attached to that and will there be an obligation for the clinic to ensure that it follows the donor's most recent and up-to-date contact details?

Ms Meredith Hammat: Member, the contact preference for the donor would be in circumstances in which a donor is open to or perhaps even wishes to get contact from a donor-conceived child. In which case, I would imagine they would keep those records up to date to facilitate that contact at some future stage. They have the right to access information about their donors, which would include medical information, name and date of birth as well. It is not a right to contact them per se.

Mr Shane Love: In terms of the contact preferences of the person who is the subject of the recordkeeping, will there be an opportunity for the person to change their contact preferences over time? For instance, they initially did not want to be contacted, but maybe after 15 years or so they change their mind. Will it be possible to actually do that?

Ms Meredith Hammat: Member, the short answer is yes, and of course people can change their contact preferences at any stage. In practice, it is the Donor Conception Information Service that will manage those sorts of contact preferences.

Clause put and passed.

Clause 45: Rights over reproductive material

Ms Libby Mettam: This clause is pretty self-explanatory, but for the record is there any substantive change here in relation to the rights over reproductive material compared with what currently exists?

Ms Meredith Hammat: I can tell the member that it is broadly comparable to an existing provision, section 25 of the Human Reproductive Technology Act.

Clause put and passed.

Clause 46: Rights over embryos

Ms Libby Mettam: I imagine this provision for rights over embryos is also pretty consistent with what exists under the current legislation.

Ms Meredith Hammat: Yes, it is broadly comparable to an existing provision, section 26 of the Human Reproductive Technology Act.

Clause put and passed.

Clause 47: Rights of donor over donated reproductive material or donated embryo

Ms Libby Mettam: I refer to clause 47(2):

> A person cannot attach a condition to the donation of reproductive material or an embryo that is a condition prohibited by the regulations.

Can the minister confirm whether these regulations have been drafted and give any indication in relation to what they will look like?

Ms Meredith Hammat: It is intended that regulations will prescribe prohibitive conditions, such as conditions that are discriminatory.

Ms Libby Mettam: I imagine this is in relation to the sex discrimination legislation. Can the minister provide further clarification on how that will be outlined?

Ms Meredith Hammat: It would be any of the grounds that are considered discriminatory. Another example might be race.

Ms Libby Mettam: Is there a reason why this was not included in the legislation itself? There is all the proposed legislation, but instead the government is relying on regulations for this particular provision.

Ms Meredith Hammat: I guess providing for it by regulation also provides the opportunity to update those provisions, in circumstances where there might be particular cases or particular developments that are not currently envisaged.

Clause put and passed.

Clause 48 put and passed

Clause 49: Consent of person under 18 years of age

Ms Libby Mettam: Can the minister provide examples of circumstances under which the consent of a person under the age of 18 would be required?

Ms Meredith Hammat: This will be in relation to the fertility preservation provisions that we have already discussed, where there is some risk of infertility.

Ms Libby Mettam: Clause 49(2) two states:

> If the person has sufficient understanding and intelligence to fully understand what is proposed, the person has the capacity to, and must, consent to the matter on their own behalf.

Who is required to assess whether such a person has sufficient understanding and intelligence to fully understand what is proposed?

Ms Meredith Hammat: There is a well-established principle, which I am advised is referred to as Gillick competence, whereby a minor is considered to be able to make those decisions for themselves. It would be the licensee. The other terminology used is that they are a mature minor. The licensee would consider that and would be guided by a medical practitioner. It is a well-established concept.

Ms Libby Mettam: Can the clarify whether it is a licensee or a medical practitioner, or does it require a level of competency or qualification?

Ms Meredith Hammat: It is the licensee who is collecting the material. They would have to satisfy themselves as part of that collection, but it is a well-established medical concept. A licensee maybe guided, for example, by a medical practitioner in coming to that view.

Ms Libby Mettam: Will the licensee be required to keep a record of what assessment was undertaken to deem that the person was of sufficient understanding and intelligence with this Gillick principle in mind?

