Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
THIRD SESSION
2000

LEGISLATIVE ASSEMBLY

Wednesday, 22 March 2000

Legislative Assembly

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THE SPEAKER (Mr Strickland) took the Chair at 12 noon, and read prayers.

POULTRY FARMS, SERPENTINE-JARRAHDALE SHIRE COUNCIL AREA

Petition

Mr Tubby presented a petition bearing the signatures of 162 persons concerning planning problems in the Serpentine-Jarrahdale Shire Council area with regard to the location of poultry farms.

[See petition No 101.]

NUTRI-METICS SITE, REDEVELOPMENT

Petition

Mr Osborne presented the following petition bearing the signatures of 150 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned petitioners call on the Premier of Western Australia, the State Government, and Parliament to overturn the planning permission for the high rise development at the NutriMetics site, bounded by Albany Highway, Oswald Street, Hordern Street and Armagh Street Victoria Park, in that it will adversely affect neighbouring residential areas, and is out of scale, out of character and sets a dangerous precedent for the future residential and commercial development of Victoria Park and other fringing suburbs of the City of Perth.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 102.]

NOTICE OF MOTION No 9, REMOVAL FROM NOTICE PAPER

Statement by Speaker

THE SPEAKER (Mr Strickland): I advise members that in accordance with Standing Order No 74, Private Members' Notice of Motion No 9 submitted on 18 August 1999 will be removed from the next Notice Paper unless written notification is given to the Clerk requiring that notice to be continued. This notice of motion is for disallowance of regulations. Under section 42 of the Interpretation Act 1984, which is the general provision detailing requirements for disallowance of regulations, notice of disallowance must be given within 14 sitting days of the tabling of a regulation. The wording of Standing Order No 74 makes it plain that renewal of a notice by a member simply continues it on the Notice Paper. In other words, it is not a new notice. Thus, for the purpose of section 42 of the Interpretation Act, the operative date for the notice remains the date on which the notice was first given.

PHAT 'N PHUNKY MUSIC FESTIVAL

Statement by Minister for Police

MR PRINCE (Albany - Minister for Police) [12.05 pm]: I inform the House about a significant event for young people which was held at the weekend as part of our continuing efforts to prevent drug abuse in Western Australia. Phat 'n Phunky was a DJ music festival held in the Cultural Centre on Sunday afternoon, 19 March 2000. The event included music of the rare funk, techno, hip hop and funky house variety, produced by leading DJs who are role models for many young people involved in the dance and music scene. The event also featured urban art and displays of skateboarding.

This show was the first event as part of the Drug Aware youth strategy which integrates the drug specific public education campaigns and expands community activities for young people. It had strong support from the Radio Station RTR FM, *X-Press* and *Zebra* magazines, along with other youth orientated businesses.

The project, by focusing on youth culture events such as DJ music and skateboarding, is a strong attempt to associate the anti-drug message of Drug Aware with this culture. Youth role models and music events not normally associated with the anti-drug message, will keep our prevention strategies contemporary and relevant to young people. Young people told the organisers that they appreciated the opportunity to have fun in an alcohol and drug free environment. I am particularly pleased that we were able to use such an event to promote the facts about drugs, so that young people can make informed and responsible decisions about their own wellbeing.

This youth strategy builds on the Drug Aware program that was launched in 1996 focusing on the needs of parents. Since that time, the campaign has moved on to tackle the use of heroin, marijuana and psychostimulants with information for both young people and parents. The Drug Aware media campaign is at present the only comprehensive illicit drug education campaign in the country, yet again demonstrating Western Australia's strong commitment to a comprehensive and far-reaching strategy to prevent and reduce drug abuse. The Drug Aware campaigns have been successful in reaching most

young people at whom they are aimed and achieving very high rates of relevance and credibility. The youth strategy will involve other events promoting the Drug Aware message. Local drug action groups, youth advisory councils and Safer WA committees are all coming on board to brand youth events with Drug Aware.

I bring this event and strategy to the attention of the House to demonstrate that the WA Strategy Against Drug Abuse is active, has a strong commitment to preventing drug abuse and an equally strong commitment to working with young people in a way that makes sense to them. It is essential we work alongside our youth if we are to make a lasting impact on a difficult and complex problem.

CRIMES AT SEA BILL 1999

Receipt and First Reading

Bill received from the Council; and, on motion by Mr Prince (Minister for Police), read a first time.

COURTS LEGISLATION AMENDMENT BILL 1999

Second Reading

MR PRINCE (Albany - Minister for Police) [12.10 pm]: I move -

> That the Bill be now read a second time.

I present an explanatory memorandum. I am pleased to be presenting to this House the Courts Legislation Amendment Bill 1999. This Bill deals with a number of administrative issues requiring amendments to the Supreme and District Court Acts, the Liquor Licensing Act and the Local Courts Act. Specifically, the Bill proposes reform in the areas of mediation in the Supreme Court; establishment and review of court fees in the higher courts; judicial support staff in the higher courts; appointment of commissioners to the District Court; the Liquor Licensing Court; and the payment of judgment debts in the Local Court. For the benefit of the House, I will set out the key features of each of these reforms.

Mediation in the Supreme Court: In respect of mediation, it is proposed to insert a new part VI into the Supreme Court Act dealing with court annexed mediation in the Supreme Court. The amendments give statutory force to the principle of confidentiality and the "without prejudice" evidentiary privilege which are the cornerstones of the mediation process. Mediation conferences were introduced in the Supreme Court in 1993 as part of the case management initiatives designed to reduce delays and costs to litigants, and are now an integral component of the court's case flow management program. Mediation is a highly developed and successful avenue for resolving disputes in the court and an important step in the process by which a matter proceeds to trial. It has brought substantial benefits to the parties to litigation in terms of earlier settlements and the savings of legal costs. It has also brought benefits in terms of saving court trial days - estimated at 670 days in 1998.

Currently, the confidentiality of the mediation process and its "without prejudice" status have been underpinned by the Rules of Court and by the terms of the common form mediation order. This is now seen as problematic, as recent cases indicate that these matters cannot be adequately addressed other than by amendments to the Supreme Court Act. The amendments will reinforce the integrity of the mediation process in the Supreme Court by imposing on parties and/or mediators a statutory obligation of confidence; clearly defining and extending the scope of the "without prejudice" basis of the mediation; conferring on mediators who conduct mediation conferences under the direction of the court, the obligations, privileges and immunities of a judge; and making clear the scope of the court's rule-making powers in respect of mediation. These are non-contentious amendments derived substantially from model legislation drafted by the Law Council of Australia and endorsed by the Standing Committee of Attorneys General.

Establishment and review of court fees in the higher courts: The Bill also deals with changes in responsibility for the court fee fixing and review processes. Within the administration of the courts, two completely different procedures for the fixing and review of court fees have evolved, with the lower court process being controlled by the Executive and the superior courts by the judiciary. Within the lower courts, responsibility for fees rests with the courts administration personnel who formulate recommendations as a result of annual reviews in accordance with the requirements of the Financial Administration and Audit Act. However, in the superior courts, the fees can be prescribed or changed only upon the recommendation of the majority of judges of the court, as approved by the Treasurer. This process provides a potential for conflict between the court administrator's statutory requirement annually to review fees and charges, and the views of the judges of the court as to appropriate fees and charges. The Bill simply proposes that the superior courts process be brought into line with that in the lower courts. Under the amendments, and consistent with practice in relation to the lower court fees, proposed variations will still be subject to scrutiny by the parliamentary Joint Standing Committee on Delegated Legislation. Again, these amendments are regarded as non-contentious as the proposals bring the State into line with the practice in other States, with the exception of Tasmania which still retains the fee-setting power with the judiciary.

Judicial support staff in the higher courts: The third area of reform relates to judicial support staff in the higher courts. The background to this is that the Supreme Court Act 1935 provides for the appointment, by the Attorney General, of associates and ushers, but does not include other personal assistants of the judiciary, such as the courts public information officer and the Aboriginal liaison officer. To date, appointments to those other positions were considered to be personal assistants to the judiciary and, therefore, not subject to controls arising from appointments under the Public Sector Management Act. However, as a result of recent further research in the course of establishing workplace agreements and enterprise bargaining arrangements, doubt has been raised as to who is the employer, and the employment status of such staff.

The Bill clarifies these matters, in part, by providing for the various types of judicial support staff not to be subject to the provisions of the Public Sector Management Act. As such, it also removes any doubt that such employees may otherwise be responsible to two authorities. The Bill also provides authority for public service officers to be seconded into these positions and effects minor changes in terminology.

Further amendments relate to the power to appoint associates, orderlies and other assistants to the judiciary in the District Court. Currently provisions of the District Court Act are silent with regard to the appointment of such officers. Among other problems, the process is unnecessarily cumbersome as it requires the Governor to make appointments.

In addition, the section provides that they shall be appointed under and subject to the Public Sector Management Act 1994, which is inappropriate as appointments are to the positions of personal staff to the judges. Reflecting this, the Bill simply provides for a process consistent with that sought to be established under the Bill for appointment of personal staff to the judges of the Supreme Court, and that existing in the Family Court. The amendments to both Acts are considered non-contentious, as they merely rectify procedural shortcomings and provide for a simplified and standardised process of appointment across the superior courts.

Appointment of commissioners to the District Court: The District Court Act presently contains different qualification requirements for appointment as a judge as against appointment as a commissioner. The Bill amends the qualification requirement for appointment as a commissioner to include the same requirement as that for the appointment of a judge. This amendment is another non-contentious reform, merely standardising the qualification requirements.

The Liquor Licensing Court: As noted earlier, the Bill also deals with aspects of the Liquor Licensing Court - specifically its current status as a separate entity. In July 1998, administrative responsibility for the Liquor Licensing Court was transferred from the Office of Racing, Gaming and Liquor to the Ministry of Justice where, for administrative purposes, it was appended to the District Court of Western Australia. To formalise this transfer, the present provisions of the Liquor Licensing Act relating to the appointment and conditions of the judge, or acting judge, of the Liquor Licensing Court are repealed. The provisions of the Bill enable the Chief Judge of the District Court to nominate, from time to time, a judge or commissioner of the District Court to be the Liquor Licensing Court judge or the acting Liquor Licensing Court judge. The Bill also provides for the present Liquor Licensing Court judge to continue to hold that position so long as he continues to hold a judicial appointment.

Consistent with other provisions of the Bill, these amendments are also considered non-contentious. In short, they do little more than provide flexibility in allocation of judicial resources between the District and Liquor Licensing Courts.

The payment of judgment debts in the Local Court: The final area of reform dealt with by the Bill relates to an aspect of the payment of judgment debts in the Local Court. Specifically the Bill will allow for payments, in full or by instalments, to be made directly to the plaintiff or the plaintiff's solicitor. This amendment will allow judgment creditors to receive payments sooner than they do now by removing the double handling of payments through a Local Court.

Conclusion: The proposed amendments in the Bill have been identified as a result of ongoing review of court processes, and relevant legislation, by the court services division of the Ministry of Justice. The Bill reflects a continuing public interest in a more efficient and effective justice system, and does no more than seek improved accessibility to justice through increased efficiency and effectiveness in the operation of the courts. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

CORONERS AMENDMENT BILL 1999

Second Reading

MR PRINCE (Albany - Minister for Police) [12.18 pm]: I move -

> That the Bill be now read a second time.

I present an explanatory memorandum. I am pleased to now present to this House the Coroners Amendment Bill 1999. The provisions contained within the Coroners Act 1996 have been successful in addressing a range of issues that were of concern under the earlier legislation. However, the practical operation of the legislation has led to the identification of some provisions which require amendment. The Bill addresses these provisions and also provides for a Deputy State Coroner.

The Coroners Court presently comprises two full-time judicial officers located in Perth, being the State Coroner and the Perth City Coroner. In country areas local magistrates perform the day-to-day coronial work with assistance and direction provided by the State Coroner. Prior to the proclamation of the Coroners Act 1996 and the appointment of the State Coroner, the coronial system was based on the magisterial system and there were nine clearly defined coronial districts - eight country districts and Perth. Stipendiary magistrates acted as ex-officio coroners in the country districts and a stipendiary magistrate was appointed by the Chief Stipendiary Magistrate as a full-time Perth City Coroner.

With the proclamation of the new Coroners Act 1996 and the appointment of the State Coroner, the coronial system has become a coordinated statewide system under the supervision and guidance of the State Coroner. Inquest hearings are becoming more frequent and complex. This has resulted in almost all inquest hearings, whether arising in Perth or in the country, being conducted by the State Coroner or the Perth City Coroner. As a result of the increasing demands on the State Coroner, it is appropriate that the position of Perth City Coroner, a position established in the context of the Coroners Act 1920, be abolished and replaced with the position of Deputy State Coroner. This Bill provides for a Deputy State Coroner who will assist the State Coroner with coronial work throughout the State.

Where the State Coroner is absent from duty or that office is vacant, the Deputy State Coroner is to act in the office of State Coroner so as to ensure that the functions of the State Coroner continue to be performed. The person appointed as the Deputy State Coroner would be a person who already holds the appointment as a stipendiary magistrate and is thereby a coroner, and would be appointed by the Attorney General, following consultation between the State Coroner and Chief Stipendiary Magistrate. Due to the importance of this position to the Coroners Court, the Bill provides that the Deputy State Coroner is to be appointed by the Attorney General on the recommendation of the State Coroner.

As the legislation will provide for the Deputy State Coroner to act as the State Coroner during the absence of that officer, or during a vacancy in that position, the present provisions which provide for the appointment of an Acting State Coroner are not required and are to be deleted. In order to provide for the absence of the Deputy State Coroner, the Bill provides for an Acting Deputy State Coroner who would also be appointed by the Attorney General on the recommendation of the State Coroner.

Also contained in the Bill are a number of provisions which extend the time limits for applications to the Supreme Court in relation to various decisions of a coroner. The applications are in respect of a decision by a coroner to refuse a request by any person that a post-mortem examination be performed on a body; a decision by a coroner to direct that a post-mortem examination be held in spite of a request by the senior next of kin that no such direction be given; and an order by the State Coroner that a body be exhumed contrary to a request by the senior next of kin that a body not be exhumed. These provisions are contained in sections 36, 37 and 38 of the Act.

In each case, the current legislation provides for a time limit of two days for making the application. This time limit has been found to be unduly restrictive, particularly where family members live in remote country locations. The Bill provides that the time in which an application can be made be extended to two clear working days. By virtue of the Interpretation Act, the two days will not include the day when notice of the coroner's decision was received or the day when the application is filed in the Supreme Court.

In addition, the Bill provides for the Supreme Court to grant an extension of time in exceptional circumstances. The original provisions were based on the Victorian legislation and the time limits do not appear to have caused major problems in that State. In Western Australia, however, the size of the State and the remoteness of some country areas have presented problems not experienced in Victoria in making applications within the time requirements. The Bill recognises these difficulties while still allowing for a final decision to be reached in a timely manner because of problems such as possible deterioration of the bodies concerned and family wishes to make definite funeral arrangements.

The Bill also provides that if the senior next of kin has requested that a post-mortem examination not be performed, the senior next of kin can withdraw that request and the coroner may then direct that a post-mortem examination be performed. In the vast majority of cases since the commencement of the 1996 Act, where the senior next of kin has objected to a post-mortem examination, the senior next of kin has later wished to withdraw the objection. In some cases, the change has followed receipt of the coroner's reasons, and, in others, concerns have been expressed as to not otherwise knowing the cause of death. In these cases the senior next of kin often wishes to have the post-mortem examination conducted without delay so that an early funeral can be held. In many cases, cultural or religious beliefs require the family to make arrangements for the funeral as quickly as possible. In these circumstances, particularly with the period of time for an application to the Supreme Court being extended, the coroner should be specifically empowered to order that a post-mortem be conducted immediately on receipt of clear advice from the senior next of kin that the objection has been withdrawn.

Section 36 of the Coroners Act deals with applications by persons who are seeking that post-mortem examinations be performed, and provides for a power to apply to the Supreme Court if a coroner refuses such an application. The Bill increases the powers of the Supreme Court in dealing with such an application so that if a body has already been buried, the Supreme Court can order that it be exhumed to enable a post-mortem examination to be conducted.

The Bill also provides for amendments to section 29 so that, where an application is made for a post-mortem examination pursuant to section 36, a certificate permitting burial, cremation or other disposal of the body must not be issued until the application has been disposed of or the time for making an application to the Supreme Court has expired. It also covers the situation in which an application has been made for an extension of time to the court. The Bill also removes from section 29 the reference to section 24 and substitutes references to section 36 to correct a drafting error in the 1996 Act.

The commitment of the coalition Government to improve the coronial system, as a result of community concerns, gave rise to the Coroners Act 1996. The Coroners Amendment Bill 1999 is in line with the objective of this commitment. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

ROAD TRAFFIC AMENDMENT BILL 1999

Consideration in Detail

Clauses 1 to 4 put and passed.

Clause 5: Section 5A inserted -

Ms MacTIERNAN: This clause provides for what I consider to be a major deficiency in the legislation. Our amendment is aimed at providing a comprehensive definition of who is a responsible person. The schema of the legislation relates to a number of its key parts. We have this new concept of a person who is responsible for the vehicle; namely, the responsible

person. Under this clause, it is intended to insert into the Act a proposed new section 5A. As far as I can see, this clause does not do the job it is supposed to. We see a number of ironies in the amendments to the legislation. One is that in an earlier provision, there is a changed definition for the word "owner", so that a person who is a leaseholder of the vehicle effectively would become the owner for the purposes of the Act. We do not have a problem with that, but it is quite bizarre that we do not have an equivalent provision for "responsible person"; and at the end of the day, the responsible person with regard to traffic infringements is the person at whom we want to get. Therefore, it is important that the notion of responsible person include the concept that the person who has long-term control of the vehicle is the person who is responsible for it. I am not sure why the legislation has been drafted in this way, but it seems to be completely bizarre to amend the definition of "owner" and not do a similar thing with regard to the definition of "responsible person". The provision with regard to responsible person is virtually nonsensical and does not do much to improve the functioning of the legislation. It would have been better, given the change of definition of "owner", not to have introduced the concept of responsible person, because rather than expand the class of people who must then take responsibility, it contracts it. I say that because the definition of "responsible person" has now become more limited than the definition of "owner" as amended in this Bill. This is a slightly complex issue, but it is important, because many of the key provisions of this legislation, in particular those with regard to owner-onus, now attach not to the owner as defined but to this concept of responsible person. I believe that the definition of "responsible person" is completely wrong and that in probably 99 per cent of cases the responsible person will still be the licensed vehicle owner, and that those persons will not become responsible people under this legislation, as was the case with the members of Parliament who were so notoriously exposed yesterday in the House as being able to welsh out of their obligations.

I am offering the Government a couple of alternatives, being the generous person that I am. First, I am offering a definition of "responsible person" that has been taken from the New South Wales legislation and that has obviously been modified to fit in with this Bill. This definition is far more comprehensive and will basically cover the situation of leaseholders. Under the New South Wales legislation, a responsible person is a person who has a legal right to the possession of a vehicle, including any person who has the use of a vehicle under a lease or hire purchase agreement, but not the lessor, while the vehicle is being leased under any such agreement.

The SPEAKER: The member's time has expired, and I remind her that when she is given the call again she needs to move the amendment, because it is not on the tabled paper.

Mr COWAN: I need to clarify something that I told the member last night during my response to the second reading debate.

Ms MacTiernan: I like this!

Mr COWAN: I imagine the member will remember it for a long time and I will be reminded of it. I indicated in the course of my remarks last night that the responsible person could be an individual who was identified within a corporate body or organisation. That is not the case, and I would not want the member for Armadale to accuse me of misleading the House, so I thought I had better make that correction early this morning rather than later.

I understand what the member is seeking to do in this amendment, but I suggest that perhaps she has chosen the wrong clause. The proposed amendment to section 5 has implications for a range of road safety matters and issues such as motor vehicle licensing. If the member wants to amend the Bill to tighten the definition of responsible person, it may be more appropriate to give consideration to that matter at a later clause of this Bill.

Ms MacTIERNAN: That is something I will consider. It is not surprising that the Deputy Premier has made the mistake that he has, because anyone who read the second reading speech would believe that the sorts of provisions that he thought were in the Bill were in the Bill, whereas, as I am pointing out here, they are not in the Bill. Given that the definition of "responsible person" in the legislation is so woefully inadequate, what will it achieve over and above what would have been achieved had we relied merely on the amended definition of "owner"? The definition of "owner" has been expanded, and we also have this new concept of responsible person. In my view, the concept of responsible person is now less comprehensive than the expanded definition of "owner". What was the rationale of parliamentary counsel in coming up with this definition, because it does not seem to do any particular job when we compare it with the definition of owner?

Mr COWAN: My understanding is that the reason for this amendment is exactly as the explanatory remarks indicate; that is, it is designed to comply with the national scheme and achieve some uniformity. If the member wanted to tighten up the definition of "responsible person", the appropriate place to do that would be in proposed section 102C. I have some difficulty in identifying some of the reasons behind and the validity of the amendments that have been put forward by the member for Armadale at such short notice, and while I do not want to be derogatory about that, it is difficult for us to accept amendments on the run. I acknowledge immediately that the member has the capacity, by putting forward these amendments, to set a line of direction which the officers of the Department of Transport can then take on board and perhaps deal with. However, at this stage it would be difficult for us to accept something of which we have been given such short notice. As a consequence, should the member move the amendment - I am not sure that I heard any motion for the amendment to be considered - we will oppose it.

The SPEAKER: No amendment is before the Chair. Members are exploring the opportunity to move an amendment.

Ms MacTIERNAN: Two questions arise. The Deputy Premier has not addressed the issue of what we will get out of the definition of "responsible person", as it is framed, that we will not get out of the expanded definition of "owner". I think people are having a lend of the Deputy Premier if they are telling him that this is some form of national uniformity, because the legislation in the other States has very different provisions. Indeed, the amendment I am proposing is a direct lift from

the New South Wales legislation. We now have national uniformity being used as a refuge of scoundrels in many debates. It is a fairly transparent refuge - a veritable crystal palace in this case - because we have before us the legislation in the other States, and anyone taking a cursory glance will see that the provisions in New South Wales are nothing like those in Western Australia. This drafting is extremely poor, and it is not doing the job that it is meant to do.

I am particularly interested in knowing and in being given an illustration of how there is an advantage in having this definition of "responsible person" as opposed to the expanded definition of "owner". In particular, what classes of persons will fall into category (d)? I am still trying to ascertain why this provision is in the Bill and why it is better. What job is it doing that is not done by the expanded definition of "owner"? It seems to be more limited. Where are the benefits? To what provisions can the Deputy Premier point in which this expanded definition -

Mr Cowan: All of them.

Ms MacTIERNAN: It does not. In proposed section 58, section 102, proposed sections 102A, 102B and 102C, the expanded definition of "responsible person" takes us backwards, not forwards. Therefore, I am interested to know what other provisions "responsible person" relates to and where it is taking us.

Mr COWAN: The member raised some questions which I will do my best to answer. I will tend to be a little repetitive. As I said, this definition clarifies the fact that on occasions there is no legal ownership of a vehicle. It also picks up the definition of a "responsible person" according to the national requirements. Dealing with the point the member made about the traffic code in general, there will be - I am sure that this has been indicated to the House previously - a road traffic amendment Bill No 2, which should pick up many of those National Road Transport Commission decisions. We have not had time to introduce all of those in the one Bill, much as we would like to.

Ms MacTiernan: The Deputy Premier is saying that this was introduced because it accords with the national requirements. Is he saying that the other States have legislation that is -

Mr COWAN: New South Wales does not, and the member is comparing that State's legislation with this legislation. New South Wales has not taken up the national proposals.

Ms MacTiernan: Has the Government done that or not, because the Deputy Premier is now saying that it will have -

Mr COWAN: The Government is seeking to do that, and this is the starting point. We are seeking to comply with the national legislation and a uniform code, one might say. The member is using New South Wales as a comparison, but New South Wales has chosen not to go down that path. The member should understand that this is designed to bring Western Australia into uniformity with a national system. She should not use New South Wales as a good State with which to make a comparison and say that we are wrong, because New South Wales is not part of the system - by choice, I might add.

Ms MacTIERNAN: We have no evidence of this. Profound flaws are to be found in the concepts. I want to see the evidence that this is a requirement of a national scheme to which we have signed up. Can the Deputy Premier nominate the national agreement, and the particular provision of it, that says that we must have a definition of "responsible person" that is so manifestly inadequate and does not even do what the expanded definition of "owner" does? I take the point that it provides for one situation; that is, when a vehicle does not have a legal owner. I recognise that from time to time some cars will fall into that category. However, that is not a large class of vehicles. Although the definition makes some advances in respect of that small group, it fails manifestly to do what other States are doing in picking up people who are, for example, leasehold drivers, members of Parliament or people who have vehicles under a range of different bailee arrangements.

I ask a specific question: What are the national provisions and from where might we obtain a copy of them? It is easy to jump up and say, in answer to any criticism that has been levelled about a flaw that has been demonstrated to exist in legislation, that it is all in the national provisions. I am very keen, as I am sure my colleagues are, to see the provisions that supposedly account for our going down this path. I suspect that we may have to find another mea culpa. If we can construct a definition of "owner" that would include giving responsibility of ownership to those people who are leaseholders, why on earth can we not do it with the concept of "responsible person"? Why can the definition of "responsible person" not do the job that was done in expanding the definition of "owner"? Will the Deputy Premier try to tell me that some national rules to which the Government has signed up say that the definition of "owner" can be expanded to include a person who holds a vehicle under a lease, but when dealing with a "responsible person", a person who holds a vehicle under a lease cannot be included? It beggars belief that the rules would make such a provision. I want to know why it has been done for "owner" but we have not done it for "responsible person". My suspicion is that it is because the Government does not want to enforce the provisions of -

Mr Cowan: The member should look at the provisions of proposed section 5A(1)(d).