Ms Meredith Hammat: The medical practitioner would have to provide their certification and the licensee would use that to satisfy themselves of the requirements, but a medical practitioner would provide the guidance on that. This is a very common concept in medical terms. It is not unique or unusual in any way.

Ms Libby Mettam: To clarify, would it be a medical practitioner providing that approval? I understand that the minister is saying that it is a common principle that is understood in medical terms, but would a medical practitioner provide that assessment?

Ms Meredith Hammat: I refer the member to the earlier clauses we dealt with on the collection of material for under 16-year-olds that also require a medical practitioner to make certain certifications. That would also apply to the consent provisions as well. These would not be separate to the earlier considerations that were part of the collection material for fertility preservations that also require a medical practitioner as part of that consideration.

Ms Libby Mettam: Are the any penalties for licensees who deem a person has sufficient understanding and intelligence to fully understand what is proposed, only for that person to be subsequently assessed as not being competent to provide such consent?

Ms Meredith Hammat: The medical practitioner is the one who is providing the guidance. Medical practitioners are regulated under national law to ensure that all the work they do meets professional standards, and this would be no different.

Ms Libby Mettam: What recourse does a person under the age of 18 have if a licensee deems them not to have the capacity to consent to matters but the person under the age of 18 maintains they have such a capacity?

Ms Meredith Hammat: In those circumstances, their parents could provide consent for them.

Ms Libby Mettam: Is the minister saying that a parent could override the consent of the medical professional?

Ms Meredith Hammat: Just so that we are clear on what we are talking about, this provision is about consent. Using the Gillick competence framework, a child under the age of 18 would be considered competent to consent. If they were not considered competent under that framework, their parent could provide that consent for them. But

as we talked about in earlier clauses, it does not remove the requirement to have the medical advice about the risk of infertility.

Ms Libby Mettam: I just want to clarify that point. We are talking about a situation in which the medical professional has deemed the 16-year-old, let us say, not to be competent under the Gillick principle. Under that principle, it is determined that they are not of sound or mature mind to make that decision. In seeking to appeal that decision, the child's parents can overrule the medical practitioner's decision. Is that what the minister is saying?

Ms Meredith Hammat: Is the member talking about a circumstance in which there might be a dispute between parents as to whether they are competent?

Ms Libby Mettam: No, not between parents.

Ms Meredith Hammat: Okay. I will come back to the question of consent, bearing in mind that to be eligible to access treatments under the age of 18, there needs to be a medical opinion about the risk of infertility.

Ms Libby Mettam: Yes.

Ms Meredith Hammat: I will put aside that issue and just deal with the question of consent. If a child is competent, they are able to consent even though they are under 18 years. A medical practitioner would form that view; that is something they do regularly. In the event that they are not considered to be competent, a parent would still have the capacity, as a parent would in a range of circumstances, to make decisions on behalf of their minor up until the age of 18. In the absence of the child having that Gillick consent, it would be dependent on the parent to provide consent for them.

Ms Libby Mettam: So the parents would seek the approval on behalf of the child?

Ms Meredith Hammat: They would be able to consent on behalf of the child, as they would in relation to medical treatments of any kind and a whole range of other things as well. In the absence of the child being able to do it, the parent would do it up to the age of 18.

Clause put and passed.

Clause 50: Requirement for consent

Ms Meredith Hammat: I move:

> Page 36, after line 12 — To insert:
>
> (5) It is a defence to a charge of an offence against subsection (2) in relation to the use or storage of the reproductive material or an embryo of a deceased person for the licensee to prove that the licensee did not know that the deceased person had died.

Ms Libby Mettam: I thank the minister for providing an update and a briefing in the break on what this clause represents. Can the minister provide some clarification of what this amendment is about and why the provision was absent from the legislation?