Ms MacTIERNAN: I have looked at that proposed section.

Mr Cowan: That answers the member's question.

Ms MacTIERNAN: I would be interested to see whether it answers the question.

Mr COWAN: It does.

Ms MacTIERNAN: I will take the Deputy Premier through that proposed section. Proposed section 5A(1)(d) starts with

the words "in any other case". What does that mean? The only possible interpretation those words can have is that they refer to a person or a vehicle that does not fall into the categories referred to in paragraphs (a) to (c).

Mr Cowan: Well done!

Ms MacTIERNAN: Paragraph (a) relates to virtually every car as it refers to a vehicle which is licensed and a licence holder who is engaged in selling the vehicle to someone else. The Opposition, on reading the legislation, believed this was what was being attempted by using the words "in any other case". However, as far as we can see, the words "in any other case" are limited to vehicles that are not licensed, which, as I say, is a minority of vehicles. Does the minister have another explanation?

Mr Cowan: I have no other explanation but I do not see it that way.

Mr KOBELKE: Can the minister explain this matter? I appreciate the Deputy Premier is representing the Minister for Transport in another place. The matters before us are of fine detail and complexity and are important areas. They directly affect the rights of many Western Australians because of the possibility that infringement notices may be issued against them. This matter may depend on whether an individual is a person who is responsible for a vehicle. On that basis we need more detailed answers to the points raised by the member for Armadale. The point she made about paragraph (d) of proposed section 5A is valid because, as she pointed out, it has similar wording to the definition of "owner". However, clause 4 does not qualify the definition of "owner". It states, " 'owner', in relation to a vehicle, means -" and it goes on with paragraphs (a) and (b) in a similar form to proposed section 5A(1)(d). It is not qualified by the introductory phrase "in any other case" which, as the member for Armadale pointed out, limits it to a very small minority of vehicles; that is, those which are not licensed. Most drivers whom this provision may catch will be driving licensed vehicles. We therefore must have a more adequate answer to the very good question raised by the member for Armadale about why there is not a better definition of "person responsible for a vehicle".

Mr COWAN: I am not very competent at relaying messages instantaneously as they come forward. I would never get a job as an interpreter. However, this legislation has been on the Notice Paper for some time. If the members for Armadale and Nollamara had any questions, all they had to do was contact the Department of Transport to have those questions answered and their fears allayed. I also believe a briefing may have been offered to members of the Opposition. I am not sure whether they took up that offer.

Ms MacTiernan: A briefing was offered at the end of last week and we took it up yesterday.

Mr COWAN: At that briefing they should have asked for detailed answers to these questions, which would have been provided directly rather than relayed through me.

Ms MacTiernan: Talk about abrogating responsibility!

Mr COWAN: The key issue is abrogating responsibility. The responsibility here rests with the people who are seeking answers to questions now. We provided an opportunity for those same people to get all that information through the parliamentary processes that operate outside this Chamber.

Mr Kobelke: You are a joke, Deputy Premier. The parliamentary processes are taking place now.

Mr COWAN: Did the member for Nollamara attend the briefing?

Mr Kobelke: No, I didn't.

Ms MacTiernan: You did not attend the briefing either.

Mr COWAN: The member for Nollamara, for the record, did not attend the briefing.

Mr Kobelke: Did you attend the briefing?

Mr COWAN: In fact I did not.

Ms MacTiernan: That is right, you are coming into this place without having read the legislation.

Mr COWAN: I have read it. I wanted to be sure that everybody understood that under the parliamentary processes as they exist in today's parliamentary system the member for Nollamara knows as well as anybody that a great amount of support is and always has been provided to members by giving them the opportunity to digest and comprehend legislation. If they do not take up the offers made to them, they should not expect me to jump into the gap and try to fill it, because they have had the opportunity. There is no point in telling me that I am not able to relay a message accurately when they had an opportunity to obtain direct answers to these questions and to receive that information. As I said to the member for Armadale, we have conducted this matter in a way that we comply with agreements that were reached nationally.

Ms MacTiernan: Which agreements are they?

Mr COWAN: Please let me finish. We are comfortable with allowing the Opposition access to those agreements which are available.

Ms MacTiernan: They are not mentioned in your explanatory notes.

Mr COWAN: They are available. If the member for Armadale wishes to uncover the evidence that shows agreement was

reached at a national level, we are comfortable with providing that information; we can do it and it will be done. I repeat what I said at first: Although I understand what the member for Armadale is seeking to do by following the New South Wales path, that State has opted not to enter this national system. We are not prepared to accept the member for Armadale's amendment. Given that she is using New South Wales as a model which is not part of this process, we will definitely not accept the amendment.

Ms MacTIERNAN: I took the opportunity to receive a briefing from the persons who are now sitting with the Deputy Premier.

Mr Cowan: You did not ask the question.

Ms MacTIERNAN: I asked a whole range of questions on matters about which we were unclear.

Mr Cowan: But you didn't ask this one.

Ms MacTIERNAN: No, we did not ask the question because on our reading of the legislation we were clear that there were problems in the structure. I asked the parliamentary counsel if we could see the original draft of the legislation before it was amended by the Liberal Party backbench revolt, and there was general laughter at that request. We must be careful here. We know that various provisions of this legislation have been altered because of the demands made by some backbenchers - that has been the subject of considerable notoriety - from which demands members of the backbench have not demurred. I have a letter with me which Dan the man sent to small businesses in his constituency alerting them to the evils of the proposed legislation. Public servants should not become wound up in the argie-bargie of political power play. I did not expect Mr Moore and Ms Lynne to comment on the areas which had been changed because of the feuding and internecine brawling between the Liberal and National Parties. I appreciate that there are problems with standing orders.

Mr Cowan: It never happens in the Labor Caucus, does it?

Ms MacTIERNAN: Of course it does.

Mr Cowan: The members for Pilbara and Kimberley can tell you that.

Ms MacTIERNAN: We do not come into the House and say that the Opposition should sort it out with public servants because the Liberal and National Parties cannot sort it out between themselves. That is rubbish!

Mr Cowan: I didn't say that.

Ms MacTIERNAN: I appreciate that the Deputy Premier has difficulties representing the National Party minister, as another minister wisely decided that he did not want to handle the portfolio in a representative capacity any longer. It has been handed over to the Deputy Premier. That will always create a problem. We also have a problem with our standing orders, which do not provide adequate time for the minister responsible to confer with the public servants to obtain detailed answers to our questions. I accept that - there is no criticism there. However, it is an absolute outrage that the Deputy Premier suggests that the minister cannot answer detailed and well-argued criticisms of the legislation.

Mr Cowan: It was second read in November 1999. You have had three months.

Ms MacTIERNAN: The Deputy Premier has also had three months to read it and to get on top of the measure. The Deputy Premier has not read it.

Mr Cowan: I have read it.

Ms MacTIERNAN: The Deputy Premier acknowledged this morning that he misled the House unintentionally last night because he did not understand the schema of the Bill. I was not going to make that point; however, the Deputy Premier has not read the legislation and is unable to explain the qualifier at the beginning of proposed section 5A(1)(d), and why the definition of "responsible person" is more narrow than our proposed definition of "owner". These are crucial issues to the schema of this legislation, which is structured around this concept of "responsible person". The Deputy Premier cannot explain the meaning of "responsible person".

The Deputy Premier then says it is our fault as we have not cleared it up with the public servants. He is getting $150 000 a year salary and is promoting this legislation, and he should get up and explain it.

Mr COWAN: I have explained it. The fact that the member has not accepted the explanation is on the record.

Mr KOBELKE: An arrangement was made, for which we thank the Government, to move on to another matter. However, I must respond to the comments of the Deputy Premier. In most cases, the Opposition accommodates ministers who represent ministers in other place in dealing with Bills. It is difficult to deal with specific and complex matters. Therefore, we often find that ministers come back with specific details later. It is difficult for the representative minister to answer the complexity of matters because he or she did not deal with the Bill from its early preparation and through its drafting. Such ministers may not have the full breadth of understanding required, and we accept that.

Nevertheless, the Deputy Premier's response was absolutely stupid - there is no other word for it. He suggested that the Bill was brought into this place at the end of last year - it was ages ago. Bills have been on the Notice Paper for over a year.

Mr Cowan: I said three months ago, not ages ago.

Mr KOBELKE: It is three months then. The total stupidity of the statement was to say that the Opposition has the responsibility to go outside the parliamentary procedure to have every question properly answered by public servants in briefings prior to entering the Chamber. That is absolute nonsense.

Mr Cowan: Are you suggesting that briefings have no value?

Mr KOBELKE: Briefings are vital so that we do not launch into areas which are totally wrong when we enter the Chamber; that is, when we discuss matters with the responsible minister, or the parliamentary secretary handling the Bill for the minister, we are on top of the issues which need to be teased out in debate on the record to form a clear understanding of what is implied by the legislation. That is our role in the Chamber. That role does not rest with public servants in briefings, which serve a range of purposes. One is to ensure that we are on target and have adequate information to quiz the minister to place on the record the exact intent of the measure. We can then take issue when we disagree with principles and drafting. That is our role. For the Deputy Premier to suggest that we have not fulfilled our obligations by not obtaining all the answers in briefings is a total nonsense.

We already saw earlier today that the Deputy Premier is not across the Bill. I did not attend the briefing - I accept that. I cannot attend every briefing on every Bill with which I become involved. The member for Armadale, as opposition spokesperson in this area, has spent time on the Bill. I am here to assist the member to try to get some answers to the questions she poses. I have read the parts of the Bill with which we are dealing. I am trying to make sense of them. I will not go to the wall about my lack of understanding. I have not put in the necessary time on this matter, and it may arise from my lack of intellectual ability. However, I do not accept, as the Deputy Premier suggests, that it is our responsibility to obtain information outside the Chamber. Our responsibility is to get answers in this Chamber from the minister, or to get a clear undertaking that at some stage of the proceedings on the Bill, answers will be provided on specific detail.

I hope the House can move to the other item agreed to behind the Chair. When we return from that debate, we can consider the Bill as cooperatively as possible so it can be passed without undue delay. We must know the intent and reasoning behind this draft of clause 5.

Debate adjourned until a later stage, on motion by Mr Cowan (Deputy Premier).

[Continued on page 5371.]

CONSUMER CREDIT (WESTERN AUSTRALIA) AMENDMENT BILL 1999

Second Reading

Resumed from 28 October 1999.

MR KOBELKE (Nollamara) [1.08 pm]: The lead speaker for the Opposition on this matter is the member for Fremantle, who is caught up in a meeting. The purpose of the Bill is to ensure that borrowers have adequate information when making consumer credit transactions, and that these transactions have proper standing in law. It will ensure that the law can be upheld when contracts need to be fulfilled or when disputes arise over details within contracts. My understanding is that the measure will apply to lending for personal, domestic and household purposes; therefore, the Bill will not extend to areas of commercial lending. Importantly, this is part of a national scheme for uniform credit laws - an area in which I have taken an interest for over 10 years.

The second reading speech states that this Bill is based on the 1993 Australian Uniform Credit Laws Agreement. I accept that that is true. However, the speech did not mention that in the late 1980s and periods before 1993, a fair degree of activity took place between the state ministers responsible in this area to produce uniform legislation. I take it that what is meant by that statement in the second reading speech is that the 1993 agreement crystallised that work and, therefore, is the basis of the legislation before us. From my perspective, it is most important that we have a uniform scheme across Australia. Major financial institutions deal across the whole of Australia. Having a range of different laws in different States would create a range of problems. People shift from State to State. If they leave Western Australia and go to another State and they have matters relating to consumer credit that they must carry on with, they do not want to know that a whole different system would apply in another State. From the point of view of the lenders and the borrowers, it makes good sense to have a national uniform scheme.

Another aspect of the importance of such a uniform scheme is that if tighter requirements on lenders are to be imposed to ensure the highest possible standards for protection for borrowers, the transgression of minor details by lenders can lead them to some considerable financial cost. The system needs to be made easier for it to function. Different variations in different States would cause an additional cost to the lenders because of the complexity. The lenders would not only have the complexity but also a much greater chance that they would get it wrong by accident, in which case they may be liable for major costs or payouts on the basis of a small technical fault. We have had cases in the past in which small technical faults by major lenders have run up liabilities of tens of millions of dollars simply because they have failed to meet the exact requirements of consumer credit legislation. In fact, we put a Bill through this House in the early 1990s which enabled one of our major banks to get out of potential liabilities due to a printing error on the forms it was using when establishing contracts for consumer credit.

It is quite a complex area, and that is reflected in the Act, which has a very large appendix reflecting the code. The blue copy of the Act runs only to page 15, so pages 16 to 159 set out the code. I will return later to say a few things about the code. That reflects something of the complexity in this area which is needed to try to provide guarantees for consumers.

On the other hand, if we do not try to keep control of that complexity, it can become a major problem. What we are dealing with here is not the code but the Act which underpins and gives effect to the code. I understand the code we are adopting is the Queensland Consumer Credit Code, which will be adjusted from time to time to maintain national uniformity.

The code became effective on 1 November 1996. By way of regulation, Western Australia has sought to comply with it. There have been special transitional regulations to put in place that consumer credit code. Because of the nature of the regulations, they have an operational life of only 12 months and must be renewed. With the establishment of this legislation, ongoing legislation to support that consumer credit code will formally be in place. There is clearly a need to have a commencement date for the updated and amended code. In order to have national uniformity, this legislation needs to be in place so that an updated and amended code can come into effect on the same day across the whole of Australia. It is suggested in the notes provided by the minister that it is aimed to do that by 1 May 2000. That being the case, the passage of this Bill through the Parliament would seem to have some urgency because after this week there are only two sitting weeks prior to 1 May. We would certainly wish to assist the Government in expediting the Bill's passage through this Chamber. Hopefully that will also be the case in the other place. If I am correct in understanding 1 May as the target date across Australia, we would work with the Government to help it achieve that. The second reading speech of the minister relates to the technicalities of the Bill and says nothing about the code. The speech reads -

> This Bill does not address the fundamental policy issues underlying the Consumer Credit Code. These broader issues are currently the subject of a post implementation review, which also involves a review under national competition policy guidelines.

That is about the only comment in the second reading speech which relates to the intent of the Bill. On a mechanism level, the intent is to support the code but the real intent is to put in place protection for consumers who are borrowing. It is an incredibly important issue on which I hope the minister will make some comments. Perhaps because it has been going on for so many years, the minister is au fait with all the complex issues involved. By way of explanation to the House, I would have liked to have heard some explanation from the minister of the importance of the legislation and what is hoped to be achieved through the Consumer Credit Code. It may be that in responding, the minister may be able briefly to cross areas relating to the philosophy of the code. My fear is that there has been some watering down of the philosophical approach first established in the late 1980s to the degree of protection we were hoping to provide to consumers in this area of credit. For example, there was a strong move in the late 1980s to try to get a single figure which would indicate the cost of borrowing. I am not sure whether the code now contains that single figure so that consumers can compare. I will say a little more about that later. When responding, I hope the minister will give a bit of that underlying philosophy, what are the more general objectives of the code in its more recent form and even some of the more important details of the code and how it will work. The issues are many and complex. I do not expect the minister to be comprehensive in the short time he may take trying to answer that. However, there is a need to explain to the House what we are about. The second reading speech is technical and mechanical to the Bill supporting the code. We are told nothing about the intentions of the code, which I believe is an important area of legislation.

The code lays down a range of matters and I mention some briefly. There is the requirement of documentation that would need to be established with loans. That is set out in the code in various ways. There is the need for disclosure obligations, particularly relating to other costs and charges, so that hidden costs are not involved in a contract of credit. There is the need for mechanisms for the resolution of disputes, to establish that there is a dispute and to provide means of resolving it. Perhaps the minister can comment on that range of issues. I will give a couple of brief examples which highlight some of them. A constituent came to me a few weeks ago over a personal loan that he had taken out with a bank. He had sat down with bank representatives and made arrangements to try to pay it off at a much quicker rate, so that, instead of paying $150 a fortnight, he was paying about $220 because he wanted to acquit the personal loan as soon as possible. His family had some financial issues. He had to meet some bills, one of which I believe was a funeral, and he had missed a couple of payments. When he made the extra payments, he came in with the statement from the bank and he had paid more than he thought he had to pay. These issues are quite complex and I tried to work through the figures with him. My constituent was from a non-English speaking background, so there was a language problem in understanding it. I could not resolve the matter for him because the documentation he had from the bank was a little confusing. That is not to say that the bank had it wrong, because the advice may have been given over the counter and that advice may not have been caught by the code. I had to send him back to the bank to get fuller figures so he could see whether the undertakings that were made to him about the total amount he would have to pay and the fact that he would be able to pay it off earlier by making higher repayments were being fulfilled. That then led us to the problem of what costs might be involved in his requesting the documentation on his loan from the bank; therefore, there were additional costs.

Our consumer credit code must lay down specific guidelines on these issues so people know the rules and that those rules can be applied in order to protect people and to have the system work efficiently. If a provider is providing credit and a level of service which is of a high and professional standard, it can be undermined by competitors - it is a very competitive market - particularly if those competitors are offering a much lower level of service. By establishing minimum standards across all credit providers, we can be assured that a reasonably high minimum standard of professionalism and service is provided to the customer in these matters.

The next matter I allude to is the advertising of products for people who are seeking credit. We see a large amount of advertising on television and in other forms encouraging people to take out loans with particular institutions. In many cases a percentage interest rate is attached to those loans. I am sure there is no need for me to tell you, Mr Deputy Speaker, about the different ways in which interest rates can be presented, because, as a businessperson, you will be well aware that it

depends on the period over which the interest is to be charged; whether it goes back to the old days - which I do not think is allowed - of being non-reducible interest; and whether the interest is charged on the maximum amount over a month. Interest charges can be structured in a range of different ways, and the outcome of the total cost to the consumer can vary markedly. When companies advertise, there is a need to ensure that that advertising is not false and misleading. By that I mean when a company says that it has a low interest rate, but then the consumer finds that there are compulsory charges or termination fees, etc, which means that the effective interest rate can be higher. The whole point of the code is to outlaw some of those extra fee mechanisms and, when they are quite proper and allowable, to ensure that they are governed by sensible regulations. The complex set of arrangements which finance providers can put in place when they advertise means that the consumer may not be able to judge the full cost of taking out a loan with a provider. We must ensure that the standards for advertising by credit providers enables some comparability to be made by the consumer. This, as in all cases, is a bit of a balancing act because we do not want to restrict the ability of finance providers to develop innovative and new packages that meet specific needs.

The regulations need a degree of flexibility so that a credit provider which sees a new market in providing a different product can do so. However, we do not want new products, which are particularly complex, to be developed more for the purpose of hoodwinking people into believing that they are getting a certain deal when they are not. I am not sure to what extent it is covered by this, but I am concerned when a small number of retailers advertise the fact that a consumer can buy a product and pay no interest for six or 12 months. Mr Deputy Speaker, you and I know that a retailer which must survive will not give a consumer something for nothing. When there is a promise of no interest for a certain period, the interest for the period immediately following the interest-free period may be exorbitant, and it may be a contract into which a consumer is locked. The advertising of a period of no interest can be quite misleading in some cases. I have not seen the Ministry of Fair Trading take action publicly. It may have taken action in the courts, but I do not know whether action has been taken against some retailers which have advertised that a product can be purchased without any deposit and free of interest - meaning that there is an interest-free period - and then the consumer pays the interest after that to make up for it. Is the minister aware of any complaints about those schemes?

Mr Shave: Certain regulations stipulate what people are and are not allowed to do. When they blatantly deceive or mislead the public, it will be the responsibility of the ministry to take action against those people, and I would expect it to do so. If you had read your newspapers over the past three or four weeks, you would know that the Commissioner for Fair Trading has warned the public of certain businesses that are misleading people with false advertising. It depends on the case.

Mr KOBELKE: I thank the minister for his general answer, but my question was more specific. I will rephrase it, because I am not asking him to give me exact details. Is the minister aware of any complaints, which the Ministry of Fair Trading has acted on, in the specific area of advertising for the sale of electrical appliances in which credit is provided with no deposit, the consumer takes possession of the electrical appliance, and the repayments do not start for a certain period and/or they are interest free for a certain period? My judgment - I may be a bit cynical - is that that is misleading in that interest must be paid sometime. I cannot accept that there would not be an interest payment. That is not mentioned in the advertising. It may be because I am cynical and that there are no problems with them. Specifically, is the minister aware of any complaints about advertising of credit packages, largely for electrical appliances, which his department has had to act on?

Mr Shave: No, I am not aware of any complaints, but I know of one electrical firm and I saw the same advertisement as you. It looked very attractive, but I was somewhat sceptical about it.

Mr KOBELKE: We share the scepticism. It is a matter of whether there is a basis for a real complaint.

Mr Shave: I will find out for you.

Mr KOBELKE: I now take up two other examples relating to credit, because they give a little understanding of what the code is likely to be about and which this legislation will underpin. The first example relates to the fact that I, like most if not all members, run my electorate office on an overdraft. I got a nasty letter from my bank manager because I had exceeded my overdraft. I sought to borrow money to make sure I would not be charged the extra fees by writing cheques when I was over my limit. I applied for an extension of the overdraft. I found that it would cost me $400 for an establishment fee, and I am not sure what other costs, to get $2 000 or $3 000 for a short period until I could get some money out of another account and trim back on some of my expenditure. It was put to me that it would be better to use my bankcard to take out a personal loan than to use that other form of extending my credit. That is the type of judgment we all make from time to time. I am aware from the many constituents I see that, while I did not have any problem understanding the potential choices, there may be people who may not be able to see through that to the real cost of the two different forms of credit. One was an extension on the overdraft and the other a personal loan. If I were to take the personal loan over a month it would cost me in the order of $20 or $30, whereas if I walked straight into the overdraft extension I would have to pay an upfront fee of $400, plus interest charges. People need to access money on many occasions, and they do not necessarily know what options are available to them. I hope that the Consumer Credit Code will mean that the options and the bases on which people make a judgment on the real cost of choosing one credit option over another will be readily available to them.

The second area I wish to relate to members from personal experience is the problem of ascertaining the correct interest payment, and getting the lending institution to set out clearly how it has calculated the interest. I am sure such requirements are included in the code. I regularly use my credit cards - without mentioning the name. When I am on parliamentary business and travel around the State I use my cards for nearly all of my expenses and then apply for the reimbursement of

entitlements rather than, as many members do, seek a payment beforehand. That is one example of the extensive use I make of credit cards. In one instance I had not repaid the amount by the due date, so I knew that I would incur an interest charge. That is not something that I normally do. Normally I incur the expenditure on credit cards that have an interest-free period if I pay within so many days. In this instance I knowingly had not repaid the full amount by the set date, and I knew that interest would be payable. I knew that it would be a small amount only, because I had to wait only a few days for the money to come through to pay off the balance on the card. However, when I received the next account for my credit cards I found that the interest rate did not match the interest rate for that number of days. I sought to make inquiries of my local bank. I was given a telephone number and I got the normal runaround. I made two or three telephone calls, and when I finally got through after being cut off and experiencing other inefficiencies, I was told that I needed to go to my bank to fill in a form. I went back to the bank, where I had been in the first place, and I filled in a form to state that it had incorrectly calculated the interest on my credit cards. I set out in a form the number of days and the interest rate which was stated to be payable, and made clear the amount that was incorrect. In one instance the credit charge should have been about $7, but I had been charged $35. I was concerned there may have been some hidden charges, and I expected the bank to explain that the credit charges were taken from another date because of the technicalities contained in the fine print, or perhaps there was an extended period I had not taken into account. However, to my surprise, in my next statement I found that the bank had simply wiped the interest altogether. Whether the bank made a judgment that because the amounts were so small it did not want to go into it, or I had caught it out and it did not want to admit it had made a mistake, or for whatever reason, I paid no interest on that credit facility which I took advantage of for a short number of days. It was my responsibility to pay that interest and I expected to pay it. However, I was fairly certain that the bank had miscalculated the interest charges, and when I went through the procedures required, which were not as simple as they should have been, and submitted the required form to contest the interest charge, I did not get the detailed response that I was seeking; I simply got all the interest wiped. I am obviously able to deal with banks on those sorts of issues - as members of Parliament are. However, I am concerned for many of my constituents who may not get out their calculators to calculate the interest and who do not have the ability to pursue with their lender the charges that have been made, so there may be many instances in which people are being charged more interest than they should be paying.

I spoke to someone in small business who engaged someone to go through his accounts for a fee of $1 500 to see whether he had been overcharged by his banks or lending institutions. This person worked on the basis that if he could not save his client the amount of money he would charge the client, he would do it for nothing. Some people are aware of a fair degree of overcharging by financial institutions with respect to credit, and because it is so complex, through the electronic transfer of funds and the great deal of time it takes to check these things, many people are not in a position to check whether the credit charges being levied against them are properly calculated and are valid. The code will provide a mechanism to address those issues.

I regret that the minister's speech did not refer to those important matters. He spoke directly to the intention and the background to the Bill, which is to underpin the Consumer Credit Code. The code will offer consumers that protection, and it is very important. The Australian Labor Party fully supports the establishment of such a code, and on that basis will support the Bill and wishes to see it go through Parliament in a short time.

MR McGINTY (Fremantle) [1.36 pm]: As the member for Nollamara has indicated, the Opposition supports the Consumer Credit (Western Australia) Act, which arose out of the 1993 Australian Uniform Credit Laws Agreement. In November 1996 a national agreement on information to be provided to borrowers was enacted for the first time. We now have comparable legislation throughout Australia based on the template that applies in Queensland. It relates to the provision of information to consumers for personal and domestic credit. The Bill is essentially about housekeeping matters - cleaning up drafting and technical matters - and about transferring transitional regulations into the Act. The Opposition supports legislation in these areas. These matters are increasingly of a national character and it would be rather foolish to maintain purely a state-based regime when so many of the rules that apply are of that character.

I take the opportunity during the course of debate on the Consumer Credit (Western Australia) Amendment Bill 1999 to draw attention to a couple of other matters. The first relates to the future of the Consumer Credit Legal Service. Most people would have seen on television last night the Consumer Credit Legal Service advising people about differential interest rates that are available to professional people, who can obtain lower interest rates on housing loans and personal loans than those offered to members of the public. We are all aware over the years of some considerable activity by this most worthwhile organisation. For that reason it was disturbing to receive a letter - I presume all members of the House received a similar letter - from the Consumer Credit Legal Service on 10 March advising that it was likely to close its doors because of funding cuts. The letter traces over a considerable history of the good work that it has done, particularly on behalf of disadvantaged Western Australians who would not otherwise have access to legal advice on credit matters. It draws attention to the fact that 20 000 Western Australians have been assisted with legal advice over credit matters. The letter reads -

> Notwithstanding its effectiveness and the growing need for its services, CCLS has not had a stable source of recurrent public funding since 1993. It is scheduled to close on 31 May 2000 due to lack of funding.

That would be a great pity. With the passage of this legislation, which attempts to ensure national standards are met in the provision of credit, at the same time we shall take away the very organisation which is designed to assist, in particular, disadvantaged people in that matter. Legislation will go through at the same time as the real source of assistance to those people who need legal assistance will be taken from them.

The other matter I take this opportunity to address arose from comments made by the Premier on Tuesday, 14 March this

year during the course of parliamentary debates on another matter to do with finance and credit. In that debate the Premier told the Parliament, when defending his brother Ken Court, that -

> MFA Finance Pty Ltd has not walked away from anything. It has one borrower, Mr Kennedy, who is associated with the losses. He is one borrower out of that company's book.

Essentially, the Premier was saying that MFA Finance Pty Ltd had one rotten apple and, apart from that, the operation was sound. Unfortunately that is not the case, and I take the opportunity today to put on record a significant number of other loans associated with MFA Finance which have gone bad, and which are in no way associated with Mr Greg Kennedy. The Premier also sought from me information on the security backing for the 23 MFA brokered loans made available to the blind man in his seventies, Mr Eric Crew. On that occasion I gave the Premier a schedule of the 23 loans organised by MFA Finance for Mr Crew, and I believe that a significant number - if not a majority, certainly approaching half - of those loans had some form of default associated with them. It is important to note that not just the one borrower has had defaults associated with him.

The DEPUTY SPEAKER: Order! I remind the member that we are dealing with the consumer credit Bill, and not a commercial brokerage Bill. I think he is a little out of order raising this subject in the second reading debate, and I ask him to get back to the Bill.

Point of Order

Mr KOBELKE: I draw your attention, Mr Deputy Speaker, to clause 6 of the Bill, which indicates that there is some relevance to finance brokers who are mentioned in clause 6.

The DEPUTY SPEAKER: There is some relevance, but it should not be the major part of the member's speech.

Debate Resumed

Mr McGINTY: I will make the point fairly briefly, and then move back. The issue is that although several MFA-Kennedy loans have failed, Mr Kennedy is not the only borrower from MFA to have seriously defaulted and who appears to have caused losses to the lenders. In Parliament on Tuesday, 14 March reference was made to two loans made by the blind, self-funded retiree, Mr Eric Crew, to Australian Limestone Supplies Pty Ltd. The loans were for third and fourth mortgages to Australian Limestone Supplies Pty Ltd, of which Rosario Mignacca and Francesco Carmelo Mignacca are directors. The two loans made by Mr Eric Crew through MFA to that company are for $185 000 and $125 000, making a total of $310 000. The security held for those loans and the extent of defaults at 4 June 1999 are detailed in a letter to Mr Crew from MFA Finance of that date. Since June 1999 no payments, either of arrears or accruing interest, have been received by Mr Crew. By two letters, dated 22 February 2000, MFA informed Mr Crew that it would charge him $5 100 brokerage fees to collect these loans. Fortunately for Mr Crew, he has now engaged solicitors to replace MFA and will not have to pay these outrageous fees. In a letter of 25 February 2000, MFA told Mr Crew that one property, at 168 Preston Point Road, East Fremantle, was to be auctioned on Sunday, 19 March 2000 at 11.00 am. The selling agent, L.J. Hooker Kardinya, has advised that the cheque paid by the owner for advertising expenses of around $2 000 has bounced. The auction went ahead and the property sold for $695 000. I do not suggest that many of the hallmarks of many other finance broker loans, with significant over-valuations and the like, were present in this case, but it was an auction to sell the secured property in order to satisfy the defaulting loan which had been organised by MFA, and the borrower was not Greg Kennedy.

Despite the lengthy default in that particular loan, MFA has allowed the borrower to arrange an auction of one of the four properties held under a range of first, second, third and even fourth mortgages for total loans by Mr Eric Crew of $310 000. This is despite MFA having said in its letter of 4 June 1999 that because of the action it was taking it was probable that the borrower would not make further payments to MFA until the property was sold. Nine months ago MFA was aware of this significant default and that it was likely to continue until the properties were sold. However, MFA took no action to institute a mortgagee auction to sell the properties to satisfy its customers. The question needs to be posed in this case of whose side MFA is on. It can hardly be said, in light of its delay in the face of continuous and anticipated default, that MFA has been acting in Mr Crew's best interests in the matter. No reasonable person could think otherwise. Numerous others of Mr Crew's 23 loans have been either non-performing or erratic, and I refer to loans not through Mr Kennedy.

I place on record, in response to a matter raised in this place last week by the Premier, that other MFA loans to borrowers other than Greg Kennedy, such as that secured by the property auction in East Fremantle last weekend, have been seriously in default. I am talking about $310 000 worth of loans. I am not in a position at this stage to say that Mr Crew has suffered a loss in this loan, because four properties are involved providing security for two loans totalling $310 000. Only one property has been auctioned at this stage, but I hazard an informed guess that, as the fourth mortgagee, at this stage he is unlikely to gain any income, although he has lost part of the security he otherwise held, albeit in the form of a fourth mortgage, which is a remarkable deed.

On previous occasions I have given examples of inflated valuations involved in these matters, which have not been a problem with the MFA loans organised through Mr Crew. Peppermint Park, the notorious property at Busselton, had a purchase price of $1.52m, against a valuation of $3.3m. The Bubbling Billy Tearooms at Capel, which have featured prominently in recent weeks, had a purchase price of $203 000, and a sworn valuation by a valuer licensed through the Ministry of Fair Trading of $760 000. I had lunch at that restaurant a couple of years ago and if it is worth $760 000, I will go he. In fact, it would be lucky if today it was worth the purchase price paid a couple of years ago. Then there is the notorious Wattle Grove Motel which had a purchase price of $1.85m, against a sworn valuation of $3.69m.

These are matters of ongoing and remarkable scandal in this State, and very little is being done by not just the Ministry of Fair Trading, but also the minister, in particular, to ensure these vile, pernicious practices are put to an end. At the beginning of my remarks I indicated that I felt those matters should be replied to as they were raised by the Premier last week, and I appreciate the tolerance shown to me during this debate by you, Mr Deputy Speaker. I thought it appropriate to get them on the public record. Having said that, the Labor Party supports this legislation dealing with consumer credit. I understand the minister intends to move an amendment; therefore, we will deal with this matter further in the consideration in detail stage.

MR SHAVE (Alfred Cove - Minister for Fair Trading) [1.50 pm]: As members have pointed out, this legislation bears no relationship to finance broking issues. The Bill is aimed purely at correcting drafting and technical errors in the Consumer Credit Code. As the member for Nollamara pointed out, this Bill will bring our legislation into line with the federal Act. The member for Fremantle started to talked about the MFA Finance Pty Ltd details, and was right in his comment that the Deputy Speaker was very fair in allowing him to digress and identify individual loans with various mortgage brokers, but so be it.

The member for Nollamara raised a couple of issues about the code. There are a lot of ongoing issues in the code. Currently, the complexity of the documents is being considered in a post-implementation review. The points raised by the member for Nollamara, who referred to the specifics of the Bill, will be addressed, as will the remarks of the member for Fremantle. The comparative rate covering consumer credit products is also being considered as part of that review.

Mr Kobelke: Can the minister be more specific as to the models being proposed?

Mr SHAVE: I have not been given the details of the models; I have received general advice. When I have been asked for specifics such as that, I have said that I will provide the information. If the member is interested, I will ensure he receives advice on the various models being proposed. Due to the numerous types of contracts, there are many models. The post-implementation review will address that issue. I assure the member that we will keep him fully advised of that situation.

The member for Fremantle was quick to refer to the issue of finance brokers. This legislation is aimed purely at protecting domestic borrowers. The changes seek to clarify exactly to whom and to what the legislation is intended to apply. The advice I have with me is that the code applies only to credit obtained wholly or predominantly for personal, domestic or household use; it does not apply to credit obtained for business or investment purposes.

Some other points have been made to me, including that section 11 of the code provides that if the debtor gives a declaration before entering the contract that the credit is to be used for business or investment purposes, it will be presumed conclusively not to have been for personal, domestic or household purposes. Sometimes false declarations are given to avoid the operation of the Consumer Credit Code. Section 11(3) of the code deals with this situation by making a false declaration ineffective, if the person who obtained the declaration knew or had reason to believe it was untrue. Some people may like to circumvent the effectiveness of the code by encouraging people to made false declarations, and this legislation addresses those issues. I think I have covered most issues raised by members, and I thank them for their support of the Bill.

Question put and passed.

Bill read a second time.

Consideration in Detail

Clauses 1 to 24 put and passed.

Clause 25: Section 52 replaced -

Mr SHAVE: I move -

> Page 15, line 4 - To insert after "a copy of the" the following -
>
> > guarantee document to keep and subsection (1)(b) does not apply if the credit provider has previously given the guarantor a copy of the

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 26 to 65 put and passed.

Title put and passed.

[Questions without notice taken.]

QUESTION ON NOTICE, UNANSWERED

MR KOBELKE (Nollamara) [2.40 pm]: On 21 December I asked question on notice 1580 of the Premier. The answer has been outstanding for more than three months. When will I get a response?

MR COURT (Nedlands - Premier) [2.41 pm]: I do not have the detail of the question. I will make sure there is a response to the member today.

CONSERVATION AND LAND MANAGEMENT AMENDMENT BILL 1999

Pro Forma Amendments

On motion by Mr Barnett (Leader of the House) resolved, that the following amendments be made pro forma -

Clause 8

Page 6, line 4 - To delete "and 20(2)".

Clause 10

Page 14, line 16 - To delete "Committee;" and substitute "Commission;".

Clause 15

Page 21, after line 18 - To insert the following -

(c) by deleting paragraph (c);

Page 21, line 20 - To delete "paragraph" and substitute "paragraphs".

Page 22, after line 5 - To insert the following -

(cc) to promote and encourage the planting of trees and other plants for the purposes of the rehabilitation of land or the conservation of biodiversity throughout the State, and to undertake any project or operation relating to the planting of trees or other plants for such a purpose;

New clause

Page 23, after line 14 - To insert the following -

17. Section 34A amended

Section 34A(1) is amended after section 33(1)(ca) by inserting -

“ or (cc) ”.

New clause

Page 50, after line 6 - To insert the following -

52. Consequential amendments

(1) Schedule V to the *Constitution Acts Amendment Act 1899** is amended in Part 3 by inserting after the item relating to the Conservation and Environment Council established under the *Environmental Protection Act 1971* -

The Conservation Commission of Western Australia established under the *Conservation and Land Management Act 1984*.

[* *Reprinted as at 15 April 1999.*

For subsequent amendments see Acts Nos 45 and 53 of 1998 and 5, 8, 26, 34, 38 and 44 of 1999.]

(2) Schedule 1 to the *Financial Administration and Audit Act 1985** is amended by inserting after the item relating to the Commissioner of Workplace Agreements the following item -

" Conservation Commission of Western Australia ".

[* *Reprinted as at 9 July 1999.*

For subsequent amendments see Acts Nos. 5, 8 and 38 of 1999 and Gazette 28 January 2000.]

Page 53, lines 10 to 19 - To delete the lines and substitute the following -

this Act has effect as if any rights, obligations or powers held by, or imposed or conferred on, the Executive Director under that agreement were rights, obligations or powers held by, or imposed or conferred on, the Forest Products Commission.

(2) A timber sharefarming agreement referred to in subclause (1) entered into by the Executive Director as agent of another person has effect as if the agreement were entered into by the Forest Products Commission as agent of that person.

Page 53, lines 24 and 25 - To delete "(otherwise than as an agent for another person)".

Page 53, lines 29 to 31 - To delete the lines and substitute the following -

(2) An agreement referred to in subclause (1) entered into by the Executive Director as agent of

another person has effect as if the agreement were entered into by the Forest Products Commission as agent of that person.

(3) Subclauses (1) and (2) apply only to the extent that the agreement concerned relates to the harvesting, sale or supply of forest products and to matters associated with that harvesting, sale or supply.

Schedule 1

Page 54, line 8 - To delete "or".

Page 54, lines 9 to 11 - To delete the lines and substitute the following -

(c) the making of arrangements in relation to timber sharefarming agreements referred to in section 34B of the CALM Act;

(d) the establishment or maintenance of plantations of forest products, plant nurseries for the production of forest products, or seed or propagation orchards of forest products;

(e) the undertaking of research into the management and production of forest products in plantations;

(f) the undertaking of research into the use of forest products; or

(g) the provision of corporate services to the Department, including personnel, financial management, computing, legal, marketing, planning, statistical, records management or safety and training services.

Page 55, after line 22 - To insert the following -

"Department" means the department of the Public Service referred to in section 32 of the CALM Act;

FOREST PRODUCTS BILL 1999

Pro Forma Amendment

On motion by Mr Barnett (Leader of the House) resolved, that the following amendments be made pro forma -

Clause 3

Page 2, after line 13 - To insert the following -

"CALM Act sharefarming agreement" means a timber sharefarming agreement referred to in section 34B of the CALM Act (not being a timber sharefarming agreement to which Schedule 1 clause 4 of the *Conservation and Land Management Amendment Act 2000* applies);

Page 2, after line 15 - To insert the following -

"Commission sharefarming agreement" means a timber sharefarming agreement under Part 7 or a timber sharefarming agreement to which Schedule 1 clause 4 of the *Conservation and Land Management Amendment Act 2000* applies;

Page 3, after line 20 - To insert the following -

"manage", in relation to forest products, includes establish, regenerate, grow, tend and protect;

Page 3, line 31 - To delete "timber" and substitute the following -

Commission sharefarming agreement or a CALM Act

Page 4, lines 4 to 7 - To delete the lines.

Clause 10

Page 7, lines 13 to 16 - To delete the lines and substitute the following -

(d) to promote and encourage the development of the forest production requirements of the State, and to undertake any project or operation for that purpose;

(e) to acquire rights and powers, and accept obligations -

(i) under Commission sharefarming agreements; or

(ii) through the agency of the Executive Director under CALM Act sharefarming agreements;

(f) to enter into a contract with any person for the doing by that person of anything that the Commission is authorized or required to do under a Commission sharefarming agreement;

(g) to maintain, or establish and maintain -

(i) plantations of forest products;

(ii) plant nurseries for the production of forest products; or

(iii) seed or propagation orchards of forest products;

(h) to enter into contracts with any person for the management of forest products;

Page 8, after line 11 - To insert the following -

(ii) the management of forest products;

Page 8, line 14 - To insert after "of" -

managing or

Page 8, line 18 - To insert after "products" -

after felling or cutting

Page 9, line 31 to page 10, line 4 - To delete the lines and substitute the following -

(b) controlling land to the extent required for managing forest products;

(c) controlling land to the extent required for the harvesting and sale of forest products;

(d) acquiring or holding interests in land, or managing land to the extent required for the purposes of Commission sharefarming agreements;

(e) acquiring or holding interests in land, or managing land, through the agency of the Executive Director to the extent required for the purposes of CALM Act sharefarming agreements;

(f) having land vested in it, or the care, control and management of land placed with it, for the purposes of subsection (1)(g); or

(g) leasing land for a purpose consistent with the Commission's functions.

New clause

Page 15, after line 20 - To insert the following -

19. Half-yearly reports

(1) In addition to the reporting requirements referred to in section 49, the Commission must, for the first half of a financial year, give to the Minister a report on the operations of the Commission.

(2) A half-yearly report must be given to the Minister -

(a) within 2 months after the end of the reporting period; or

(b) if another period after the end of the reporting period is agreed between the Minister and the commissioners, within the agreed period.

(3) The Commission must give a copy of each half-yearly report to the Treasurer.

(4) A half-yearly report must include the information required to be given in the report by a relevant statement of corporate intent under Division 2.

Clause 30

Page 20, line 10 - To insert after "Minister" -

, including information to be given in half-yearly reports

New clauses

Page 31, after line 18 - To insert the following -

Part 7 - Timber sharefarming agreements

50. Definitions

In this Part -

"owner" includes a lessee or licensee.

51. Entry into timber sharefarming agreements

(1) The Commission may enter into, or enter into and carry out, whether as a principal or an agent, a timber sharefarming agreement in respect of any land with the owner of that land.

(2) For the purposes of this Part a timber sharefarming agreement is an agreement -

(a) by which the right to establish, maintain and harvest, or the right to maintain and harvest, or the right to harvest, a crop of trees on land is acquired -

(i) by the Commission;

(ii) by another person through the Commission acting as an agent; or

(iii) by the Commission and by another person through the Commission acting as an agent;

and

(b) which provides for rights, obligations and powers relating to -

(i) payment of money or the giving of other consideration by, or the division of the crop or the proceeds of the crop between, the parties to the agreement; and

(ii) access to the land and, where appropriate, the undertaking of work or the provision of facilities on it by those parties.

(3) A timber sharefarming agreement may also contain other matters in addition to those referred to in subsection (2).

(4) The references in subsection (2)(a) to the harvesting of a crop of trees include reference to the harvesting of forest products from the crop, and the references in subsection (2)(b) to the crop include reference to forest products from the crop.

52. Consent of owner and occupier required

The Commission is not to enter into a timber sharefarming agreement with the lessee or licensee of any land unless the owner of the freehold, and any person occupying the land with the consent of the owner of the freehold, has given approval in writing to the agreement.

53. Nature of rights created

(1) The right acquired as referred to in section 51(2)(a) is a *profit a prendre* and an interest in the land to which the right relates and, except as otherwise provided or permitted under this Act, has all the attributes of a *profit a prendre* including, but not limited to, assignability.

(2) Subsection (1) has effect despite any rule of law or equity to the contrary and has effect even if the right acquired as referred to in section 51(2)(a) is accompanied by an obligation to exercise that right.

(3) If the right acquired as referred to in section 51(2)(a) is assigned or otherwise disposed of -

(a) the Commission or other person assigning or disposing of the right is no longer required to carry out obligations under the timber sharefarming agreement;

(b) the timber sharefarming agreement continues to be a timber sharefarming agreement for the purposes of this Part even if the person to whom the right passes is not the Commission and does not acquire the right through the Commission acting as an agent.

(4) Without limiting subsection (1), a timber sharefarming agreement may be registered as a *profit a prendre* under the *Transfer of Land Act 1893*.

(5) The obligations and restrictions that bind the owner of any land under a timber sharefarming agreement that is registered under the *Transfer of Land Act 1893* are binding also on the owner's heirs, executors, administrators and successors in title, except to the extent that the agreement otherwise provides.

(6) Where a timber sharefarming agreement in respect of any land is registered under the *Transfer of Land Act 1893* and bears the written consent of a mortgagee or chargee of the land whose mortgage or charge was registered before the timber sharefarming agreement, the estate or interest of the owner of the land passing to and vesting in a purchaser on a sale by the mortgagee or chargee is subject to the timber sharefarming agreement.

(7) A timber sharefarming agreement is not a lease or licence to which section 20 of the *Town Planning and Development Act 1928* applies.

(8) The provisions of this section extend to a timber sharefarming agreement to which Schedule 1 clause 4 of the *Conservation and Land Management Amendment Act 2000* applies.

Heading to Part 7

Page 32, line 1 - To insert after **"for"** -

the management,

Clause 50

Page 32, line 5 - To insert after "the" -

management,

Page 32, line 10 - To insert after "be" -

managed,

Page 32, line 15 - To insert after "of" -

managing or

Clause 52

Page 32, line 26 - To insert after "the" -

management or

Page 32, line 29 - To insert after "of" -

managing or

Page 33, line 4 - To insert after "products" -

after felling or cutting

Page 33, line 5 - To insert after "be" -

managed or

Clause 53

Page 33, line 27 - To insert after "be" -

managed,

Clause 54

Page 34, line 6 - To insert after "of" -

managing or

Page 34, lines 19 and 20 - To delete "establishing, regenerating, tending, protecting or otherwise".

Page 34, line 23 - To delete "sharefarmed land" and substitute "land the subject of a CALM Act sharefarming agreement".

Page 34, after line 27 - To insert the following -

(e) in the case of a contract relating to forest products on land the subject of a Commission sharefarming agreement, a component for the purpose of enabling the full recovery of the costs incurred by the Commission in establishing and maintaining, or maintaining, the crop of trees from which the forest products are derived;

Clause 55

Page 35, line 12 - To insert after "and" -

manage forest products on it or

The SPEAKER: For any member who has a doubt, the Government is simply incorporating all of the amendments into a printed Bill so that members may more easily deal with it.

ROAD TRAFFIC AMENDMENT BILL 1999

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 5: Section 5A inserted -

Debate was adjourned after the clause had been partly considered.

Ms MacTIERNAN: I hope that during the break the Deputy Premier has been able to clarify a couple of points for me, in particular the meaning of proposed new section 5A(1)(d) and the opening words of that proposed section.

Mr COWAN: I will repeat what has already been said. Under the national competition policy, the State Government as a signatory agreed that it would accept the policy principles of the National Road Transport Commission. I have already given an undertaking that I will ensure that member has access to those principles.

Ms MacTiernan: Do you have a copy here now?

Mr COWAN: No, but we will see that the member has access to them. Under those principles, there is a distinction between the owner and registration of a vehicle. In that case, this Bill retains the definition of an owner but there is a requirement for registration. Section 17 of the Act requires the owner to register; that is, the owner in person or a lessee. As I understand it, this reference to which the member wanted some explanation refers to the responsible person. Does that give any assistance at all?

Ms MacTiernan: Which is the reference to the responsible person?

Mr COWAN: Section 17 indicates that an owner must register a vehicle.

Ms MacTiernan: I have no problem with that.

Mr COWAN: The owner or the lessee could be the person who has title.

Ms MacTiernan: Absolutely. We have no problem with the expanded definition of owner. The question is why does that same expansion for owner did not appear in the definition of responsible person?

Mr COWAN: The owner is required to licence the vehicle under section 5A. He or she then becomes the responsible person.

Ms MacTIERNAN: I want to make this absolutely clear. This is not nitpicking at definitions, because the whole concept of responsible person is at the heart of changes to the owner-onus legislation. That is why we must get this right. The Deputy Premier has said that section 17 of the Act uses the definition of "owner", and that the definition of "owner" will also include a person who is a lessee. As an example, if the Deputy Premier had two cars, one which was in his personal name and the other which was leased through the department, under the definition of "owner", the Deputy Premier would be the owner of both cars.

Mr Cowan: No.

Ms MacTIERNAN: That is what the explanatory notes say it means. The definition states -

> (b) if there are several persons entitled to its immediate possession, the person whose entitlement is paramount . . .

The explanatory notes for the change to the definition of "owner" say that "owner" has been replaced throughout the Act with that concept. It is necessary to retain the definition of "owner" as it relates to the title of the vehicle. In most cases the owner of the vehicle will be the responsible person, but paragraph (b) not only excludes hirers and mechanics but also a person who leases a vehicle from a leasing company under salary packaging. For example, that person and not the leasing company, which is the true owner, has the paramount entitlement to possession of the vehicle and is therefore the owner for those purposes. The Deputy Premier will be the owner of the vehicle under his name and, as the licence holder, he will also be the responsible person. He will also be the owner of the car which he leases from Lease Plan Australia Ltd. If that is not true, to what do the explanatory notes refer?

Mr COWAN: The member for Armadale gave two scenarios; I will, unfortunately, add a third. If I buy a car in my name, I am the owner - the responsible person; we all accept that. If I decided that I did not want to pay cash for that vehicle, and decided that it would be appropriate to lease that vehicle, and I used Lease Plan, or whatever company is made available by the motor vehicle distributor - usually a lease is entered into through that process - I would be the lessee and the responsible person.

Ms MacTiernan: You would be the owner and the responsible person.

Mr COWAN: I would be the lessee and the responsible person. I cannot be the owner because the owner is still the leasing company.

Ms MacTiernan: The expanded definition of "owner" -

Mr COWAN: I am told that as the lessee, I would be regarded as the owner for the purposes of that clause. If we move to the third scenario in which the Ministry of the Premier and Cabinet has decided that it will lease vehicles for the use of members of Parliament - Lease Plan has leased those vehicles on behalf of the Ministry of the Premier and Cabinet - I would merely become the driver. I would not be the owner or the responsible person.