Ms Meredith Hammat: This was a drafting error identified after the introduction of the bill. The amendment inserts a defence for a licensee who unknowingly uses the reproductive material or an embryo of a deceased person when they have not consented to posthumous use. This defence is currently in clause 79, which is not the appropriate place for the effective operation of the defence. An amendment to clause 79 to remove the defence in that clause will also be moved when we get there. Mandatory counselling and information requirements for donation will outline a donor's responsibility to ensure that the licensee is notified in the event of a death.

Ms Libby Mettam: I think the minister has explained this, but is this just a drafting error? Can the minister clarify how it was picked up?

Ms Meredith Hammat: That is right. It was just a drafting error where the provision was put in the wrong clause. It was picked up by my advisers.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 51: Requirements relating to counselling services and information to support informed consent

Ms Libby Mettam: I refer to clause 51(5) that details a list of the requirements the regulations may prescribe in relation to the provision of information. Have these regulations been drafted and can the minister table them or provide some further information on what they will include?

Ms Meredith Hammat: The regulations cannot be drafted until the bill is passed, but they will be once it is passed.

Ms Libby Mettam: Does the minister know what the requirements we are looking at will include?

Ms Meredith Hammat: Subclauses (5)(a) to (f) provide quite a bit of detail about the kinds of things. Just for clarity, they might also include counselling requirements, the rights of individuals involved, treatment options and success rates et cetera.

Ms Libby Mettam: Just on the requirements, what consultation has the minister undertaken in relation to preparing the regulations in relation to this clause?

Ms Meredith Hammat: I highlight that this is comparable with existing provisions—section 22(7) of the Human Reproductive Technology Act and parts 4 and 5 of the Human Reproductive Technology Directions 2021. This is not an entirely new provision, so there are some matters there. As I have said in relation to previous questions, we will of course consider any appropriate updates as part of the implementation.

Ms Libby Mettam: Who will the minister consult ahead of this part of the regulations in terms of the requirements?

Ms Meredith Hammat: As I said, there is an existing provision so regulations are already provided for. There has been extensive consultation. We will continue to consult with clinics, providers and other interested parties as required.

Ms Libby Mettam: Subclause (5)(a) provides that regulations will stipulate counselling services that are mandatory in relation to giving consent for something to be done as part of an ART service. Can the minister provide examples of counselling services that she anticipates would be compulsory?

Ms Meredith Hammat: In terms of mandatory counselling, it will be for donors and recipients, for example; surrogacy arrangements, including at various stages of surrogacy, pregnancy and after birth; and posthumous use by a surviving partner. That will all require mandatory counselling.

Ms Libby Mettam: Does the minister expect all such counselling services will be provided privately or will the public health system provide these services as well?

Ms Meredith Hammat: Just to clarify, the counsellors will be required to be eligible for membership with ANZICA, the Australian and New Zealand Infertility Councillors Association. That has some minimum requirements. Obviously, people will have the right to choose their counsellor but they will have to meet minimum requirements, so that might be important in terms of how people make their choice about accessing that counselling.

Ms Libby Mettam: If the public system will be providing such services—I imagine, given that response, that it will be—will there be additional funding to meet these requirements?

Ms Meredith Hammat: I would say that this is not the kind of counselling that is provided as a matter of course by the state government. Obviously, I am not an expert on Medicare line items, but I am not certain that a Medicare line item provides for that counselling either.

Mr Shane Love: I refer to clause 51(5), which the member for Vasse was talking about with counselling services. It states:

> Regulations may provide for any of the following —
>
> (a) counselling services that are mandatory in relation to giving consent for something to be done as part of an ART service;

Is the intention that those services have to be face-to-face, or is it intended that they could be developed or delivered by something like a telehealth service or the like?

Ms Meredith Hammat: There is no explicit requirement for them to be face-to-face. There is no reason they could not be delivered by telehealth.

Clause put and passed.

Debate adjourned, on motion by **Mr David Michael (Leader of the House).**

CHARITABLE COLLECTIONS AMENDMENT BILL 2025

Receipt

Bill received from the Council.

House adjourned at 10:03 pm

Questions on notice answered today are available on the Parliament of Western Australia's website