Ms MacTiernan: However, you would be the owner.

Mr COWAN: No.

Ms MacTiernan: You would not be the owner.

Mr COWAN: No. The Ministry of the Premier and Cabinet would become the owner. That is why the Ministry of the

Premier and Cabinet would get all the notices and send them onto the member's colleague who made his confession yesterday. All members would receive a notice from the Ministry of the Premier and Cabinet. That is the difference.

Ms MacTIERNAN: I accept part of that point which I think is right. However, that does not alter the fact that we could have a better definition of "responsible person", which takes into account all of those scenarios. I presume that the Deputy Premier is saying that when a person leases a vehicle from a leasing company, the vehicle is not registered in the name of the leasing company. Is that the basis of the Deputy Premier's argument?

Mr Cowan: That is right.

Ms MacTIERNAN: The definition of "owner" will pick up some people in the definition of "responsible person". However, other people who drive company cars, like us, are not picked up by our definition of "responsible person".

Mr Cowan: That is right.

Ms MacTIERNAN: We think that is inappropriate and that the owner-onus legislation would work much better if it had a decent definition. To that end, I move -

> Page 4, lines 14 to 28 - To delete the lines and substitute the following -
>
> (a) (i) a registered operator of the vehicle, except where the vehicle has been disposed of by the operator,
>
> (ii) if the vehicle has been disposed of by a previous registered operator a person who has acquired the vehicle from the operator,
>
> (iii) a person who has a legal right to possession of the vehicle (including any person who has the use of the vehicle under a lease or hire-purchase agreement, but not the lessor while the vehicle is being leased under any such agreement), and
>
> (b) in relation to an unregistered vehicle to which a trader's plate is affixed each of the following persons:
>
> (i) the person to whom the trader's plate is issued under the State legislation,
>
> (ii) a person who has a legal right to possession of the vehicle (including any person who has the use of the vehicle under a lease or hire-purchase agreement, but not the lessor while the vehicle is being leased under any such agreement), and
>
> (c) in relation to an unregistered vehicle to which no trader's plate is affixed each of the following persons:
>
> (i) a person who was last recorded as a registered operator of the vehicle,
>
> (ii) a person who has a legal right to possession of the vehicle (including any person who has the use of the vehicle under a lease or hire-purchase agreement, but not the lessor while the vehicle is being leased under any such agreement), and
>
> (d) any other person (or class of persons) prescribed by the regulations for the purposes of this definition.
>
> (2) For the purposes of subsection (1)(d), the regulations may prescribe different persons for different provisions of the road transport legislation.

I have outlined our concerns about the existing definition of "responsible owner". It does not pick up many people who have custody of a vehicle. I acknowledge that it will pick up people whose vehicles are registered in their names. We can do significantly better, and for those reasons I urge members to support this. I note the Deputy Premier's defence has been that national guidelines prevent us from doing what has been done in other States. For once we will be compliant; I wish we would be so compliant in other areas. I would like to find out what the timetable will be, and for the Deputy Premier to provide a copy of relevant national guidelines.

Mr Cowan: That shall be done.

Ms MacTIERNAN: I would like to know when.

Mr Cowan: Sooner rather than later.

Ms MacTIERNAN: It will help us in future clauses of the Bill.

Mr COWAN: The Government does not accept this amendment, and I will give one example of why we do not accept it. The member's amendment to insert new section 5A(1)(a) refers to a registered operator. The principal Act makes no reference to a registered operator. The member has tried to lift something from the New South Wales legislation, and I have already indicated that New South Wales is not a party to the National Road Transport Commission's principles. For that reason it is not the intention of the Government to accept this amendment. I appreciate that the general thrust of the member for Armadale is to tighten the definition of a responsible person. I gave her some advice on that prior to lunch which still

holds good: I recommend the member look at clause 42 which will amend section 102C of the principal Act to tighten up the definition of a responsible person.

Mr WIESE: I do not support what the member for Armadale appears to be doing. However, I want to put on record something that I tried to achieve while I was the minister responsible for licensing and an ongoing argument that I have had with the licensing department for probably more than 20 years. Some of the problems about definitions in this area relate to the way in which the licensing department requires owners of vehicles to go into the department to license their vehicles. I will use my own situation as a farm owner and operator. Our farm operates under a partnership consisting of my wife and me, and the registered companies of Wiese Nominees Pty Ltd and Chuckem Pastoral Company Pty Ltd. That partnership comprises four entities. When I go to license the farm vehicles - I can be licensing 15 or more vehicles - I want to license them in the name of the owner of those vehicles; that is, the partnership of R.L. and C.M. Wiese. Can I? Not on your life. I have never yet been able to license those vehicles in the name of the entity that actually owns them. I must license them in my name. I am not the owner. I am a small portion of a partnership that owns the vehicles. I have argued this matter with the licensing department and the bureaucracy. Until the department changes the way it approaches this issue we will continue to have this sort of ridiculous argument about who is the owner. If I were a corporation I could license those vehicles in the name of the corporation which owns them. However, as a partnership, I cannot license those vehicles in the name of the partnership that owns them. That is farcical and a nonsense. It causes all sorts of problems ultimately. For instance, if I wanted to transfer one of those vehicles that is owned by that partnership to the name of my wife, who is part of that partnership, I would have to pay stamp duty on the transfer. As long as we have these types of situations we will continue to have this argument about ownership. This can be sorted out ultimately, because I will be the responsible person and eventually I will sort out who will be the person responsible. I will have to find out who was the driver of the vehicle at the time. If I do not sort it out I will wear it. That does not appeal to me very much with the number of demerit points that I have accumulated. I believe strongly that the department needs to reassess how it requires a person to be nominated on the licensing papers of that vehicle. It should allow the actual owner to be recorded on the licence if that owner is a partnership. In a great number of situations in rural Western Australia that vehicle will be owned by a partnership and not by an individual. The partnership should be nominated as the owner. In that case it is no problem to document the responsible person.

Ms MacTIERNAN: Although the member for Wagin for some unknown reason did not want to agree with me, he mounted a good case for what the Opposition is trying to do. If we expanded the definition of a responsible person we could have the partnership registered as the owner of the vehicle and we would be able to deal with that effectively.

Amendment put and negatived.

Clause put and passed.

Clause 6: Section 12A amended -

Ms MacTIERNAN: Members will be aware that at the moment under the legislation the road trauma trust fund receives one-third of every fine imposed as a result of the red light cameras and speeding offences. The money collected from these photographic devices is in the order of $54m a year, and there is concern in the community that the cameras are placed to maximise revenue return rather than improve safety. The members for South Perth, Bassendean and Perth have spoken about the placement of the Multanovas to maximise revenue returns. The Opposition has discovered that the projected figure for this year is in the order of $54m. We have heard from the Government that there is a need to do a great deal of work on road safety. Given the importance of road safety, the Opposition proposes that the allocation to the road trauma trust fund for this purpose be increased from 33 per cent to 50 per cent. There are quite a few things on which the money could profitably be spent, excluding advertising campaigns, which are of limited value. Research shows that advertising does very little to achieve road safety outcomes.

Many schools are in the queue waiting for funding for their school crossings because they cannot get money, as the Police Department budget does not extend to providing either the capital works or the meagre wages for a lollipop person. Additional money could be spent in that area, and also on road calming devices. The Opposition would have no difficulty with more money being spent on some of the black spot areas. An amount of $10m would go a long way towards clearing the backlog in black spot funding, which currently exists because of this State's reliance on federal government funds. There are many ways in which we could profitably spend more money, other than advertising, to achieve better outcomes in reducing road trauma. To that end, I foreshadow that if the clause is defeated I will move to insert the following new clause -

6. Section 12A amended.

Section 12A is amended by deleting subsection (2)(a) and substituting the following -

" (a) one half of each prescribed penalty paid pursuant to a traffic infringement notice served under section 102B(1) or 102D(2);".

That would have the effect of increasing from one-third to one-half the amount of traffic fines that go into the road trauma trust fund.

Ms WARNOCK: I have often said in this Chamber that I believe all the fines raised from red light cameras and speed cameras should be spent on road safety measures, because I have been increasingly concerned that, although we all know that speed kills and drinking and driving is dangerous, obviously a large percentage of the population continues to do it.

We could make the roads safer by using more of the money that comes from the fines on various aspects of road safety. There are several reasons the Government should do this: Firstly, it would immediately stem all the comments we have heard many times in this place about roadside cash registers. People might be more inclined to think kindly of these devices if they knew the funds would be used for something useful.

This issue is so important that I have many times suggested that all the money should be spent on road safety, and I will be pleased to support a foreshadowed amendment to spend 50 per cent of it for this purpose. Indeed, it has been projected that the fund will receive $54m this year, and 50 per cent of that could be usefully spent, not only on advertising campaigns telling people about the madness of drinking and driving and the danger of driving too fast - which in large part have been taken from similar campaigns in Victoria where they have had some success - but also on practical measures such as those suggested by the member for Armadale.

All kinds of things are involved in the whole issue of road safety. As I pointed out yesterday in the second reading debate, we must approach this issue from several different directions and it is not sufficient to punish people for doing the wrong thing. The Government must persuade people to use devices, such as seatbelts. I am glad to say it is much more unusual for people not to wear seatbelts these days, because they certainly save lives. I had an example in my own family of someone who survived an accident as a result of wearing a seatbelt. All these issues are connected to safety on our roads and trying to persuade people to take more care on the roads, and to drive more carefully for their own good and for the good of those who may be in the car with them, or pedestrians or the occupants of other cars. I support any increase in the percentage of money being spent on road safety, and the suggestions by the member for Armadale are very good.

The ACTING SPEAKER (Ms McHale): I take it that the member for Armadale is foreshadowing the amendment in the event that the Opposition is successful in opposing the clause.

Ms MacTIERNAN: I ask you, Madam Acting Speaker, to clarify the situation of the foreshadowed amendment. They are not inconsistent; it is not only if the first fails that the other becomes operational. The Opposition has no problem with the Government's amendment, but it is trying to add to it. The Opposition has incorporated its amendment with the amendment to add more to it. We might need to take advice on how to do that because our amendment is not inconsistent with the amendment that has been moved.

The member for Perth has made a number of good points, but I would like to make an additional, very salient point, one about which I would like to see the Road Safety Council make more public noise; that is, the role road design plays in road safety. Recently, in November, a major conference took place in Perth, during which it was held by one keynote speaker that road design is a major element in road safety. In Western Australia, we seem to spend all our time blaming the motorists - they are drink driving, going through red lights, speeding or not wearing seatbelts. An ample body of evidence suggests that, in addition, we should also be giving much better attention to the design and the state of repair of our roads. It seems to me that the extra funds going to the Road Safety Council could be spent on improving the design of the roads we are building. Many of the roads being constructed are not meeting the design standards that they should be meeting.

Mr COWAN: I understand precisely what the member is seeking to achieve by having members oppose this clause. Should that be successful, she would then seek to move her amendment. If we follow that course of action and the amendment proposed by the member for Armadale is passed, effectively 50 per cent of the funds generated from speed cameras and red light cameras would be placed in the road trauma trust fund. As I understand it, at the moment that trust receives an income of about $13m annually, and the figure varies depending upon road-user behaviour.

Mr Kobelke: Taxpayer behaviour?

Mr COWAN: It depends on road-user behaviour. If the member drives at 60 kilometres per hour in that speed zone, he will not contribute.

Mr Kobelke: Are you saying that is a voluntary tax?

Mr COWAN: Very much so! As I was saying, it depends on road-user behaviour. The proposal in the foreshadowed amendment, should this clause not be passed, will increase the figure transferred from the revenue gained to 50 per cent, or one-half. The member mentioned that the forward estimates show that $54m is expected from speed camera and red light fines that come from infringements. Obviously, something is working because those forward estimates are wrong. It is expected that the revenue will not exceed $40m. That is why the amount going to the road trauma trust fund is $13m.

Ms MacTiernan: Another dodgy balanced budget increase! The construction of roads has been costed at $100m, and it ends up costing $400m.

Mr COWAN: That is not a debate that anyone needs to enter into at the moment. All I can say is that we believe it is appropriate that the proportion should be one-third of the revenue received from the payment of fines for infringements by motorists who have been picked up for running red lights and by speed cameras. Everybody would like to see more money for things of this nature; however, the figure has been set at one-third, and we see no reason to change it. In this case, I recommend to members that they vote in favour of the question before the Chair.

The ACTING SPEAKER: The question before the Chair is that clause 6 stand as printed. Part of the issue is that the original amendment foreshadowed by the member for Armadale talks about opposing the clause. An amendment to clause 6 may come from the member for Armadale. At the moment the question before the Chair is that clause 6 stand as printed.

Mr KOBELKE: I wish to speak in opposition to the clause, not because of its content, but because that will then enable

the member for Armadale to move her foreshadowed amendment which contains the change the Government proposes, plus a change to the proportion of the funds raised through traffic infringement notices that will go to the road trauma trust fund. As the Deputy Premier has pointed out, quite rightly, currently one-third of all the prescribed penalties go to that fund. The foreshadowed change, for which this clause must be defeated, would increase the amount paid to the fund to one-half of the prescribed penalty from the traffic infringement notices. The Government is seen to be gaining revenue by allowing the continuation of bad practices on our roads. It is getting so much revenue from this area that some people see it as a disincentive to reduce the rate of speeding in the community. I realise that is not the stated intention or the intention of the people operating the Multanovas -

Mr Cowan: It is not the practical case. As I said, the forward estimates are completely wrong about this.

Mr KOBELKE: That is a different point. I am not talking about the additional increase because the Department of Transport has put in one set of figures which the minister is now correcting; I am saying that whatever quantum is used, it is a large amount of money. The fact that two-thirds of it goes into general revenue, of itself, is an incentive for government to allow speeding to continue at unacceptable levels. Although that is not the stated case of the Government and although many people are working - the police and officers in the Department of Transport -

Mr Cowan: I suggest you visit the Shenton Park facility sometime.

Mr KOBELKE: I have. My point is this: Although I do not have the statistics in front of me, from time to time the police or the officers in the Department of Transport have reported that, following the placement of speed cameras and other devices, they have seen a reduction in the percentage of vehicles exceeding the speed limit on given roads. When we look at the fatalities and serious accidents, we find the overall number has not declined. As I outlined in my comments during the second reading debate last night, the data produced by the Government shows that since this Government came to power in 1993 there has been an increase in the road trauma in this State. It has not been able to bring down the level of road trauma or of fatalities in Western Australia. Although speed is one of the very important contributing factors and must be targeted - I support the use of Multanovas and other speed traps to reduce speeding and, in turn, the road toll - the Government has not achieved its overall goal of reducing the rate of fatalities. When we put those two factors together, we can understand that some interests in government may want to keep two-thirds of this money going into general revenue. Because of that, the impetus that is required to address the problem of speeding on our roads is not being given. By moving to the suggestion of the member for Armadale to increase the proportion to one-half, we will be going in the right direction in removing any incentive for the Government not to reduce speeding in quite a substantial way. That is what we need to see. We do not have a practice at this time in which the public has confidence. The general view of the public is that the Government is more interested in the revenue that it can gain from its Multanova machines than in ensuring that there is a total change in the culture of drivers to recognise that speeding is a major problem, and to eliminate or reduce to the smallest possible percentage the number of drivers who regularly exceed the set speed limit. We all know as we drive around Perth that although we may be driving at the set speed limit, not many other people are doing that and almost every other car on the road is passing us.

Ms MacTIERNAN: I would like to hear the remainder of the member's remarks.

Mr KOBELKE: The practice of Main Roads is to set speed limits at the eighty-fifth percentile. I do not agree with that. I recognise that it is looking at the general flow of traffic in order to maximise the use of our roads. I recognise also that it is aware of driver perception, and that if there is a general acceptance that people can drive at a given speed regardless of the classified speed limit on a certain road, there is some reality to what is a safe speed on that road and, therefore, the actual speed limit is quite often moved up to the eighty-fifth percentile of what traffic is doing on that road. That is not the way we should be going. We should be educating people through a range of measures about the importance of reducing speed. The Government would be sending a clear message if it accepted the proposal that only half of the funds go into general revenue and the other half go into the road trauma trust fund. That would not limit the use to which that money could be put, because the road trauma trust fund might set up a black spots program, and if it had millions of dollars in the fund it could give that money to the Department of Transport to undertake some road construction in those areas which were recognised as having a high rate of accidents and fatalities. The money would still go to the Government for its use, but it would be channelled through the road trauma trust fund and expended on addressing black spots and the range of other programs that are espoused and supported by the road trauma trust fund.

The motion by the member for Armadale is eminently sensible and would have a lot of support in the community, because people do have the general perception that the Government is more interested in raising revenue than in attacking the speed problem.

Ms MacTIERNAN: For the edification of the Deputy Premier, who might like to know how moveable these figures are, when Hon Eric Charlton, the former Minister for Transport -

Mr Cowan: And your very good friend.

Ms MacTIERNAN: - and my very good friend from Tammin, the Tammin tiger, was about to introduce this new regime of stricter penalties for speed cameras, he estimated that the annual return from speed cameras would be about $29m. We then found that the Department of Transport and Main Roads had a major hole in their budgets, and all of a sudden in the budget papers we had an amount of $54m, so it had gone up in six months from a projected $29m to a projected $54m, which was very handy at a time when the Government had all sorts of problems with its Transport budget. At the same time, some weird things were going on with Westrail financing and with the amounts of money that Westrail was paid by

the Department of Transport; and once we have our royal commission into the creative accounting of Westrail, a few people may end up in Wooroloo. We are now quite amused that it has fallen so dramatically to below $40m. It is obviously a veritable moving feast.

Clause put and passed.

Clauses 7 to 17 put and passed.

Clause 18: Section 42 amended -

Ms MacTIERNAN: This clause deals with the new graduated drivers licence training program, with which we have said we have no difficulty. The amendment that we propose is in accordance with some of the comments that we made last night, to which I understand the Deputy Premier may be a bit sympathetic. We are seeking to empower the director general to accept evidence that an applicant for a drivers licence has demonstrated an ability to control the class of vehicle for which the licence is sought, other than by undertaking a drivers test. I will not move this amendment at this stage because there has been an error and there is a more appropriate place in which this amendment can be inserted.

Clause put and passed.

Clause 19 put and passed.

Clause 20: Section 42B inserted -

Mr COWAN: I move -

> Page 15, lines 3 to 6 - To delete the lines and substitute the following -
>
> (5) A person who, other than for the purposes of this Act, possesses a photograph or signature provided under this section that is not on a driver's licence commits an offence.
>
> Penalty: 40 PU.

The purpose of this amendment is to ensure that there is now no reference to the photograph or signature that should have been destroyed. It now deals only with the issue that any person who, other than for the purposes of this Act, possesses a photograph or signature provided under this section that is not on a drivers licence commits an offence. The penalty for that is then set out. In response to a question asked by the member for Armadale at the briefing session, I understand that this has been dealt with.

Ms MacTiernan: Evidence that we had the briefing session.

Mr COWAN: It certainly is.

Mr KOBELKE: It appears that proposed section 42B is the main section. However, would the Deputy Premier please correct me if another section relates to the matters I wish to raise; that is, the use that will be made of the photographs, the degree to which the law will limit their use and the period during which they can be retained. I will try to clarify the points to which I am seeking a response. Starting with the last point, proposed section 42B(4) states -

> The Director General is to ensure that any photograph or signature provided under this section is destroyed if it, or a copy of it, has not been used on a driver's licence in the preceding 5 years.

I need clarification of what "used on a driver's licence" means. Does that mean if the drivers licence was issued five years ago in 1995, and the photograph is still used on the drivers licence as of 1999, it must be destroyed, or does the term "used on a driver's licence" mean when the licence was first issued?

Mr Cowan: It is from the time the photograph was taken, not the time when the photograph no longer has any valid use. Therefore, if the photograph were taken in 1995, it lasts for five years. The moment a new photograph is taken, the old photograph must be destroyed.

Mr KOBELKE: I am not asking what is the practice; I am asking what is the clear legal intent of this wording.

Mr Cowan: That is the legal intent.

Mr KOBELKE: I understand that the photograph and signature that are submitted for the issuing of the licence must be less than five years old, so I am not talking about that; I am talking about proposed subsection (4), which gives a clear instruction to the director general to ensure that any photograph or signature provided under this section is destroyed if it, or a copy of it, has not been used on a drivers licence in the preceding five years. It comes down to what is meant by "used". If "used" means used for the issuing of a licence, there is a clear date when the licence is issued. If "used" means that it was on an existing licence, it seems that it could be five years after the licence becomes obsolete.

Mr COWAN: My understanding is that this caters for those people who do not necessarily want to renew their licences for a full five-year period. In one case, a person took up the 12-month option. If a person's photograph were taken in one year - for example, year one - and the licence was for 12 months, and if a further licence were applied for at the end of that 12 months, the same photograph could still be used. However, if the person decided to get a five-year licence, the same photograph would be used for six years. On that basis, the rule applies. That photograph will be valid for the time it is used. The moment the five years has elapsed, the applicant will have to obtain a new photograph and provide, one would think, the same signature, which may have become slightly wobbly as the person has grown a little older. Nevertheless, the signature would be much the same.

Ms MacTiernan: There is still the good old X or the thumb dipped in tar.

Mr COWAN: Yes. That provision permits a person who has applied for a licence for a period of less than five years to say, "I have had enough of this. I will apply for a five-year period." The photograph is still valid, and it may run beyond the five-year period. However, when that five-year period ends, I understand that a new photograph will be required. Once the new photograph is imprinted on the licence, the old one will be destroyed.

Mr KOBELKE: The Deputy Premier's explanation of the interrelationship between a one-year licence or a set of one-year licences and five-year licences is obviously relevant to this issue, and I thank him for raising that. However, I think he missed the point of the question. Two different issues arise here. The first is a requirement for a photograph when a licence is issued. The Deputy Premier addressed that to my satisfaction in his response; that is, if a person had a photo which had been on a single one-year licence for one, two or three-year periods and that person then wished to roll it over to a five-year licence, under proposed subsection (2) that would be a valid photograph because it meets the requirements of proposed subsection (2) that the photograph, at the time of issuing the licence, not be more than five years old. That is not the matter covered by proposed subsection (4). Paraphrasing it, proposed subsection (4) places a requirement on the director general to destroy photographs after five years. Could the Deputy Premier clarify what is the starting point for the five years, because the wording of the proposed subsection is "has not been used on a driver's licence in the preceding 5 years." I am not sure if "used" means at the time of issue or simply that there was a current licence. If it is the end point of a current licence, it could be five years later.

Mr COWAN: My advice is that the legal entitlement is effectively as the member outlined; that is, there will be a capacity to keep a licence for five years after -

Mr Kobelke: The photograph.

Mr COWAN: No, five years after a new licence has been issued. If a person had a photograph on a five-year licence and that person gets a photograph for a new five-year licence, that old photograph can be kept for five years after that. However, I assure the member and the House that, in practical terms, the old photograph will be destroyed as soon as a new one has been captured for a licence as there is no point in keeping it.

Mr KOBELKE: I thank the Deputy Premier for clarifying that. I now move to the two earlier matters which I raised. I qualify that by saying that I may not have the right section of the Act because I am not conversant with it.

Mr Cowan: You didn't attend the briefing.

Mr KOBELKE: I seek an explanation of the extent of the use of photographs which will be retained for driver licences - by that I mean on the legal restriction on the use that can be made of them and the administrative procedures to be used to handle them. In other words, is it intended to digitise the photographs so that there will be computer images? Are there any plans, or investigations being made, to use the full potential of electronic digital processing for photographs which will be registered on drivers licences?

Mr COWAN: The photographs will be digitised. They can be used only for motor vehicle drivers licences and for no other purpose. For example, they cannot be used for investigative purposes.

Ms MacTiernan: Can you tell us where it says that?

Mr COWAN: They cannot be passed on to anybody. They cannot be used or accessed by the police. There is already legal opinion that this Bill will ensure that is the case. It is an offence for someone to have the photographs for purposes other than as identification for a motor vehicle drivers licence. They will be stored with the Department of Transport and will not be available to the police.

Mr Kobelke: If something occurred procedurally regarding a particular licence, I assume the digital image could be looked up to compare it with a person who came in with one. We could go through a range of graduated steps in procedural matters.

Mr COWAN: Even in that case, that information will be restricted in the Department of Transport to certain qualified officers who can do that. I am not sure how that qualification will be given. However, I imagine an internal administration direction will be given in the department but only those people will be able to undertake what the member for Nollamara has just referred to.

Mr Kobelke: I will take it one step further than the procedural matter relating to the validity or use of a licence. If an infringement notice were issued to someone driving a car whose identity was clear from the photograph on the licence, does the Bill prohibit the use of a digitised photograph from the licence to be compared with a photograph obtained through an infringement?

Mr COWAN: It is not available to the police, if that is what the member for Nollamara is asking.

Mr Kobelke: However, if the Department of Transport were pursuing the infringement notice, would it not be available to that department?

Mr COWAN: No.

Ms MacTIERNAN: The member for Nollamara has raised interesting and crucial points. The Opposition has an

amendment on the Notice Paper that will deal later with some of those points. Obviously, if the minister can substantiate his claim that the Bill is as restrictive as he says it is, it may mean that we can remove that amendment. Can the minister point to the clauses which provide the restrictions he was talking about?

Mr COWAN: That is effectively the purpose behind the amendment now before the Chair. The amendment to clause 20 on page 35 of the Notice Paper states that a person who possesses a photograph or signature provided under this section that is not on a drivers licence commits an offence.

Mr Kobelke: That does not answer the question; it answers only part of it.

Mr COWAN: I am sorry, I must have missed something because I believe that covers everything.

Mr Kobelke: No, that simply covers possession, not the use by an officer in the department under instruction to do the work of that department. If the director general issued an instruction that an officer will use photographs of this type for this purpose, that is not caught by "possession".

Mr COWAN: I suggest that no Director General of Transport would ever want to do anything other than for the purposes of this Act. The purpose of this Act is to produce a photograph for a licence, nothing else; it has no other purpose.

Mr Kobelke: No, the purpose of this Act relates to the road trauma fund and all sorts of things. The wording is "for the purposes of this Act".

Mr COWAN: No, we are talking about a photograph and a signature. The purpose in this Act for the production of a photograph and a signature is to place it on a drivers licence; there is no other purpose.

Mr Kobelke: I accept that is the intention but I do not read that as the intention of the Deputy Premier's amendment.

Mr COWAN: We can debate this all day but that is the intent.

Ms MacTIERNAN: The member for Nollamara is absolutely correct. The words "a person who, other than for the purposes of this Act" could encompass the Director General of Transport. I am not saying that is necessarily a bad thing and should not be permitted. However, we must be honest and open about how the legislation should work. The way in which the information could be used, as the member for Nollamara said, is to have a digitised matching of photographs with the photographs that have been taken by red light cameras or speed cameras pursuant to this Act; and pursuant to section 902 of the Act, officers are trying to get an identification of the person who was responsible for that infringement. The argument put by the member for Nollamara is correct. The way this clause has been drafted enables the use of that digital imaging for photographic identification. As I say, that is not necessarily a bad thing but we must look at the meaning of the Act.

Mr Cowan: Given the time, would you be prepared to accept this amendment on the basis that it strengthens what we have and then we can deal with this tomorrow? You have another minute on your debate. I would like enough time to have this amendment accepted, if that is okay.

Ms MacTIERNAN: Okay. However, the Deputy Premier needs to be cognisant that statements made in this debate form part of the second reading debate and can be taken by the court as an aid to statutory interpretation.

Mr Cowan: I need three hands. On the one hand, this; on the other hand, this; and on the third hand, that.

Ms MacTIERNAN: That is not what the Deputy Premier is saying. I urge him to be cautious in doing this. Although he has the numbers in this House, he may be making statements which his department might one day regret.

Amendment put and passed.

Debate adjourned, pursuant to standing orders.

KWINANA MOTORSPORTS COMPLEX

Motion

MR MARLBOROUGH (Peel) [4.01 pm]: I move -

> That this House records its opposition to the Kwinana motorsports complex given the threat that the project poses to both the Kwinana industrial estate and its future development and the welfare and lifestyle of residents in adjoining suburbs. The House notes that the decision to site the motorsports complex has been made contrary to expert governmental advice, industry advice and community opposition.

The decision made yesterday by the Government to allow the proposed Kwinana international motorplex to be located on the existing mud lakes is one of the most perplexing decisions with which this Government has involved itself. It is perplexing for a number of reasons, not the least of which is that the responsible minister has decided to throw away the rule book which was in place for at least the previous 15 years. These rules have ensured the proper management of the Kwinana industrial strip and enabled it to grow, survive and co-exist with communities above it; namely, Wattleup, Hope Valley, Kwinana and Rockingham.

The position of the Australian Labor Party - I am sure the minister will agree - has never been to oppose the motorplex. The minister, at least at meetings I have attended, has requested that I, as the local member, and/or the Kwinana Industries

Council and/or the Town of Kwinana put before it alternative sites to be used for a speedway. The minister would agree that we all took that opportunity, and at least two of those alternative sites have been elsewhere in my electorate of Peel and close to the site in question. The Labor Party's objection has been based on the proper and safe management of existing industry, its ability to co-exist with surrounding suburbs and the desire to ensure that communities living next to the most important piece of real estate in Western Australia - the Kwinana industrial strip - can go to bed at night satisfied that the Government has put in place the environmental parameters and standards to ensure that they are safe and comfortable living next to that industry. In reality, how have government rules and regulations been applied to the Kwinana industrial strip to ensure industry can grow and be sure of its future, that investment can be made through the certainty of its existence, and, at the same time, communities can look forward to job opportunities without the fear of pollution? It has worked because the rules have applied. Extremely high standards have been set with many instances of world's best practice applied. However, some industries have been dragged kicking and screaming to meet the standards. I refer particularly to some industries established in the 1960s. To the credit of progressive management, these industries saw the need to ensure that the environmental standards demanded - those which affect the community at large, whether it be noise pollution, societal risk, individual risk or airborne pollutants - were adhered to. This has come at no small cost to industry.

I have been the member for the Kwinana industrial strip for 14 years. I can recall the managers of BP oil refinery spending hundreds of millions of dollars to put in place a water treatment plant, recognising that the old oil refinery built in 1954 had problems with underground pollutants. I can remember the company spending over $50m to put in place two sulfur extraction plants so that airborne pollutants would be kept within world standards and best practice so people could continue to live next to the oil refinery. Other industries have had to comply with these standards in more recent times.

The standards on which I concentrate are societal and individual risk. I do so because during the 18 months in which the Minister for Planning has been responsible for handling this matter, he and his department have continued to downplay the importance of societal and individual risk. I have been at meetings at which Ministry for Planning heads have said that societal risk is not an exact science, so it can be ignored. What is societal risk? It is not that hard to explain. It is a measure which industries must meet before Governments give them the go ahead to develop. It relates to industries covered by the major hazard facility - MHF - classifications. They must put together a very sophisticated computer program. Historically that program had to be developed overseas as Western Australia for many years did not have the necessary technical expertise. That societal risk computer model enabled government and industry to draw a contour above the Kwinana industrial strip; this stated that a greater potential exists in cases of an industrial happening or accident for people to be injured, maimed or killed if they were to be within that contour in any numbers. How has that worked in 15 years?

I remember 10 or 12 years ago as a local member wanting to hold a rock concert for young people at Kwinana Beach. That attempt was rejected at the time by the then EPA, which told me that the Kwinana Beach facility was within the societal risk contour, with a potential of more than one in a million. The minister says that that is similar to the chance of being struck by lightning; I refer to it as world standard practice. Because it suits his argument, the minister says that there is more chance of being struck by a bolt of lightning. It is the world's best practice. I thought that was what Governments were all about when they set safety and environmental standards for industry to exist and grow. Ten years ago I was told that a rock concert could not be held there because of the societal risk contour.

In more recent times, the issue of speedways has been before Governments of both political persuasions. In my 10 years there has been at least two other attempts to put a speedway in or near this location; in fact, one of them would overlap the location which is proposed for the Kwinana motorplex - the Alcoa mud lakes. Historically, both of those attempts to put in speedways have been rejected because the EPA, as it was then, had created the world's best practice of societal risk and individual risk contours which showed that people were not allowed to live within that contour, nor were they encouraged to recreate within that contour in any great numbers. If an accident occurred similar to that which occurred at the oil refinery in Victoria last year, there would be a problem with the immediate community. Whether or not the minister likes it, if some distance can be put between industry and the people who live in suburbia, it will start to give those people a degree of safety. This computer program has different measures to create the societal risk contour for people who live in houses and for people who work within the industry. That is understandable. It is no different from a person walking past a building site on St Georges Terrace. That person need not put on a hard hat or steel toecaps. However, a person who works in the building site must put on a hard hat and steel toecaps; in other words, there is a greater requirement on the person who is closer to where a hazard may occur and, more importantly, the worker in that industry is trained to be aware of that hazard. If a person is swinging in a hammock in the backyard of a house in Medina on a Saturday afternoon enjoying a tinnie or listening to the football, that person is not expecting, nor would he be able to react to, such a hazard if it appeared on his doorstep. The important point that must be kept in mind by this Parliament is that the debunking of the societal risk contour and the individual risk contour by the minister and his department has played a crucial part in allowing this motorplex to be built on this site. The motorplex enters into the societal risk contour and lives cheek by jowl with the societal risk contour.

Yesterday, after the minister made his announcement, he was interviewed on ABC radio. He was asked by the reporter whether he agreed that there was still a risk with industry and, if he agreed that there was still a risk, what did he intend to do about that risk? The minister's answer was that there is a risk and that the Government may have to build shelters. Does the minister recall saying that yesterday?

Mr Kierath: No, I did not say shelters. I said that we would make provision for people who cannot necessarily get away.

Mr MARLBOROUGH: The minister mentioned the word "shelters". The minister agrees right from the start that if there is a hazard, we have a problem.

Mr Kierath: No.

Mr MARLBOROUGH: Yes, he does. He says that if there is a hazard, there will be a problem with people in that location, and that some way of properly accommodating them must be found. It is interesting that the minister has that point of view. The Fire and Emergency Services Authority of WA, which has responsibility for putting in place evacuation programs for the whole of the Kwinana strip, has been one government department which has said to the minister and to the Kwinana Industries Council that it has no ability to evacuate 15 000 people from a motorplex on that site if an industrial accident occurred in the Kwinana strip. The minister has just ignored it. He has set aside the Fire and Emergency Services Authority - the authority responsible for the evacuation of people in case of an industrial hazard - he has set aside the rule books put in place by ongoing Governments and underwritten by the Department of Environmental Protection; and he has set aside two of the key authorities which have said no to this. The Department of Resources Development started, belatedly, to recognise how serious an impact this motorplex would have on the industrial straight of Kwinana. It is another government department which has said that the motorplex should not go ahead, because it is concerned that it will affect the ability of existing industries to continue and to grow, and it will affect any future opportunities of establishing new industries in Kwinana.

Why is it important for government to take notice of that factor; that is, DRD saying that it must have the opportunity of looking at any new industries coming into Kwinana in the future? One of the key reasons is that Governments will never be able to duplicate the Kwinana industrial strip in our lifetime. It will not be able to create another heavy industrial strip in the metropolitan area. We attempted to do so in 1990. Ian Taylor was the then minister, and he announced his plan to construct a new industrial estate in the Breton Bay area. It made headlines in *The West Australian* on the Monday. The public outcry was such that by the Friday of that week, the minister had to withdraw the proposition. We are left with the most unique piece of real estate in Western Australia. It is unique because it generates thousands of jobs, both directly and indirectly; underpins the economy of Kwinana, Rockingham and surrounding suburbs; and provides hundreds of millions of export dollars to this State. Not one member of the Government, whether it be the Minister for Resources Development or any other minister, has indicated to me in the past six or seven years that he or she is looking at duplicating the Kwinana industrial estate anywhere else in the metropolitan area. It cannot be done. Therefore, it is absolutely crucial to this State's future that the industrial estate be properly managed. This will throw the rule book into the bin and forget about the past 15 years and the money industry has spent on meeting the standards demanded. We shall throw out the rule book and plonk this motorplex inside and next to a societal risk contour. I will further demonstrate why Governments need to be concerned, and I particularly make this point to the Minister for Planning.

The Government has before it at the moment an application from Tiwest, a mineral sands company in the Kwinana strip, to expand its present operations in Kwinana at a cost of $190m. The Tiwest operation is classified as a major hazard facility. Last week the executive officer of the Kwinana Industries Council, Mr Mike Baker, wrote to the Department of Minerals and Energy asking whether Tiwest would have to reconsider its planned expansion of $190m in light of the proposition that a motorplex be constructed within the industrial buffer zone. I quote from the letter signed by Mr Ken Price, Chief Inspector, Explosives and Dangerous Goods Division of the Department of Minerals and Energy -

> Further to your correspondence of 3 March 2000, my Division has reviewed the above project to assess the potential regulatory impacts upon Kwinana industries from the location of the proposed Motorplex.
>
> It is not possible to quantify the effects on the existing industries without specific details of sites. In the case of an existing Major Hazard Facility -

Tiwest is one of those. The letter continues -

> there is no doubt that the speedway will have to be included in risk calculations, prior to any future modifications. This will be necessary to ensure adequate safety protection is maintained for the high population density of speedway patrons.
>
> Similarly, all new industry will have to include the speedway in their risk analysis as part of the approval process. From a safety point of view, I believe this will be quite manageable, though it may add some costs to new projects.

These standards add millions of dollars to the cost of a new project. The same standards may mean a new project cannot go ahead. I will finish with one further example of how the standards have worked for the betterment of the State, but at a cost to industry for compliance.

In 1989-90, when the Labor Party was in government, Wesfarmers CSBP Limited wanted to build a liquid cyanide plant. At that time all cyanide was imported in powder form from DuPont, across the wharf at Fremantle. Cyanide is a major ingredient in the gold industry. There was a commercial opportunity, a need to save export dollars and an opportunity to create an industry in Western Australia. Wesfarmers CSBP submitted a design proposition, which had to be altered significantly because of the size of the holding facilities for the cyanide that the company wanted to put on the site. The proposal was rejected on the ground that the Environmental Protection Authority felt such a quantity of cyanide held in tank form on the plant was an unacceptable risk in the event of an industrial accident, because the impact would spread beyond the societal and individual risk contours put in place to guard industry. As a result of that one report, Wesfarmers CSBP had to change the whole design of the plant. The plant is capable of producing X litres of cyanide a week, but the EPA said the company could store only a certain amount of that on the site and it had to reduce its holding capacity. That means not only a different design facility but also extra costs for transporting the goods from the site. These are inbuilt costs to industry, which industry has been happy to meet because it knew the guidelines.

The Premier asked me to talk to him about this matter in December last year, and at the time he ran the same argument run by the Minister for Planning. He said that societal risk is not an exact science. I said that was nonsense. However, if, for the sake of the argument, I agree that societal risk is not an exact science, what will the Premier say to Wesfarmers CSBP and other companies, 10 years after they have spent millions of dollars complying with the standards, if they ask why they had to spend the money, why they were forced to comply and why the Government will allow new industries to operate that will have a competitive advantage because they will not be required to comply with these standards? It is a legitimate argument and Wesfarmers CSBP would not be alone in putting that argument.

I do not know of one industry in the Kwinana industrial strip in the past 15 years that has not had to comply with the environmental and community standards but has not been willing to do so, even though it has cost them hundreds of millions of dollars. I do not know whether the Tiwest project will be jeopardised, but I know it must take into account that potentially 15 000 people will be at a motorplex and two weeks ago it did not have to bother about that. It may well be that the cost of meeting the environmental and community standards, to make sure patrons at the motorplex are safe, is such that the development will no longer be competitive and worth going ahead with.

The other hidden agenda is that industries these days are increasingly open to community litigation in the event of industrial accidents. That is another factor the company must think about when it decides to go ahead. If the Government will throw away the rule book and create an environment that is unsafe for industry to operate in, industry could be up for massive claims in the event of an accident because it did not meet certain standards. If we are to set up that sort of scenario - I suggest this approach will throw away the rule book and do that - it is the beginning of the end for the Kwinana industrial strip as we know it.

The Government has signed the death warrant for the people living in Hope Valley. The Fremantle Rockingham Industrial Area Regional Strategy inquiry becomes something of a joke. This motorplex will be cheek by jowl with Hope Valley and the residents will find it impossible to live with. My colleague, the opposition spokesperson on the environment, will go into this in more detail, but the noise emanating from this motorplex when these events are being held will be at levels three times the recognised level for urban areas. The minister says that he has the ability as minister to allow for special circumstances when events are held, and that he does that at Claremont and if a rock concert is to be held. That is true, but let us look at the impact of such a decision. Firstly, this will not be a Claremont speedway. This will be an amalgamation of a speedway, which has cars that can be muffled-down, and a drag-racing track, which has cars that are jet engines on wheels. Drag racers cannot be muffled-down. The whole idea of a drag racer is to get from point A to point B as quickly as possible. There is no point in muffling down the vehicle, because it will reduce its speed. This will be the first time in history that a speedway and a drag-racing track have been brought together in this State.

The minister then said, when he found that hurdle difficult to overcome, that this motorplex will be used on only so many weekends a year. What a nonsense! The minister's own statement says that this complex will be used on nearly every weekend, and for a lot of other events. We know from drag-racing facilities around Australia that in addition to the drag-racing events that take place, they are used on nearly every day of the year as testing grounds for vehicles. I predict now that because of the very nature of this beast, it will be used on every weekend of the year, events will take place on numerous occasions, and it will be a testing ground for vehicles, with all the associated noise, for most of the 365 days of the calender year. The minister has received advice from the Department of Environmental Protection that the complex will generate noise readings of over 95 decibels. The standard for urban living is about 35 decibels. If a person is in his front garden and talking to his neighbour, the background noise reading should be no more than 35 decibels. Claremont Speedway produces an average noise reading of 45 decibels. That is half of what is predicted by the Government's experts for this complex. The minister's answer to that is that while this complex is being built, the proponents must come up with a method of overcoming the noise. What a nonsense! No plan is before us; let us get on with it, and then we can make sure that it works!

It is difficult to understand why it is proposed to build the motorsports complex in this location when we consider how important it is to this State to allow industry to continue to grow next to the urban areas of Rockingham, Kwinana, Wattleup and Hope Valley, and when every government department other than the Ministry for Planning, the minister's own department, has rejected this application and given the reasons that it should not go ahead. The minister said that the Government has looked at other sites. That is true. However, some of its reasons for rejecting those other sites are abysmal. The minister rejected Wanneroo on the basis that the proponents of the motorplex, Mr Miocevich and Mr Migro, have said that they cannot make it work. I point out to the minister that the drag races worked at Ravenswood, which is further from the metropolitan area than Wanneroo. Last weekend, there were 26 000 people at Wanneroo Raceway, which is close to one of the sites that has been rejected. That site does not have any serious hazards that will affect industry and the community, but it was rejected because the proponents said they did not think they could make it work.

The other element of this project is the role of Mr Miocevich and Mr Migro. This is not a new issue. Some 10 months ago during the estimates committee hearings I asked the minister about the role of Mr Miocevich and Mr Migro on his implementation committee, and *Hansard* will show that the minister's first reply was that they were not on his implementation committee. I then asked the minister whether he wanted to review his answer, because we were on record and it was going into *Hansard*, and he then reviewed his answer and said they were on his committee but did not have voting rights. I then said to the minister, and I still say today: Minister, convince me that they do not have a vested interest. These people are sitting on a committee that has not only been involved with the design and running of races but also has advised the minister about the ongoing management of this process. That means they have been involved with looking at the cost of leasing and of managing the project. I am not aware of any systems that have been in place to put the

management of this process out to public tender. We have been told that these people do not have a vested interest. Thankfully, not everyone agrees with the minister. The minister may be aware that about two weeks ago, I had a meeting with Mr Don Saunders, the Commissioner for Public Sector Standards, who advised me that he is holding an inquiry into how this motorplex has been put in place and how these people have been appointed to this role. He advised me in our two-hour meeting that he had authority under the Act to call before him ministers, heads of departments and whomever else he needed to call. He certainly has the authority, in case the minister does not know, to call Mr Miocevich and Mr Migro before him.

Mr Shave: Did he say he had the power to call the inquiry or that he was progressing an inquiry?

Mr MARLBOROUGH: He told me that he was progressing an inquiry. That inquiry is under way. I asked him during the course of the interview how long the inquiry might take, because I was concerned that such an inquiry would be completed before the Government made its decision, and he said he could not answer that because it would depend on the evidence that came before him. Thankfully there may be some way within the Westminster system by which we can pin a tail on this donkey, because until this time I have not had the ability to do that with the minister in charge of this operation. In my 15 years in this Parliament, I have never known the heads of companies in the Kwinana industrial strip to be so offside with the Government that they are threatening legal action. They are planning to meet tomorrow to determine what their next step will be; and the minister is aware, because they told him at yesterday's 9.30 am meeting, that that is on their agenda. This Government purports to be the vanguard of industry and of the capitalist system, yet I have never known so many heads of industry to be so angry at being ignored. The people of Kwinana are also angry at being ignored. As I said yesterday, if it was good enough for this Government to listen to the people of Leighton, who are within the electorate of the sleeping member for Cottesloe, when they had a point of view about -

Mr Kierath interjected.

Mr MARLBOROUGH: What did the minister say?

Dr Gallop: He made a reference to the local member.

Mr Shave: He said the fact that they were listening was perhaps because of the quality of the local member.

Mr MARLBOROUGH: The minister is not far from the mark and that is a point we must make. Political decisions are now being made. This Government had a plan in place for Leighton but was willing to stop. It was determined to go ahead with a plan that would have seen housing run up to the sand dunes of Leighton. What the Government did under pressure from the community, in a Liberal seat that concerned the Deputy Leader of the Liberal Party, was stop and listen. The local member soon became a voice for change, although fairly modest change. The Government then took notice of the community view and announced a review of the whole planning process into which it had entered. The Premier became involved and said, "We are stopping this process because I am concerned about the steps we have taken until now in the planning process and I want to go back and have a look at it." The Government did that in Leighton in a seat owned by the Liberal Party which it must hang on to in the coming election because it is behind in the polls, and has been since October of last year. It will be a close election. All of the Government's polling is showing what our polling is showing. It is running second at the moment, very badly. However, when it looks at Kwinana it knows that. I do not know how to measure a good member but this may be one of the ways. The Government knows it cannot beat me down there. I am not one for self-praise but that may be the measure of a good member of Parliament. It certainly cannot beat me and it certainly cannot beat the up and coming star, the member for Rockingham, either. We are called Batman and Robin down there, the mighty duo; I am Robin, he is Batman.

More seriously, the Government has not factored into its calculations winning that seat for winning government. We see, in the Minister for Planning's interjection in support of the member for Cottesloe, that we are not far from the truth. Political decisions are now being made on political boundaries. We have thrown out 15 years of standards governing industry, which are adhered to by community, industry and Governments of all political persuasions. There was many a time when we were in government that we were unhappy with the position held by the Environmental Protection Authority, but what we had not done in Kwinana was throw out the baby with the bathwater. That is what has happened this time and the Government has basically signed Kwinana's death warrant. I believe it has also signed the death warrants of Wattleup, Hope Valley and potentially Medina. Houses in Medina will be unable to be sold when this facility opens. The whole world will know about the noise levels impacting on the town of Medina. I may be missing something. The Government's long-term plan may be to recognise that bits of Kwinana are getting in the way of the Kwinana industrial strip. The evidence for that is a statement made by the Minister for Planning to the Kwinana Industries Council yesterday when it raised with him the decision it received from the Department of Minerals and Energy on the Tiwest Joint Venture. The department said that it would have to factor in the fact that a speedway will be built there. The minister's reply to that gathering, which included Mr Mike Baker, Mr Terry O'Brien and others, was, "Don't worry about it. By the end of this week you will be very happy with what I have done because I will lower the environmental bar." That is what the Minister for Planning said to that meeting yesterday.

Mr Shave: They were the words he used.

Mr MARLBOROUGH: They were his words reported to us yesterday. All the facts I have put before the House show that the rule book is finished and we can forget about it. The future of the communities of Wattleup and Hope Valley are finished, never mind the Fremantle Rockingham Industrial Area Regional Strategy report. There will be a massive impact on the town of Kwinana, particularly the suburbs of Medina and Calista. The lifestyles of the people in those suburbs will

be dramatically and detrimentally affected by this decision. However, in addition to all that, the Government will be lowering the environmental standards. That is what the Kwinana Industries Council was told yesterday. It left that meeting shocked but not shocked enough to come to a meeting and tell us what the Minister for Planning said.

Mr Kierath: If you believe that, how could this lower the environmental standard? It has been independently assessed by the EPA.

Mr MARLBOROUGH: Never mind this. That is not what the Minister for Planning was asked. He was asked where Tiwest fits in on the basis of the letter we received from the Department of Minerals and Energy. He said, "Don't worry about that. The environmental bar will be lowered. You will be happy with what I have done by the end of the week." That is what he said. He cannot deny it as witnesses were there. We are talking about a whole new ball game. We are talking about a minister who is now so sure of his position in this Government that he will rewrite the EPA journal.

Mr Kierath: What a lot of rubbish!

Mr MARLBOROUGH: What did the minister mean by that?

Mr Kierath: I intend to reply.

Mr MARLBOROUGH: I am asking the minister now.

Mr Kierath: The EPA assessed it and has placed a whole lot of conditions on it. The EPA said - this is important - that societal risk was not part of the environmental approvals process but, rather, part of the planning process and the Planning Commission should determine societal risk.

Mr MARLBOROUGH: How frightening! That is like saying to the Commissioner of Police, "The Police Act gives the Commissioner of Police by definition greater autonomy. Why? Because the Westminster system of politics demands that the Police Commissioner has greater autonomy; but, by the way, before you open your office door in the morning, come and have a meeting with me, the minister." That is what the minister is now saying with regard to the EPA.

Mr Kierath: I am not.

Mr MARLBOROUGH: Yes, he is. He is saying that the EPA has now said - a position it has not taken for 15 years - that societal risk should now be determined by the Ministry for Planning. What the bloody hell has the Ministry for Planning to do with it?

Mr Kierath: The EPA said it is a land use matter, a planning issue.

Mr MARLBOROUGH: It is not a safety issue? It is not a risk issue?

Mr Kierath: You are distorting things.

Mr MARLBOROUGH: I am not distorting things.

Mr Kierath: Under the notion of societal risk, there are some things that are okay, some that are not okay and some that are manageable. This matter actually meets the societal risk criteria. The EPA said that, because the issue is in that range, it should go to the Planning Commission as a land use matter. It is a planning matter, not an environmental matter.

Mr MARLBOROUGH: Can the minister tell me on what other occasion the Ministry for Planning has been responsible for measuring societal risk?

Mr Kierath: I do not know of other occasions. I do not watch and listen to all the EPA decisions.

Mr MARLBOROUGH: He is the Minister for Planning. There is not another occasion. It has not been done. The rule book has been rewritten as it goes along. As a longstanding member of Parliament, it has been embarrassing for me to sit in meetings and watch senior public servants from the Ministry for Planning running a particular line against all the odds. I have sat in meetings with officers from the EPA, the Fremantle Port Authority, the Fire and Emergency Services Authority of WA and the Department of Resources Development who have to run this line. I have known many of those public servants as long as, if not longer than, the minister has known them. Having to sit there and watch them drop their heads and run this line on the new way to look at societal risk is embarrassing. Why would a Government want to throw away its Bible over a $16m taxpayer-funded motor complex that will have such ramifications for industry? I am missing something here.

I have tried to be responsible in my approach to this matter; I have not come out every week bagging it. When the minister asked me to look at other blocks of land, I did so. When he asked me to look for other blocks of land with the Kwinana Industries Council, I did so. When we went back to him and told him to go back to Wanneroo or Kewdale, we also said there were two or three possible blocks in my electorate. We did not tell him to get out of Peel or Kwinana; we simply told him not to put it in this societal risk contour. If it is put in this contour, it will cause major problems for the Government and industry, and it is a very dumb move.

I do not know the answer in terms of the decision-making process. Many questions will need to be answered between now and this project's reaching maturity. Perhaps I can put them to the minister now. Who are the present owners of the Claremont Speedway?

Mr Kierath: It has been represented to me that Con Migro and Gary Miocevich are the predominant owners.

Mr MARLBOROUGH: Is Judge Geoffrey Miller still an owner, or does he still have an interest in it?

Mr Kierath: I do not believe so.

Mr MARLBOROUGH: Did the minister know he had an interest?

Mr Kierath: Only because I met him one night when I was at the speedway and he indicated that he had had an involvement but that that was no longer the case. I would never have known otherwise.

Mr MARLBOROUGH: I had no knowledge of that before looking into this matter. I raise it because when I look for the logic surrounding this decision, I find that there is none. If the minister were right in his assessment, there would be no reason to put a $16m project in the way of billions of dollars of industry, particularly when those involved feel so aggrieved. There are many places it could be built close to a freeway. Perhaps we should be looking at those areas about which we do not know a great deal.

Some issues will be pursued, such as who owns this property, why the minister has entered into an agreement that sees the ownership and running of the complex not going to tender -

Mr Kierath: The Government will own it.

Mr MARLBOROUGH: Yes, but the details - the lease figures, the term of the lease and so on - and the ability to make money out of it have been offered only to Mr Migro and Mr Miocevich. They have been saying it is theirs for 12 months. In fact, Mr Migro's company staffed the display of the complex at the Kwinana Hub Shopping Centre. That is strange given that not one cent of his money is going into this project. It must be said loudly and clearly that this is a fully taxpayer-funded development. Already, $16m has been allocated, but I suspect that the costs have blown out to $20m.

Mr Kierath: They have not.

Mr MARLBOROUGH: The minister might like to expand on that. Hopefully who owns it and how it will be run will be investigated by Mr Saunders. A report from that area might shed some light.

In the meantime, it is a dark day for Kwinana industry and the people of Hope Valley, Wattleup, Medina and Calista. There are no objections to the establishment of a motorsports complex, but this is the wrong location and the wrong decision. It has been made for all the wrong reasons, and it has thrown out of the window all the environmental and safety standards with which industry and the community feel comfortable.

MR McGOWAN (Rockingham) [4.56 pm]: I support the motion moved by my colleague the member for Peel. This project, which was announced by the Minister for Planning yesterday, will have a dramatic impact on the area in which I live and which I represent in this place. In years to come - it will not be long - those members of Cabinet who participated in making this decision will no longer be here. However, those living in the electorate of Peel and in my electorate will be dealing with the consequences of Cabinet's decisions for many decades. My opposition to this project is well known. It will have a very detrimental impact on the people I represent, and I will detail the reasons for that later.

The member for Peel touched on this issue, but I also want to draw a contrast between the coalition Government's actions relating to this complex and those relating to Leighton Beach. There is a major contrast in the approach, style and listening processes involved in those decisions. I did not have to go to the newspapers on this issue - it is fresh in my memory - but I did to find out exactly what was said about the Leighton Beach development. I have four quotes - one from the member for Cottesloe, one from the Minister for Transport, one from the Minister for Planning and one from the Premier - and each demonstrates the different approach applied to those who live in the southern suburbs of Perth vis-a-vis those who live in the electorates of the Premier and the Deputy Leader of the Liberal Party. *The Australian* of 2 February 2000 states -

> He also indicated that many of his cabinet colleagues were now wavering in their support of the project.
>
> "I have my own particular view as the member for Cottesloe," he said. "I think others are probably more inclined to that view than they were a while ago."

Of course, that view is that the Leighton Beach project should be scrapped.

The Minister for Planning - the very person who has made a decision that will have a detrimental effect on the electorates of Peel and Rockingham -

Mr Barnett: It is always poor to argue your case using an analogy to another area. My views on Leighton were public 12 months prior to that quote. My position on Leighton has been as it is now for 15 to 18 months.

Mr McGOWAN: There is probably an element of truth to that. The Deputy Leader of the Liberal Party has intervened on behalf of his electorate; he has said that it is important and that many people of wealth and power come from that area and they deserve decent representation. It might have been a little better if the minister had interjected in Cabinet on this issue.

Mr Barnett: You might also be conscious of the fact that you are not privy to what he said in Cabinet.

Mr McGOWAN: Is the minister saying that he did interject in Cabinet?

Mr Barnett: I am not discussing with you what is said in Cabinet.

Mr McGOWAN: Maybe the minister should not put hooks out if he is not going to fill in what was said.

Mr Barnett: Do not make assertions that have no foundation.

Mr McGOWAN: The facts of the matter stand: This decision has been made and it is opposed by industry.

The Australian of 8 February 2000 reports the Minister for Planning as saying -

> (Leighton Shores) has been shelved for the moment until the guidelines have been developed and if the development is in conflict with the guidelines then I don't think that plan will get a guernsey . . . .
>
> Any plan that is put forward will have to fit within those guidelines.

That means this plan was shelved because of community opposition in that area. On 8 February 2000, the Minister for Transport said -

> The Government has heard the community's concerns . . .

The final decision was made on 9 February 2000 by the Premier who was reported in *The Australian* to have said -

> We have copped that on the chin and most importantly we are not going to proceed with anything which does not have broad community support.

That is okay for the people of Cottesloe, Nedlands, and Mosman Park, all of them the most affluent people in our community. They said they do not want it and the Government said, "Okay, we will go along with the views of those people - we will listen to the community on that issue". Contrast that with the people of my electorate. Contrast that with the people who live in Medina who will have the equivalent of jet planes flying over their houses. The Government does not listen to community concerns and does not take account of the wishes of the local members. The Government does not take account of the wishes of the Kwinana Town Council, elected by the people of Kwinana. The Government has applied double standards and all I can draw from that is that the people of Rockingham and Kwinana are second-class citizens. It is a source of great shame and embarrassment for this Premier, this minister and this Government that they have treated one section of the community differently from another, and they have told the people in my area that they are not important. The reasons are obvious: It has taken a political approach to this issue.

I have attended the speedway and drag-racing in the past. I am familiar with what it is like and I have enjoyed it. I have found it exciting and exhilarating on the odd occasions I have gone to watch it. I acknowledge that many people get enjoyment out of this sport and that many jobs are involved in this activity. I am sure that the Minister for Planning will use the argument that I am opposed to the speedway and I do not like drag-racing. That is not true. However, it is true that even the most avid speedway and drag-racing fans - people who go every week - do not want it built next to their homes. They are happy for it to be built elsewhere provided they can enjoy the facility. They do not want it built in an area in which the noise contours will take the noise from the facility over their homes where they live, bring up their families, go to school, where they have their social outings and where they go to the park and walk their dogs. They do not want that sort of noise to be imposed on them. It was up to the Government to find a decent site. It has known for years that the Royal Agricultural Society would pull out of its lease in Claremont. It was the Government's incompetence through the former Minister for Planning that allowed the development of housing next to Ravenswood Raceway. However, once it was realised that houses were being built next to the raceway, that track had to be closed and moved. What is the alternative? It is to put it next to other people who built their homes not knowing that it would be put next to them.

The Government has known for a number of years what is going on. It looked at eight sites, all of which proved to be unacceptable for one reason or another. The Government then settled on the Kwinana site and was heading towards a final decision on that site. However, what did the Government do six weeks ago? Almost to the day, the Government gave an indication that it was listening when the Premier told the Kwinana Industries Council that he was listening to what it had said and that the Government would see if it could find another site. The Premier told the Kwinana Industries Council to find an alternative site, despite having known for five years that a site was needed. The Premier told the council that three weeks before the decision was due. What sort of gross incompetence is that?

Mr Kierath: They wanted to.

Mr McGOWAN: And you accepted?

Mr Kierath: We held the process up.

Mr McGOWAN: The Premier had the meeting six weeks ago with the minister and the industries council and when the council offered to find another site, it was told, "Okay, find another site".

Mr Kierath: Yes. When it offered.

Mr McGOWAN: When it offered, it was given the option to find another site! The Government told the Kwinana Industries Council, which represents probably the major wealth producing area of this State - people who have experience in running their businesses - to go and look for another site. It then found some alternative options and when it went back to the Government with those options, it was told that it was too late. The Government led it up the garden path when it sent it off to find another site. The Government misled the captains of industry in our State. That was done to put them off for a few more weeks because the Government had already made up its mind. As the member for Peel said, they found

sites in the southern suburbs with which there were no problems; they were not close to industry or where people lived. However, the Government told them that it was all too late and too hard and the Government could not go along with any of the suggestions. Not only is the Government incompetent having had five years to find a new site, but also it invited people to waste their time in finding a new site, which it had no intention of accepting. It is appalling. The decision is fine for the Minister for Planning and the member for Cottesloe. They do not live adjacent to the site and they will not have to live with the consequences of this decision. Members should be rest assured, if a drag-racing strip were proposed in Shelley, the Minister for Planning would be the first to reject the site on behalf of his electors. He has savvy as the local member and he would know that it should not go ahead in that area. The same rules do not apply to the people who live in Rockingham, Hope Valley and Kwinana.

The Minister for Planning hates the Labor Party and so he says, "You would say that anyway, wouldn't you? That is just you saying that. You are members of the Labor Party and you object to everything I say because that is in your nature." However, as the member for Peel said, we are not the only ones who are opposed to this proposal; a number of other groups have also put on record their opposition to this particular site. I will go through them briefly for the benefit of the Minister for Planning and the Minister for Resources Development, who has failed dismally in his duties. The Department of Resources Development, made a submission as recently as October last year. The concluding paragraph states -

> It is strongly recommended that the Application to locate the proposed Motorplex on the Kwinana ABC Residue Disposal Area be rejected.

The Department of Resources Development is probably the second or third most powerful government department in the State. The Department of Minerals and Energy in October last year stated -

> In conclusion, I have taken advice from the Chief Inspector of Explosives and his expert advice is that the proposal should not proceed. The proposal puts a large number of people close together with restricted opportunity to escape, too close to a significant potential threat on land specifically designated as a safety buffer zone.

What could be more plain? In November last year, the Fire and Emergency Services Authority of Western Australia stated -

> While the proponent has provided emergency response commitments that would be incorporated into an emergency response plan, FESA does not believe they would be adequate to guarantee public safety. On these grounds, approval for this facility should not be supported.

The Fire and Emergency Services Authority of Western Australia and the explosives goods division of the Department of Resources Development have rejected it. The Department of Transport states -

> The particular site that has been proposed in Kwinana is not well located on a current or prospective public transport service. This aspect appears to have been virtually ignored, with the statement relating to access solely noting that roads lie three sides of the site, which "will enable user groups to readily access the proposed site". The extent to which the existence of roads will enable the large number of Perth's residents without easy independent use to a car to access the site is not considered.

They say there will be no access to public transport! The Department of Transport also rejects the site. The Kwinana council is not an overly sensitive council, nor is it prone to fly off the handle at a moment's notice. It rejected the site out of hand on behalf of its residents and the income earning potential of the State. Not only the Labor Party opposes the complex. We are on the side of all of the relevant interest groups in this matter.

The issue of noise has the potential to affect me directly because I live inside one of the noise contours in the area of Rockingham. I am probably the only member of Parliament who lives in Rockingham. Members should not think that I have a conflict of interest, because I am joined by about 50 000 other people who live within that noise contour. I will declare my interest because I will be affected by this proposal. The Environmental Protection Authority's report on the Kwinana International Motorplex in Bulletin No 948 on page 1 of its conclusion states -

> . . . it is not reasonable to take the view that current noise levels at Claremont and Ravenswood are acceptable for a new site since there is a significant difference between enabling the on-going operation of a long-established noisy activity and the introduction of such an activity into a community which has hitherto not been exposed to such noise.

The EPA is saying that it cannot draw a valid comparison between Claremont and Ravenswood with the new site because Claremont is the oldest speedway in the world. The people moving to Claremont knew what they were getting into. Be that as it may, that is the first point made by the EPA. The second point that the EPA makes is -

> If the Motorplex proceeds it would substantially exceed the Environmental Protection (Noise) Regulations 1997 and the proposal may well be judged under section 49 of the Environmental Protection Act to "unreasonably interfere with the health, welfare, convenience, comfort or amenity" of adjacent residential communities.

It must be noted that the impact of speedway noise is less than that of drag-racing noise, although the combined effect is increased. The point it makes is that it will affect the amenity, the lifestyle, the welfare, the wellbeing, the stress levels and the property values of people who live adjoining that site.

It also raises a point the Premier often raises. I have heard him say it about six times, which is not unusual. The Premier

says, "I have lived near a speedway." The Premier has never lived near a drag-racing track. Anyone who has been to drag-racing will know that the engines that power drag-racing vehicles are often jet engines. They are often engines that have been taken out of old fighter jets, old Lear jets, or whatever these people can get hold of. They do some amazing engineering work to put those vehicles together. The Premier has never lived near a jet airport or a drag-racing track.

The EPA also states that the -

> . . . noise impacts on the community could be ameliorated, at a cost, by fully enclosing the Motorplex and this is the EPA's preferred approach . . .

The other approach it suggests is -

> . . . consideration should be given to a staged development such that a speedway complex is constructed and trialled before making a decision to also locate the dragway at the site.

Both of those recommendations that the EPA put forward are being ignored. It is obvious that they were always going to be ignored because of the cost implications if a roof has to be put on the facility. We can conclude that the noise levels for people living adjacent to this site will be enormous. As the member for Peel said, people living in Medina will have difficulty selling their houses if this project goes ahead, as will the people who live in areas near where I live.

Even the most ardent speedway fan does not want to listen to it all night. I will refer the minister to some issues the Kwinana council raised on this matter. The Kwinana council rejected the proposal out of hand. In October last year it said that on the occasions when some of the top fuel cars perform, the noise would be similar to a very low flying jet plane and have the potential to cause some sleep disturbance in Medina, Orelia and Calista. People may be exposed to noise which unreasonably interferes with their health, welfare, convenience, comfort or amenity.

It is obviously dealing with the suburbs within its council boundaries. However, there are further reports by the EPA which I do not have but which I have read. Those reports show that the noise contours of this site on nights that it operates between October and March will travel down over the entirety of the Rockingham community to Warnbro. They are above the acceptable limit of 35 decibels. Excluding the town of Kwinana, another 50 000 people live in those areas.

We will have to live with this decision; the Cabinet will not have to live with the decision. Mr Deputy Speaker, you will not have to live with it. You will not be moving to Medina or living in Rockingham or Hope Valley. You will go home tonight or when you have made this atrocious decision at a meeting and go to sleep, comfortable in the knowledge that no speedway or drag-racing track is being built next to your home.

Mr Kierath: I live near Leach Highway. A jet flies over every morning at one o'clock and shakes the house.

Mr McGOWAN: In light of that, the minister might like to find a piece of land in his electorate and see how his residents would like speedway and drag-racing in their electorate. That would be a fair way of addressing the situation. Why does the minister not conduct a survey in his electorate? That is not the way he operates. The proposed motorplex is in a Labor area so it is okay. Furthermore, it is in the member for Peel's electorate, who has made the minister's life a misery for a number of years. That makes it even better as far as the minister is concerned.

This is a bad decision for industry and jobs, and it is very bad for the people whom I was elected to represent. Keeping faith with them, we are obliged to fight this proposal and try to improve those people's quality of life.

MR KIERATH (Riverton - Minister for Planning) [5.22 pm]: I will table some documents later but I want to retain them for the moment because I want to refer to them. At the end of my speech I will table a summary of the site investigation and report, which was done by the ministry for the WA Planning Commission; a list of all the submissions we received and the people who submitted them relating to societal risk, the issues they raised and the comments on those issues; another package showing individual risk contours on the site and showing the sites that were considered in the metropolitan area; an economic impact study that was done for the motorsports complex; a copy of a letter from the Fire and Emergency Services Authority to the Minister for Emergency Services; a memo to the Minister for Mines from his department; and also a more detailed explanation of the issues and the people who raised them, such as the Kwinana Industries Council and various government departments, complete with their responses.

Having sat and listened to some of the members' comments today, I admit that I have heard a lot of fantasy and fiction before, but this has been a new experience. I want first to cover the issue of societal risk, which is a pretty good issue to cover. Under, I think, section 6 of the environmental legislation, the Government could avoid independent assessment if it wanted to. I was reminded of that early in the process.

Mr Marlborough: Who by, a migrant?

Mr KIERATH: No, people in the various departments.

Mr Marlborough: You have avoided the assessment.

Mr KIERATH: No, we decided right from the word go - as I have said publicly on the record when the member has questioned me - that the independent approvals process would run, but if that process ran and it got the ticks, the motorplex would be able to proceed. If we ran the process and the motorplex was not allowed to proceed, it would not proceed. I am on the record as saying that, and it is very clear.

What do we have? We have a project that has done the right thing. It has gone off to the Department of Environmental Protection and the Environmental Protection Authority and had all of the environmental assessments. What did the EPA say? It said basically to go ahead. However, there were conditions, and societal risk needed to be assessed by the WA Planning Commission. It is important that it give it to that body for it to consider. The EPA said it could go ahead but it needed a noise management plan and an emergency response plan, and a whole lot of other conditions were placed on the development. To sum up the EPA's position, it approved of the project subject to certain conditions. The proposal that we have now announced either meets or will meet all of the conditions imposed by the EPA. Again we have been highly responsible. We submitted our proposal to the EPA and DEP for approval. It was assessed and went out to a public environmental review through which people had the chance to raise any issues they wanted. We sent it to all government departments. In the end, we had to respond to their conditions. Having done so, we have conditional approval. We believe that we can meet all of the conditions.

As part of the process, we were asked to make sure that the societal risk was covered at the same time, so that people who were interested in it could make submissions to both the DEP and the WAPC. The EPA said that it was a decision for the WA Planning Commission and that it was a land use, planning matter and not necessarily one that the EPA would deal with. On that basis this process has been gone through and has got all those ticks, albeit conditional. At the end of the day, the proponent, the WA Sport Centre Trust, has a right to expect them to proceed with the issue when it has gone through all those processes. In the case of societal risk, the Planning Commission advised that the EPA had resolved that societal risk was a planning issue. Assessment of societal risk is used as a guide to decision making, not the basis for decision making. That is important and answers part of the member for Peel's concern. The EPA went on to say that small fugitive emissions from Kwinana industries are unlikely to present a problem for the motorsports facility. A sensitivity analysis was undertaken by modelling the maximum spectator population of 15 000. We are expecting that to occur hardly at all during the year. The average number of people who attend the speedway is between 5 000 and 6 000 people. If it gets that it is doing pretty well. If it draws 8 000 people, it has a top night. A peak number was used. What makes it even worse is that we assessed it on the basis of the peak population being present 100 per cent of the time, which will not occur. It will be a lot less than that. Nonetheless, that was done. The risk at that level still remained below the intolerable. It remained in the region where management controls had to be imposed. That is the issue of societal risk.

The EPA asked for further individual risk assessment, which has been carried out. The papers which I will table contain a map which shows individual risk. It certainly shows that the motorplex site comes up well. There are two levels of risk: Individual risk and societal risk.

Mr Marlborough: Is there a comment on that societal risk?

Mr KIERATH: The societal risk has been reported. The member well knows that. The report went out publicly. I went through the list of the people who made submissions. Guess who did not put in a submission? The member for Peel did not put in a submission on societal risk. One would think that if he was so concerned about it, he would put in a report on it. The papers I will be tabling later list all the people who made submissions.

Mr Marlborough: The minister will next tell me that I did not raise the issue with him. I have been raising the issue with the minister since the estimates committee hearing in May last year.

Mr KIERATH: The member for Peel wants to run his arguments in this place rather than outside where they will be looked at factually. I cannot see the member's name on this list of submissions. I can see Val Williams, Edith Quinn and Dot Hesse. Dot Hesse is a Kwinana resident. She was able to make a submission, but not the member for Peel. Hazel Duggan made a submission, as did the Town of Kwinana, the Fire and Emergency Services Authority of Western Australia, the Department of Minerals and Energy, the Department of Resources Development, Tiwest Joint Venture, Nufarm Coogee Pty Ltd and the Chamber of Commerce and Industry. The last submission received was from the Kwinana Industries Council. No mention is made of a submission from the member for Peel.

The individuals who made submissions included Val Williams, Edith Quinn and Dot Hesse. I do not know Val or Edith, but Dot is well known to everybody, including the member for Peel. Dot told us she was banned from the member's office.

Mr Marlborough: She was.

Mr KIERATH: The member for Peel has banned Dot Hesse from his office. When we were in Kwinana for a cabinet meeting Dot told the Minister for the Environment and I that we were the only parliamentarians who would still talk to her. The member for Peel had even stopped her from coming into his electorate office. Am I right, member for Peel?

Mr Marlborough: You are absolutely right.

Mr KIERATH: Dot means well, even if she gets confused. Hazel Duggan also put in a submission. The rest of the submissions were made by government departments or industry bodies. Four individuals made submissions on societal risks, two of whom represented groups. I will table that because it shows we have taken seriously those submissions from people and organisations.

The member for Peel raised an issue to which I do not think I should even respond. He referred to the standards industry is required to achieve. They are extremely high. The people of Kwinana do not make any apology for their high standards. When that scare campaign was being run people from Kwinana said that if an industry is so dangerous it should not be in Kwinana.

Mr Marlborough: You said that.

Mr KIERATH: No, that is what they said to me. One matter on which I agree with the member for Peel is that our industry is responsible. It has high standards to meet. I do not think those standards are too high; they are acceptable, and our community expects a high standard.

The member for Peel referred to people living and recreating nearby. The criteria applied when there are residences nearby are the most difficult with which to comply. The criteria assume that residents are present 365 days a year and in their homes for most of the day. Developments with residents living nearby must overcome the highest hurdles.

The member for Peel then raised the issue of hazards. A letter from the Chief Executive Officer of the Fire and Emergency Services Authority dated 17 March reads -

> As a consequence of the discussions and commitments it is our advice that with reasonable features incorporated into the complex to enable quick evacuation and provide for protect-in-place strategies that an emergency management plan can be developed.

The letter continues -

> . . . it is recommended that the Motorplex Development be given approval to proceed on the following conditions:
>
> . The developers liaise with FESA to establish appropriate emergency management plans;

Mr Marlborough: Have they done that?

Mr KIERATH: This letter is dated 17 March. FESA has approved the final emergency management arrangement. The motorplex has been given the go ahead subject to those conditions. The plans must be developed in consultation with FESA, and they must get final approval from FESA before it proceeds.

Mr Marlborough: The minister's press release said it will proceed in a week.

Mr KIERATH: The member for Peel raises these issues, but does not like the response that he receives. A letter from the Department of Minerals and Energy reads -

> The Department has opposed the Kwinana location because, though the calculated societal risk was rated as "tolerable", the Department was not convinced that all reasonably practical measures had been taken to minimise or avoid risk.

Mr Marlborough: Will you table that?

Mr KIERATH: Yes. The letter continues -

In the context of societal risk, a proposal is tolerable only if risk reduction is impracticable or if its cost is grossly disproportionate to the risk improvement gained.

> During the meeting with officers from the MfP, the process for selection of the proposed Kwinana site was explained and it was apparent that the MfP review of potential Motorplex sites was exhaustive. It was also apparent that:
>
> . each potential site had deficiencies with the Kwinana site having the least; and
>
> . it was not reasonable, or practical for the proposed site at Henderson to be developed as an alternative. This was primarily because of environmental constraints.
>
> Consequently, the Department's view is now that the risk levels are as low as reasonably practicable in the circumstances.

I have responded to the issue of hazards that the member for Peel raised. I have gone through the advice, and put different spins on it. The member raised the issue that industry must spend money to comply with industry standards. Industry has not complained about meeting the current cost of standards. In fact, in my discussions with industry representatives they have indicated they are proud of their standards. They think they have a world class facility. The member for Peel said it would cost industry hundreds of millions of dollars to comply with societal risk. The interesting point is that this project meets the standards for societal risk. It has been assessed from the point of view of societal risk. Societal risk was considered in the three reports that were submitted, even the report by the Kwinana Industries Council. Even though one of those reports used emotive language, all of them said societal risk was in the acceptable range provided certain conditions and controls were put on it. Not one of those reports said it was a no-go area, or that it should go ahead without any controls. All three societal risk reports said that it could go ahead subject to certain conditions. Those conditions have been applied. They have been applied on advice from the WA Planning Commission and the Government has accepted that as being a condition of the project. We have applied all the conditions that have been placed on it. The member for Peel cannot say that it does not meet societal risk. It has been assessed, and there will be controls.

The member for Peel referred to massive legal claims, which is a furphy. People live in Hope Valley, Medina and Calista; people travel along Rockingham Road, and people are out walking about, and if there were an accident in that area whoever caused the accident would be legally liable for their action in any event. Their liability will remain whether there are 3 000

or 4 000 people in Medina and Calista or whether there are 5 000 or 6 000 people visiting the Kwinana motorsports complex on a Friday night for two or three hours. Industry's legal liability remains. Industry must take all reasonable steps to limit its liability.

The member for Peel referred to jet engines, which again was a furphy. The strictest requirements will be imposed on drag-racers that have jet engines. It may be that some time in the future those engines may not be able to run in their current condition. Under the current licence those races are restricted to a number of events at certain times of the evening, and for certain durations. The speedway has complied with those restrictions, and has managed to put on an event that is popular. Putting restrictions on jet engines will not stop them from operating. The operators have assured us that they will abide by whatever restrictions are imposed.

He also raised the issue of test cars being run every day. The approval relates to the speedway and drag-racing, both of which run for only part of the year. If other activities are proposed for the site, the normal approval process will apply. If people want to do other activities -

Mr Marlborough: Testing of a vehicle.

Mr KIERATH: Is the member talking about an ordinary car or a drag-racing car?

Mr Marlborough: I am talking about drag-racing.

Mr KIERATH: There are restrictions on when the drag-racing can exceed the noise levels, and that group abides by them. These people do that on the current site, and will have to do so on this site also.

Mr Marlborough: They will always exceed the noise controls.

Mr KIERATH: I think I have explained that. I do agree with the member on one point: Something will happen. The Kwinana Industries Council was a bit upset when it heard about it. This is going to be a critical mass for people involved in motorsports. Other motorsports elsewhere will locate here to a first-class facility. It will be a natural magnet where people will go to use some of the common facilities. That will happen; I have no doubt about that. In terms of having a facility, we want it utilised as much as possible so that it is not a drain on anybody's purse, so that it is a money-making venture from which the whole community will gain something.

The member raised the issue relating to Wanneroo. I do not know where he got the idea that I said the only issue related to traffic. The site at Wanneroo was not acceptable for a whole range of reasons, one being the traffic controls on some of the roads. Other factors included that the site had a limited life. The council has served notice on the people that they are to vacate the site when the current lease expires. I understand that the term of the lease is for only five or six years, but I could be wrong. I am sure I have been told it is of that order. If that is the case, it would make no sense at all to put a facility which we hope will have a lifespan of 20 years or 30 years into a area with a limited lease. An urban front is approaching Wanneroo. When I spoke to those at KIC, they acknowledged that the urban front was approaching that area and in the long term that would not make a sensible proposition. In addition, the operators advised that their economic studies indicated that if it went to Wanneroo, they would lose a lot of the population and the situation would become uneconomic.

Comment was made about two individuals who were concerned. Early in the piece, they were on the committee. When the member asked the question, they were not on the committee. They had no formal role. If we are designing facilities for operators, obviously we want their input for the various technical issues along the way. As observers, they provided information. A probity auditor sat in on all the meetings to ensure everything was aboveboard and nothing underhand occurred. We went to great lengths to make sure the process was squeaky clean and well scrutinised.

The original undertaking was to Ravenswood drag-racing. The Government had an obligation to find this group a site; it did not necessarily have an obligation to deliver a facility, but the legal obligation was to find a site where drag-racing could occur. While that process was occurring, the speedway was issued with a get-out notice. It had nowhere to go. We were trying to find a suitable location for that. It made a lot of sense to us to put the two together. Later in the piece, Graham Moss from the Western Australian Sports Centre Trust went over east and to the United States to look at some facilities. The best facilities in the world are multifunctional and have a number of motorsports all in the one location. These are world-class facilities. That helped to confirm that the decision we made was the right one.

The member then raised the issue of the development at Leighton by comparison with this proposal. I do not want to spend much time on the Leighton site, except to say that it is quite different. It had a proponent running a proposal that had not entered the formal process. It was a Clayton's proposal - the one that is done before entering into the formal process.

Dr Edwards: The minister makes it like sound like the Government was not behind the whole thing.

Mr KIERATH: Some people had been given the right to develop a proposal, but the issue was how they went about the proposal.

Dr Edwards: Cabinet had given it the right.

Mr KIERATH: These people then began to float something without beginning the formal planning process. In the end, we pulled it back in and said, "You are causing many more problems than you are solving. We want to go through the formal processes where we can rule out some things you can do. You cannot just have a clean sheet and start from scratch;

there are some things you will not be able to do." Those things are contained in the guidelines being developed now. The member for Cottesloe saw that coming. He had a position on some of those issues.

Dr Edwards: Some of us were saying that to Westrail a long time ago.

Mr KIERATH: Yes. At the risk of putting words into his mouth, I think the member for Cottesloe was trying to say that he was telling Westrail that some time ago as well. The point is that eventually Cabinet said that the proposal was not going any further unless it went through a proper process of setting the guidelines and having the development assessed. That is what has happened here. We have gone through the proper process - the environmental assessment and the societal assessment - and we got the qualified ticks. We are prepared to go through the proper process. We made sure the Leighton proposal did the same thing. When representatives from the Fremantle City Council came to see me they wanted to ensure that the Leighton proposal would go through all the normal processes they were worried about and which they thought Cabinet would override. I told them that Cabinet cannot override the legislation. If it wanted to change it, it could bring in a Bill to do that, and try to have it pass through both Houses of Parliament, but it simply cannot override the proper process. I also make this point for the member for Maylands about the development in her electorate: Despite what people say, it must still go through all of the proper planning process, part of which requires that the community will be consulted along the way.

Unfortunately, the member for Peel made some comment about decisions on political boundaries. I do not agree. This Government has done more for Kwinana than the previous Labor Government ever did. Let us take the New Living strategy. I know he is a strong supporter of it. I also know many of his strong supporters are, too. One of his strongest supporters stopped me in the street and said, "Graham, this Government has been better for Kwinana than our natural Government was in all the years it was in power." One of the member's supporters said that; he said that he thought he would never live to see that day. His statement was based on the New Living strategy in Kwinana.

Mr Osborne: People all over Western Australia say that.

Mr KIERATH: This person said that all the Labor Government did was to give that area the prison. At least under this strategy, some of the kids will get jobs, which is more than could be said for the prison located in Kwinana.

The member for Peel made the disgusting and disgraceful comment about lowering the environmental bar. It is important to put on the record that I said that the issue of societal risk has been taken out of the environmental arena and put into the planning arena and that, in the longer term, I believe people will thank us for that. I definitely did say that. I also said that in the end I think the action we have taken will help industry in Kwinana. I repeat: I said that. Members can quote me on that. They are good planning decisions. These things will ensure that urban areas cannot encroach closer to the industrial area.

The member for Peel also made some ridiculous comment about there being no logic for it. If that was the case, having gone through all of the independent approvals process, it would not have received the qualified approval it has. He then referred to the cost being between $16m and $20m. There was a proposal around at one stage - it was my preferred proposal - for a $21m option. I could not get the extra money from the Government, so in the end I had to live within the budget. Some stuff had to be cut from the proposal. We wanted a screen at this facility like the large, new one at Subiaco Oval. I had to cut it out of the proposal to meet the budget. I think it is a shame because it would be a fantastic facility for public events, such as concerts or whatever. We had to live within our budget and we have done that. The price has come within $200 000 of the $16m.

Mr McGowan: What about the value of the land?

Mr Marlborough: All taxpayers' money.

Mr KIERATH: Yes. We had an obligation. We provide sporting facilities in this State. We think motorsports are genuine sports. We are prepared to provide this facility. We will strike a commercial leasing arrangement -

Mr Marlborough: Did you ask the private sector to build it?

Mr KIERATH: We could not. When we had an obligation to provide for Ravenswood drag-racing and for the Claremont Speedway, we could not then turn around and tell these people that they could not have a facility. We will have a facility that can be used by other operators. They will not be excluded from using it. Some operators who have come to see me do not agree with the Government on that. Our position is that if it is a community sporting facility, the organisations can have their season, just like the football and the cricket, which put in their fixture lists for the season and get approval to run the sports on those dates. These people will be able to do the same. It is no secret that these people wanted an exclusive lease arrangement and the Government refused to give it. We have also said that we want these people to pick up the maintenance costs of the facilities. If we can get a commercial operation in that area and all the maintenance costs of the facilities that we have funded can be paid for, that is a good commercial deal.

The member concluded by saying that it is a dark day for industry, a dark day for Hope Valley and Wattleup and a dark day for Medina and Calista. I predict that in time we will see the member for Peel using that facility. I believe that the locals will like it. In a moment I will give the results of the survey about what people who live within 5 kilometres of the site think. That is fascinating, because those views do not match those of the member for Peel. Maybe this is the time to deal with that survey and repeat the results for the benefit of members. We had been listening to the member for Peel for so long that we thought we should bring in a consultant. We commissioned a consultant to undertake a community attitude survey of the proposal. That survey showed that of those people living within a 5-kilometre radius of the site, 58 per cent

agreed with the proposal; that is, almost 60 per cent, certainly more than half, of the people agreed to it. Twenty-five percent or one quarter of the people disagreed, and 17 per cent were unsure. When the proposal was fully explained to those people, guess what happened? Seventy-seven per cent agreed and 22 per cent disagreed, with only 1 per cent being unsure. Therefore, we know that of those people living within 5 kilometres of the site, who will be the ones most affected by it, without having to explain the proposal, 58 per cent liked the idea and were in favour of it. After having the proposal explained, 77 per cent agreed with it.

Mr Osborne interjected.

Mr KIERATH: Yes. It might make Peel marginal after all.

The member for Peel said that we had thrown environmental standards out of the window. I have never said that I would throw the environmental standards out of the window; I am not able to do that under any circumstances. Therefore, I totally reject any hint or insinuation of that type by the member for Peel.

The member for Rockingham said that this project will have a dramatic affect on his seat. He then compared Kwinana with Leighton. I think I have already answered that.

Mr McGowan: You have not.

Mr KIERATH: I have. The member obviously was not listening. The member for Maylands was sitting in the Chamber at the time, and I went through the issues of Kwinana versus Leighton. I will repeat that again for the benefit of the member for Rockingham. The planning process for Leighton has not started. The Kwinana site went through the environmental process and, under societal risk, it went through the planning process. It has been through those proper processes. When the Leighton guidelines are issued and a proposal is put forward, the proposal will be assessed against those guidelines. The Leighton development will go through the full planning process. I have said that previously and I say it again.

The noise regulations that we currently have relate to where people live and work; they do not relate to special events.

Mr Marlborough: That is not right.

Mr KIERATH: It is right, and I will tell the member why. The new noise regulations have come in during the past two years. I have been involved in this issue during that time. When the minister was proposing those regulations, before I agreed to allow them, I asked her whether they applied to special events like those conducted at the drag-racing strip and the speedway.

Mr Marlborough: They do.

Mr KIERATH: They do not. Special exemptions have always been given to those events, because the noise regulations are designed to cater for the noises to which people will be exposed ordinarily in the areas in which they reside. It was always understood that special consideration would be given for special events. The speedway at Claremont and the drag-racing strip at Ravenswood both operate under special exemptions.

The member also said that an acceptable noise level was 35 dB(A) in residential areas. When we tested the noise levels, we were forced to remove the background noise of Rockingham Road. Do members realise how high the noise level of Rockingham Road can be?

Mr Johnson: Yes, about 40 dB(A).

Mr KIERATH: No, the background noise reaches about 70 dB(A).

Mr Osborne: That is the local member driving up and down the road.

Mr KIERATH: Yes. It is probably the noise of him putting his foot down as he accelerates trying to get home quickly. There are exceptions when it goes above that for short bursts, but the bulk of the speedway noise is below that level. What we are not told when members run around peddling these rumours is that most of the noise from the speedway and some of the noise from the drag-racing strip will be less than the background noise of a major transport route through those members' electorates. What the people in that area have not been told is that they are already subject to that noise. I live just near Leach Highway. On one side of Shelley Bridge is a set of traffic lights. If a truck is going full bore and the driver hits the skids and the air brakes come on, it can be heard very clearly and the noise level is extremely high. When the driver starts to take off, he revs up the truck through its 21-speed gearbox, and the noise level is tremendous. An aeroplane also flies over my house within five minutes of 1.00 am - either five to one or five past one, depending on whether it is on time - every day of the week.

Dr Edwards: Are you feeling a bit paranoid?

Mr KIERATH: No. I am just pointing out that these noises are heard on a regular basis. I would rather listen to the noise from the speedway or the drag races, which will finish at 10.30 pm, than listen to that aeroplane which flies over my house at one o'clock in the morning. Those are noises to which the general community is subjected, and we must live with them. It is part of modern-day living. I have to do a reality check from time to time and ask myself what the noise level from this facility will be. I must say that I find it hard to swallow that people run the noise argument when most of the activity will be less than the background noise of Rockingham Road. It does not stack up logically.

Dr Edwards: Then why are you moving the speedway from Claremont? Why do you get so many complaints about Claremont?

Mr KIERATH: We do not get many complaints about noise at Claremont.

Dr Edwards: You need to talk to the people who raise the complaints about Claremont.

Mr KIERATH: The speedway is not being moved from Claremont because of the noise levels. The member obviously was not here when I raised that matter. The Royal Agricultural Society of Western Australia wanted to bring people closer to its ring events.

Dr Edwards: It is basically because of the noise.

Mr KIERATH: No, it is not.

Mr Barnett: As the local member, I doubt that I would receive more than one complaint about noise from Claremont in a year. A small group of people are opposed to it, but most are not.

Mr KIERATH: That is spot on. About 17 000 people live within a 2-kilometre radius of the Claremont Speedway. Within a 2-kilometre radius of the Kwinana facility - I have been criticised for saying this, but I think in time some of those people will move - currently there are 700 people. That puts it in perspective.

Dr Edwards: They have probably all gone deaf.

Mr KIERATH: I cannot win the argument, no matter what logic I put up. I think that is what the member is saying. No matter how logical I am, I cannot win the argument.

Mr Pendal: Doesn't that mean that the 17 000 people at Claremont probably moved into that area long after the speedway was operating? The other 700 people have had no experience of living near a speedway. Isn't that the difference?

Mr KIERATH: It could be. Equally, I can run the argument that many of those people bought houses in the area after Rockingham Road had been constructed. I do not know what the percentage would be, but I estimate that all of the noise from the speedway and about two-thirds of the noise from the drag-racing will be below the level of 70 dB(A); the noise will be below the level of the background noise of Rockingham Road. In that case, because of the way it has been portrayed, people would think that was unreasonable. When we conducted the noise level tests, we were required to conduct a test without the background noise of the road. That is outrageous and ridiculous, and I have made my views known. It is incredible that we were required to do that, because we all live with the roads. I have raised the survey.

Mr Marlborough: Will you table the survey?

Mr KIERATH: No, I will not. I gave the results of it. I do not have it with me. However, I will check it.

Mr Marlborough: Will you send me a copy?

Mr KIERATH: Yes, and if I can table it, I will be more than happy to do so.

Mr Marlborough: I like to know what my constituents are thinking.

Mr Brown interjected.

The DEPUTY SPEAKER: Member for Bassendean, order!

Mr KIERATH: I wish to table the three lots of papers I indicated my willingness to table previously.

[See papers Nos 761-763.]

Mr KIERATH: In summing up, it is true we had the opportunity to avoid seeking independent approval for this project.

Dr Edwards: How?

Mr KIERATH: Under a section of the Environmental Protection Act we do not need to have an environmental assessment if the Government of the day is prepared to implement a proposal. However, we chose to run it through the Department of Environmental Protection and the Environmental Protection Authority process and underwent all the public and environmental reviews. Submissions were made and assessed. Qualified decisions and approvals were made and, more important, the societal risk report was sent to the Western Australian Planning Commission. That was also a public process to which people contributed their views.

However, there is a catch in all of this. If people oppose something and put their views into an independent assessment process they must produce the goods and provide sound reasons that their views should prevail. When some of the views of some of the parties do not stack up, that can be part of the problem. That was part of the problem the Kwinana Industries Council faced. It took about three different tacks on this issue. When it realised an approach would not work it shifted ground. That was disappointing. Most of us in government hold most of the Kwinana industries in high esteem. We would not set out to do anything that would be detrimental to them.

The member for Peel approached me regarding the Fremantle Rockingham Industrial Area Regional Strategy to do the right thing by that area. I hope that we will reach agreement. Unlike another issue, this might be one of those issues on which we reach agreement with all parties to do the right thing by industry down there. We must wait until then.

As minister, I am more than satisfied that we have been through all the proper approval processes. Hurdles have been set,

which have sometimes been difficult to overcome. Most of the difficult ones have been overcome, but some still remain to be dealt with before the motorplex will be operating.

Mr Marlborough interjected.

Mr KIERATH: No. As we heard from the experts' views I read out, they are all manageable issues, which require proper controls to be implemented. I have not said that the site does not have any risk; it does have risk, but it is manageable. I think the correct legal term is "tolerable". I used the term "acceptable risk" because I think people will go there and accept that risk. On that basis, the Government believes the motorplex will be a good facility, that the people of Kwinana will benefit from it and that many people in the area are looking forward to its inauguration. It will be good for Kwinana.

I will have a side bet with the member for Peel that in five years he will be able to say that this facility is good for Kwinana!

DR EDWARDS (Maylands) [6.03 pm]: In the past few days this House has become a confessional. I must confess that I live in a house with a couple of petrol heads. My son believes that red cars go much faster than any other cars. That is the sort of argument the Minister for Planning has been running this evening. It is interesting that until recently when he decided it better suited his image not to have a red car, he had a really sporty type of red car!

The minister might be satisfied that all the conditions have been met and that this proposal to put the motorplex at the old Alcoa Australia Ltd site is a good idea. However, I am certainly not satisfied. I am now even more convinced that the motion moved by the member for Peel should be carried.

The first thing the minister said was that the EPA is happy with the proposal and has approved it with some conditions. The EPA was not happy. The first thing it said in its bulletin in September 1999 was that it wanted more time. The bulletin reads -

> The EPA is providing advice on environmental impacts in this report in a restricted time frame.

It goes on to say that it would have preferred to have more time and to have examined more options rather than just one site so it could make a comparative assessment. To say that the EPA is totally happy is a furphy, as indicated at page 1 of its first bulletin on the issue.

The EPA raised several issues, the first of which was noise. As everyone knows, noise is a social issue. The EPA said in its bulletin that as currently proposed, the facility was likely to exceed the noise regulations and that noise was likely to be a problem. It went on to say that noise from all the operations associated with the speedway and drag-racing would annoy residents, particularly those living close to the facility. Despite what the minister has just said - that is, people in Claremont do not seem to complain much these days - the EPA was clear that it was not the speedway, but the drag-racing that would be a problem.

As we all know, Claremont speedway has existed, I think, for a century - it is the oldest speedway in the world. I am sure the generations of people who have lived there have become tired of complaining about the noise. However, the local authority or the residents living nearby will say they do not like the noise when the speedway season is on. Imagine what it will be like for the residents of Kwinana, Medina and Hope Valley - if any are left - when they have to put up with the noise of not only a regular speedway but also drag-racing. Noise will be a problem.

The proponents have argued that the noise from the motorplex will be less annoying because races will be run for only a few hours on two nights for about 25 weeks of the year. That is many more weeks than occur at Claremont. Given what the minister said about allowing other people in to use the facility on other nights of the week, use of the motorplex will not be limited to two nights for that short period. If, as the minister says, the proponents will be able to lease the facility to other interested parties at other times, the frequency of use will be higher than that. If there is a lot of drag-racing people will be annoyed.

There is also a converse argument which goes like this: Over time people attenuate to noise. I am surprised that the minister raised the issue of airport noise occurring at 1 o'clock every morning. Most people who live near airports, as I do, get used to the noise from them. They build the noise into their psyche. When I have people around for dinner they often look up and ask, "My God, what was that?" I ask what they are talking about and then I realise it is just an aeroplane. We learn to live with that sort of thing.

It is interesting that the minister has some sort of understanding of the impact of noise, but he is writing off the effects, particularly from the drag-racing, on all the people who will live near this new complex. The EPA points out that people will be annoyed; they will have their evening activities such as TV watching and studying disrupted. Children will suffer sleep disturbance as will shift workers, which is very important given the demographics of the area, and there will be interference with outside activities. In its bulletin, the EPA said that it could not reliably assess the proportion of the community that was likely to be annoyed. Indeed, it was faced with two kinds of surveys, one from the proponents indicating that not many people would be disturbed, and another from the council that thought a significant number of people would be disturbed by the noise.

It is interesting that we still do not have a proper idea of how this will impact on the way people live. The hunch is, particularly when the modelling was driven around Kwinana, when residents were exposed to the same level of noise as that which will occur, they were annoyed about it and it was a problem. The proponents suggested to the EPA that the environmental protection noise regulations were not appropriate for motorsports activities and that there should be special regulations. The EPA looked at work done by the New South Wales EPA relating to motorsports. Drag-racing in New

South Wales is allowed a five decibel noise level above the background noise level. That is credible work from New South Wales. The problem is that, even if we were to limit the facility to five events a year, the motorplex would not meet the New South Wales EPA criteria.

The public environmental review, the documentation and the EPA bulletin provide neat tables of what the noise levels will be. However, the EPA notes that the assigned noise levels under the noise regulations for Wattleup and Hope Valley treat these suburbs as zoned for industrial purposes. As a result, the assigned noise levels are higher. The table shows the predicted excess in Hope Valley as 40 dB(A). One must then take into account the fact that that area is being measured above an assigned level because it is treated as an industrial area. If I lived in Hope Valley, which is currently zoned rural, I would not take much consolation from that; in fact, I would be damned annoyed. Predicted adjusted noise levels of 104 dB(A) are very loud.

Members will note from the table that the numbers increase - there is a large range - but they must remember that noise does not impact on the ear in a linear fashion; it impacts in a logarithmic fashion. The difference between 50 and 100 dB(A) is not double; is it much higher because it is a logarithmic curve. The greater the noise, the greater the impact it will have because it increases exponentially.

The minister has reassured us that the proponents will "abide by the regulations". That leads me to paper No 755 tabled in Parliament on 15 March by the Attorney General dealing with the Claremont speedway exemption order. We all know that the Claremont speedway is given an exemption from the noise regulations each year in order to operate. This makes very interesting reading and I am sure it will concern the Leader of the House. This exemption comes into operation on the day on which it is published in the *Government Gazette*, and it was published on 7 January. I went to the speedway at about that time, and I can assure members that the season did not start on 7 January. I rang the speedway today and no-one was able to tell me when the season started; it may have been October, November or even December, but it was most likely November. The minister has been in this place assuring us that the speedway would abide by all the regulations, but this year it could not get it right. It was operating when the regulations had not been introduced. This is a joke! Presumably it was operating from the beginning of the season - whenever that was - until 7 January, when this notice was gazetted, and without its exemption. The minister is asking us to trust him - the Government will manage the noise - but he cannot get it right with the Claremont speedway. Why did this delay occur? We have had the speedway there for 100 years, so why could the Government not get the arrangements right in 2000? This is impacting on the constituents of members opposite. God knows what would have happened if there had been serious noise complaints during that time. How would that have been handled? Presumably that would have become a legal issue.

How can we trust the Minister for Planning when he says that the Government will abide by all these conditions and regulations when they are still evolving? It is an absolute disgrace that this order was tabled not on the first day of this year's sitting but the second and that, for the first part of the season, the speedway did not have the appropriate order providing an exemption to exceed the noise regulations. That is disgraceful, and it is a sign of what we will see in the future.

I will move on now to the minister's environmental conditions that will be attached to the Kwinana International Motorplex. The EPA issued a bulletin containing the conditions in September last year, the minister signed off on them on 17 December and they were published on 20 December. It is interesting that the EPA recommended what the conditions should be, but changes were made immediately. The minister removed reference to periodic performance reports. We still have periodic compliance reports, but the EPA recommended periodic performance and compliance reports. That is a watering down of the conditions.

I will reserve my judgment on this, but the minister has established a Kwinana motorsports management committee and referred matters to it as well as to the EPA. I am not sure that that is entirely appropriate. Already we are seeing many management plans not requiring approval under these conditions - they are being approved down the track so they do not have the same legal status as the ministerial conditions. They must now meet requirements according to the advice of both the EPA and the new Kwinana motorsports management committee. The membership of that committee is interesting: Three of the seven members are associated with industry; it has an independent chair appointed by the WA Sports Centre Trust; a member of the trust; and a motorplex motorsport representative. The other four members are an officer of the Ministry for Planning, an officer of the DEP, the Mayor of the Town of Kwinana and a representative of the KIC. I will be very curious to see how that pans out.

The minister also watered down the reference to the Bushplan. It has not received much attention, but the bottom part of the complex is a Bushplan site. The EPA made recommendations about how that should be managed and how to organise for land to be exchanged. The minister has watered that down by removing the responsibility from the proponent, giving it back to the Ministry for Planning and having the wording of the recommendation made weaker than that proposed.

Environmental conditions were published on 20 December last year. Last Friday was St Patrick's Day, and when I first heard what had happened, I thought it was an Irish joke. The EPA published another bulletin relating to the Kwinana motorplex - Bulletin No 973 - in which it admitted that it is having to look at these provisions again under section 46 of the Environmental Protection Act because the minister has received a letter from the Environmental Defender's Office stating that condition 7.1, which deals with noise, and conditions 8.1 and 8.2 are not valid conditions on the grounds that they lack finality.

The Minister for the Environment is having a bet both ways. She says that she does not agree with the EDO, and it is unclear what legal advice she took. In my experience, the EDO is thorough in obtaining legal advice. At the same time,

the minister has referred the issue to the EPA under section 46 of the Environmental Protection Act. The EPA is now saying that grounds exist to change various conditions. These environmental conditions were ticked off by the minister on 20 December last year. However, in March this year the EPA said that grounds exist to vary some of the conditions. What is going on? The Claremont Speedway exemption was stuffed up - that is the only way to put it - and the conditions approved by the minister last year have now been called into the question by the EPA. The minister is not here. Presumably she has not had a chance to assess this situation and to decide what to do. It is further evidence that the whole thing is being done on the run and that the Government does not know what it is doing. Far from every condition being satisfied and ticked off, much of this is being managed in a very ad hoc manner.

I now refer to two environmental issues: First, individual risk. Interestingly, the minister reads out reports from departments which were previously concerned, but were told that individual risk had been sorted out. I remain very concerned that the EPA, when it went to the trouble of peer reviewing the initial individual fatality risk assessment, came to the conclusion that the risk was underestimated, the individual fatality risk was higher than proposed, and that more failure cases were likely in what was called the "near field". New and expanded operations around Kwinana had not been taken into consideration. The peer review of individual risk was conducted by Det Norske Veritas, which concluded -

> It is highly likely that the individual risk contours for the existing Kwinana Industry Area would geographically move eastwards -

That is a move towards people -

> - and therefore the 10^{-6} and 10^{-5} individual risk contours will include greater sections of the proposed Motorplex site.

It is a concern that this was revealed by the peer review. What peer review was undertaken on the minister's most recent assessment? The situation is similar with societal risk. When the EPA released the individual risk bulletin on the complex in September, it also released a bulletin on societal risk. The work done to that date was peer reviewed, and it was decided that the risk had been significantly underestimated. Similar reasons were given to those involved with individual risk; namely, the Kwinana industrial area had increased, not all scenarios had been taken into account and transportation was raised. Significant issues have not been properly addressed.

The Government is being forced to make some decisions. It is fair to say that in the first couple of months of this year the Government was paralysed - nothing was happening. Perhaps its members had a good Christmas and were all paralytic. Some decisions are now being made: We saw a decision in the electorate of the member for Cottesloe with Leighton. If the Government can defer a decision which will be politically troublesome to a local member, it will do so until after the next election. The Government is not too concerned about the people in Kwinana, so the motorplex decision will be made now. The decision will be made now on Pyrton affecting the people of Bassendean.

One of the most horrifying comments made by the Minister for Planning this evening is that the Government considered not going through all these processes. How can we trust a Government which said it considered not going through the processes, yet in the environmental arena it has mixed up noise exemption orders and sent out confusing signals about its final environmental conditions? I support the motion.

MR PENDAL (South Perth) [6.24 pm]: I will make a brief contribution. I do not want to comment on the welfare, lifestyle or environmental aspects of this project. I raise an issue which I pursued in a question on notice late last year. I note that other members, including Hon Jim Scott, had similar queries of the Government in the past few months. Late last year I put on the Notice Paper a question, part (8) of which read -

> Will the Government call for expressions of interest for the operation, for example, of the speedway, or will the long-term Claremont Speedway operator be appointed?

On page 5056 of last year's *Hansard*, the Premier is recorded as telling me the following -

> The Sports Centre Trust will issue a licence to Claremont Speedway and Ravenswood Raceway to operate from the facility.

A not dissimilar question asked around the same time by Hon Jim Scott appears at page 4649 of *Hansard*. It read in part (4) -

> Why did the Government not put out for tender the operation of the motorplex.

The Government's response to that part of the question reads -

> The WA Sports Centre Trust will manage the proposed motorplex on behalf of the State Government. . . . The trust in conjunction with other government agencies, including Treasury, considers that the awarding of a non-exclusive licence to the current operators of the Ravenswood Raceway and Claremont Speedway will provide the most favourable commercial return for the facility. A licence, unlike a lease, is a contract of performance and can be negated for specific areas of non-performance.

The sum total of the answers received is not to answer the question.

Mr Brown: There is nothing new about that!

Mr PENDAL: Well, this goes to the heart of what will become a very serious issue of probity. The Government will give a company a $16m gift for nothing. This is as bad in principle as anything that happened in the so-called WA Inc days. This is a gift of $16m for which the successful tenderer has never had to tender. It is worse: The impact of the proposed motorplex facility report prepared for the Ministry for Planning, as tabled today, reads -

> It is estimated that $16 million will be spent constructing the facility. Around $3 million will be spent annually on operating the facility.

Therefore, over a 10-year period, we are looking at a $16m initial outlay and an operational expenditure of $30m by the Government.

Dr Constable: We could build a couple of new schools with that.

Mr PENDAL: With due respect, more schools than that could be built for $46m. It is $46m in a 10-year period for which no tender was called. The matter should be referred to the Auditor General - it is that serious. To commit ourselves to that amount of money without going to a tender process is madness. As the election approaches, the Government will need more ready and plausible answers than those provided so far on this matter. I appreciate that other people have other interests in the project ranging from social to environmental to planning and all sorts of urban impacts. They are entitled to those interests as local members. However, the one overarching, enveloping principle about which every member of this place should be concerned is that we are asked to be party to a probity issue which will see an outlay of $16m - at least the cost of two high schools - for which no tender is to be called.

On two occasions the Government was given the opportunity to state whether it would call tenders and - by implication - if not, why not. On both occasions, the Premier in responding to my question, and the Minister for Sport and Recreation in responding to the question asked by Hon Jim Scott, simply did not provide the information which should be transparent and up front.

Only a few metres away from this motorplex facility was the ill-fated Petrochemical Industries Co Ltd project which cost a squillion. The Government of the day was nailed to the wall over the concept that, for only a favoured few, it would put at risk public funds without any openness. That is happening in this case. A person with a facility on private land operating as a private business will now find himself $16m richer. Why do I say that? It is because it is $16m he does not have to find. Mr Migro must be sitting back at the speedway office tonight saying to himself that he has negotiated the most wonderful deal that it is possible to negotiate anywhere in Australia and that he is getting a $16m facility and does not have to put up a zap.

I will finish on the note where I began. This will haunt the Government unless it is prepared to halt the process, at least that part to do with who finally gets to operate it. It may be that Con Migro and Mr Miocevich are the best people; I do not know. Certainly the procedure has never been through that process of transparency. This runs counter to everything on which the Commission on Government reported and every complaint that was made to the royal commission in the 1990s. It also runs counter to everything that the Government said at the time of its election. Its campaign theme was better management. Better management is not represented when the Government gives away a facility worth $16m to someone who has never had to tender for it or put a dollar up front. The Government should now make a decision and a commitment that it will halt the process and do it properly, before the matter is referred to the Auditor General.

MR BROWN (Bassendean) [6.32 pm]: The planning policy of the Government is based on politics, nothing more and nothing less. If it involves a Liberal electorate and the Liberal member has sufficient influence in government to make sure that the planning is in accordance with the community's concerns, the Government will listen. If it involves a Labor electorate, the Government does not give a cuss and people are ignored. Let me give two irrefutable examples. The first is obviously the controversy over Leighton beach. I listened to what the Minister for Planning had to say earlier tonight. He said that the Leighton beach proposal somehow was outside government and had nothing to do with government. I am intrigued by that explanation because I thought that the Leighton beach project was being driven by the Minister for Transport. I thought that he had some understanding of what was proposed for the Leighton beach development. It was not someone who got off a plane at Perth airport, travelled to Leighton and said that it looked like a good place for a development and that he would start one there and that the Government knew nothing about it. I thought that the Minister for Transport knew something about it. Perhaps the Minister for Transport never took it to Cabinet. Perhaps he sat on the farm one day and thought that we could have a few villas at Leighton beach and that it sounded like a good idea and that he would allow it next week. Perhaps he thought he would not talk to anybody about it but just do it. Do we believe that and that it was not discussed in Cabinet and with ministers? Do we believe that the green light was not given to it by government? Of course it was. What sort of cloud cuckoo land do people think we live in?

What happened? The political heat was turned up. It was turned on the member for Cottesloe, the Leader of the House. The member for Cottesloe asked himself at the end of the day the question that faces a number of government members: Should he take the position of the Government of which he is part and a senior member and wants to lead, or should he take the position of the local electorate? What was becoming clear to the member for Cottesloe was this: He was between a rock and a hard place because if he did not take the position of the local electorate, he might not be the member for Cottesloe. He had to go to the Premier and say that the Government had a National Party member who did not know much about the metropolitan area.

Mr Barnett: That is a nice theory. It is not relevant to the motorplex issue. It also does not stick with the story. The position I took on Leighton was taken by me 18 months ago, even before the Leighton Action Coalition had been formed.

That was printed in the local media as a public document. Do not suggest that the views I had were the result of some latter-day response to public pressure. When I went to the rally, surprisingly a lot of people applauded me.

Mr BROWN: The Leader of the House may take that view, but what was the Government's view? Did its view coalesce with that of the member for Cottesloe or that of the Minister for Transport? It coalesced with the Minister for Transport's view. If it had not, the Minister for Transport would have been stopped dead in the water. I am not sure what internal machinations and politics occur in the coalition party room, but the member for Cottesloe was not winning over the Minister for Transport until the heat was turned up and the community made it clear that the member for Cottesloe might not be there any more and that it might be a member of the Liberals for Forests or someone else. At that stage, whatever his position, other members started to listen. Cottesloe is a Liberal electorate.

The Premier said words to the effect that the Government would not go against the community and that it would listen to the community. That was reported in the newspapers. Indeed, when the announcement about listening to the community was made, many other communities thought that it was a new policy of government. They thought that it was great that the Government was to listen to the community. What was not understood was that the Premier had not quite said all of the words. What the Premier really meant was that the Government would listen to some communities, those that might threaten Liberal members of Parliament, and that it would not listen to the other communities. There are two clear reasons that can be proved to be the case. The first is what has happened in Leighton compared to Pyrton at Eden Hill. The Eden Hill community has made it abundantly clear in surveys by the Bassendean Town Council, Ministry of Justice and community groups, and at public meeting after public meeting, that it is opposed to that prison going ahead. A bloody-minded Attorney General has said that he does not care; that the Government will go ahead and establish it in the face of public opposition and hostility. So the Government listens to electors in one area, Leighton, but does not listen to electors in another area, Pyrton in Eden Hill. Another area where it does not listen to electors is with the development of the motorplex. Residents have indicated their views about the motorplex. Has the Government listened to those views? It has ignored them. In the eyes of the Government, those people do not exist. However, the Government listens to the views of the electors in the Liberal electorate of Leighton.

Let us look at a third question: In the last Parliament, getting towards the 1996 election, the Government proposed to establish a minimum security prison at Canning Vale. This meant a minimum security prison on an existing prison complex. It would mean two maximum security prisons and a small, minimum security prison at Canning Vale. What happened? The community was outraged by it and infuriated. I attended some meetings as the then opposition spokesperson on Justice at which the community said it was opposed to the establishment of that institution. People could live with the maximum security prisons, and they have lived with them, but they would not live with a minimum security prison for a whole range of reasons. The member for Murdoch also attended that meeting, and the heat was being turned up on him. What happened? Did the Government establish that minimum security prison at a site where there were already two maximum security prisons which housed hundreds of prisoners, or did it listen to the community? There are no prizes for guessing what happened. It pulled the plug on it. It backed out. It never established the institution. The Government listens to the people in Leighton. What is different? Those people must be green or blue, because it listened to them. It listened to the people in Murdoch, because they did not want a minimum security prison and they did not get one. The Government listened to the people in Cottesloe and in Murdoch. What is the key difference about those people? The key difference is that they happen to be in Liberal electorates, and they can damage or remove Liberal members of Parliament. Yet, in the other areas which I have mentioned, whether it is in the areas covered by my colleagues the members for Peel and Rockingham, or whether it is in the electorate of Bassendean or elsewhere, those citizens' voices do not count for this Government. The Government may not listen to those voices, but those people will treat the Government harshly when they get the opportunity. They will campaign as hard and for as long as possible against this Government, and I hope that that campaigning will meet with some considerable success, because the way they have been treated is abysmal. This is a planning issue and the Minister for Planning is not even in the Chamber. This is an abysmal situation. Planning laws in this State are now based on the political colour of the local member of Parliament and not on any rational and formal planning arrangements.

MR MARLBOROUGH (Peel) [6.42 pm]: I take this opportunity to comment on a number of points raised by the minister. We know that the minister is a rather amazing figure, but he keeps surpassing himself every time I deal with him. Tonight in his reply to our concerns, he decided that it was appropriate to attack the people he purports to represent in this Parliament; that is, those from the Kwinana industrial strip, whom he had asked for assistance in looking for alternative sites. The minister said that the Kwinana industrial representatives' problem was that they had at least three different positions and that they kept changing their position all the time. If they took a different position from time to time, it was at the request of the Minister for Planning, and it was at his behest that they continue to look at alternative sites. In doing so, they were honest in both their efforts and their dealings with the Government. However, the same cannot be said for the Minister for Planning. What did he do? At yesterday morning's key meeting in his office, he advised the representatives that he had made up his mind two weeks ago, when only last week his office was continuing to deal with the Kwinana Industries Council on the basis of looking at alternatives. Who is the honest broker in all of this? Who is all over the place?

Let us go through the matter quickly. The Minister for Planning accused the Kwinana Industries Council of having three or four different positions, which, he said, did not help it. At his request, the members of the council were looking at alternative sites and as late as last week, he was continuing to encourage and have dialogue with them about it. At yesterday's meeting he said, "I made up my mind on this issue two weeks ago." The minister should be very careful when he lives in glasshouses and throws stones in that way. It is absolutely disgraceful that industry, or for that matter anybody, can be treated in that way. It is not something we would not expect from this minister in his dealings on this matter.

The minister now wants to pass off the whole issue of societal risk as something which the Ministry for Planning will be involved with from this point. He says that the Environmental Protection Authority advised him that it is not necessary for it to look at societal risk. It is a land use issue; therefore, it can be determined by the Ministry for Planning. I ask the Minister for Resources Development whether he now holds the position that from this point on, societal risk, as it has been used as a partial measure for industries in Kwinana, will be an activity taken on board by the Ministry for Planning as against the Department of Environmental Protection?

Mr Barnett: No, my understanding is that societal risk will be part of any current and future environmental approval, and it would include allowance for the fact that a motorplex complex, or anything else, exists in the vicinity.

Mr MARLBOROUGH: It will be a factor measured by the DEP, as the appropriate department.

Mr Barnett: It will form a judgment on the measurements which may be done by consultants or whoever else.

Mr MARLBOROUGH: It will not become something which is no longer the prerogative of the EPA or the DEP and which becomes an issue of land management, as stated by the Minister for Planning, and which will be carried out by the Ministry for Planning.

Mr Barnett: That will be a matter for the DEP to decide at the time. The EPA will set its own criteria.

Mr MARLBOROUGH: With the greatest respect, part of the reason this motorsports complex has been allowed to come out into the public arena is that the minister's role as Minister for Resources Development has not been up to scratch on this issue. I do not know whether he has some internal problems with that section of the Liberal Party and is afraid to take on the numbers in Cabinet. There are lots of discussion around the House about it, and it has been discussed in the media. The minister and I are aware that he has been approached by Kwinana industries and that he has said one thing to them. However, his role in Cabinet has not been up to scratch. He has a far more important role to play on behalf of those industries because it is important to the State. There is no doubt that the State will be damaged by this situation.

In defence of the minister's position about the report of the Fire and Emergency Services Authority, which says that it cannot properly manage an industrial accident which will require the proper evacuation of an open air sports facility capable of housing 15 000 people, he said that he knows there are risks. The minister downgraded the possibility of a loss of life, but that is no exaggeration. The Fire and Emergency Services Authority had to look at that possibility. The minister downgraded the possibility of a loss of life of a percentage of 15 000 people and said that he always said that risks would be involved with the project. He then said, about the evacuation of people, that FESA said that the proponents must come up with a scheme of arrangement, a plan, that would provide the guarantee that such evacuations or emergencies could be handled. The minister said that in this place only one hour ago. He said that FESA had laid down the guidelines by which they believe they will be convinced that the issue of emergency control of an open air speedway can be met in case of an accident in the industrial strip, and that has been progressed. What did the minister say yesterday? The minister's press release yesterday of 21 March reads -

> The International Motor Sport Complex has been given the green light for the Alcoa site in Kwinana with work expected to commence within a week.

What nonsense was the minister talking when he said today that FESA will receive a plan from the proponents before this development goes ahead. The facts are that the minister is not interested in what FESA is saying. It could be that the proponents and FESA do not reach agreement and the proponents are not able to satisfy FESA. Members should not forget that FESA is a government department with responsibility under its Act to save people's lives in case of a major industrial accident. FESA's initial report said that that could not be done and it could not rescue people or guarantee lives in the situation of this open air motorsports complex. Despite FESA having said that, the Minister for Planning says that as long as they make a deal with the proponents to get the proper arrangements in place it will go ahead. Regardless of those statements the minister's press statement says that development will commence next week. The bulldozers move in next week. They will move earth and pour concrete pads. They are starting. The minister could not give a damn. The minister is not waiting for any agreement to be reached. He is overriding that condition and going ahead with the stadium regardless of that. We will be left waiting.

The member for South Perth adequately covered what has always been the second part of this whole activity. The first part has been the process by which this development has been placed on this piece of land; the second part has been the financial arrangements and the method by which the proponents of the Claremont Speedway and Ravenswood International Raceway have been selected to manage this. That needs some serious examination. As was indicated earlier to me in a meeting I had with Don Saunders, the Commissioner for Public Sector Standards, an inquiry is underway into this whole operation. The member for South Perth is right when he says that this should also be in the hands of the Auditor General. The bottom line is that it will cost $16m initially with a $3m ongoing annual cost to run this place. No tender process was put in place and handpicked people were told that it was theirs; it was a $16m gift on a plate. Let us not lose sight of the bottom line: The minister said earlier tonight that this thing must make money. The minister talked about how many nights the complex would run and he played down the impact of the drag races and the speedway, but his bottom line was, "This must make money." We now know that it must make at least $3m before it starts to make a profit. What responsibility do the lessors pick up for the $3m running costs? If they go broke and are unable to raise that annual cost will the taxpayers have to pay the $3m? I suggest that we will.

The more we look into this cesspool - that is what it has become - the more we see that the rules that have governed industry

in this State and set environmental standards to protect people in their homes have been thrown out the window and into the rubbish. We now have in place a new set of rules that will be applied for environmental standards on this site and other sites in Kwinana. This minister will make sure that happens. We need a major investigation into the method of selecting the proprietors of the Claremont and Ravenswood speedways to develop this project, and into who owns what, who will be responsible for what, and who in the end will pay the bills. This is a disaster for not only this Government but those that follow. This has the potential to undermine the Kwinana industrial strip. It undermines the suburbs of Wattleup and Hope Valley. The residents in those areas do not have to wait for the Fremantle Rockingham Industrial Area Regional Strategy report. This proposal will destroy the lifestyle in most of Kwinana, Calista, Orelia and Medina and it should be hung round the Government's neck as an ill-advised, poor decision for all of the reasons that I have stated.

Question put and a division taken with the following result -

Ayes (12)

Ms Anwyl	Dr Edwards	Mr Kobelke	Ms McHale
Mr Brown	Dr Gallop	Mr Marlborough	Mr Thomas
Mr Carpenter	Mr Grill	Mr McGowan	Mr Cunningham *(Teller)*

Noes (27)

Mr Ainsworth	Dr Constable	Mr Marshall	Mr Pendal
Mr Baker	Mr Court	Mr McNee	Mr Prince
Mr Barnett	Mr Cowan	Mr Minson	Dr Turnbull
Mr Barron-Sullivan	Mr Day	Mr Nicholls	Mrs van de Klashorst
Mr Bloffwitch	Mrs Hodson-Thomas	Mr Omodei	Mr Wiese
Mr Board	Mr Johnson	Mr Osborne	Mr Tubby *(Teller)*
Mr Bradshaw	Mr Kierath	Mrs Parker	

Pairs

Mr Riebeling	Mrs Holmes
Mr McGinty	Mrs Edwardes
Ms Warnock	Dr Hames
Mr Ripper	Mr House
Ms MacTiernan	Mr Sweetman
Mrs Roberts	Mr Shave

Question thus negatived.

House adjourned at 7.01 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

STATE FINANCE, REVENUE AND DEFICIT

1469. Mr RIPPER to the Premier:

I refer to table 2 "Government Finance Statistics, General Government Sector" on page 226 of the 1999-2000 Economic and Fiscal Overview and ask will the Premier provide -

(a) a breakdown between "current" and "capital" revenue; and
(b) the figures and analysis used to determine the current and capital deficit in this table?

Mr COURT replied:

	1999-00 $m	2000-01 $m	2001-02 $m	2002-03 $m
Current outlays	7,585.1	7,770.8	7,877.6	8,052.5
Capital outlays	1,229.2	1,042.1	1,002.4	1,042.1
Total outlays	*8,814.3*	*8,813.0*	*8,880.0*	*9,094.6*
Current revenue	7,975.9	8,333.7	8,679.5	8,965.6
Capital revenue (capital grants received)	199.9	218.3	204.2	184.3
Total revenue	*8,175.8*	*8,552.0*	*8,883.7*	*9,150.0*
Current deficit = current outlays - current revenue	-390.8	-562.8	-801.9	-913.1
Capital deficit = capital outlays - capital revenue	1,029.3	823.8	798.2	857.8

YOUTH WAGES

1711. Mr BROWN to the Minister for Labour Relations:

(1) Further to question on notice No. 1219 of 1999, what is the Government's policy on youth wages?

(2) How is the Government's policy on youth wages assisting the continuing improvements in employment rates?

(3) Is it true that youth wages contained in Workplace Agreements are, in some cases, lower that those contained in the relevant award/enterprise agreement?

(4) Does the Government have the policy position that lower youth wages contribute to higher employment levels for young people?

(5) If so, what research is that assumption based on?

Mrs EDWARDES replied:

(1) The Western Australian Government's policy on youth wages is that the existing system of age based junior rates enshrined in legislation at a State and Federal level should be maintained. The Federal ALP Opposition, in voting to retain the current youth wage system, supports this policy position.

(2) Western Australia has the second lowest youth unemployment rate in Australia. Higher youth wages would reduce employment opportunities for young people. The Government's policy was supported by an independent inquiry conducted by the Australian Industrial Relations Commission in 1998-99 that found that there were no feasible alternatives to age based rates that would not cause youth unemployment.

(3) The Workplace Agreements Act 1993 allows young employees to enter into flexible employment arrangements, and in turn access jobs that previously may not have existed under the award system. In some instances youth wages under a workplace agreement may be lower than the award. In other cases, the workplace agreement wages will be higher than the award.

(4) The Government's policy supports age based junior rates as there is no alternative that would not contribute to youth unemployment.

(5) Not applicable.

INDUSTRIAL RELATIONS, UNPAID OVERTIME

1712. Mr BROWN to the Minister for Labour Relations:

(1) Further to question on notice No. 1219 of 1999, is it true, as claimed by the Minister, that many employees choose to work unpaid overtime as a result of a directly negotiated agreement that provides a higher base salary?

(2) What research does the Minister have to back up this claim?

(3) Is it true that some employees begrudgingly work unpaid overtime due to the fear of loosing their jobs if they cannot keep up with the workload in paid hours?

Mrs EDWARDES replied:

(1) Yes, the flexible labour relations system in WA allows employers and employees to make their own choices in the balance between remuneration and conditions. Many employees take advantage of the ability to increase their base salary by "cashing out" penalty rates, often without working any extra time at all.

(2) There is quantitative data at a State and Federal level that suggests that employers and employees are doing this in their agreements. The May 1999 Report of the Commissioner of Workplace Agreements indicates that a proportion of employees on workplace agreements do so. Penalty rates are also "cashed out" in some collective agreements which have union involvement.

(3) I am unaware of any reliable data on ongoing employee "fears" which would support this claim.

HOMESWEST, WAITING LISTS

1777. Dr CONSTABLE to the Minister for Housing:

(1) What are the current numbers on waiting lists for Homeswest dwellings for each metropolitan district?

(2) What is the current waiting time for a dwelling in each district?

Dr HAMES replied:

(1) Applications listed for each zone by accommodation type as follows -

Zone	One Bed Seniors	Two Bed Seniors	One Bed Under 55	Two/Three Bed Family	Four/Five Bed Family
North Central	74	18	415	683	79
North City	182	32	702	831	48
North Coastal	100	18	165	384	19
North East Metropolitan	37	9	180	379	27
North West Metropolitan	175	41	128	522	60
Cockburn	106	26	124	464	27
Fremantle	154	23	317	482	27
O'Connor	60	20	175	396	25
Armadale	37	8	56	172	23
Belmont	36	12	75	277	19
Cannington	35	7	154	312	32
Forrestfield	15	3	24	106	9
Gosnells	37	4	50	142	10
Kensington	75	12	244	275	15
Thornlie	18	6	67	239	37

(2) Homeswest is currently assisting applicants who applied in the following months for an offer of accommodation in each zone as at December 1999 -

Zone	One Bed Seniors	Two Bed Seniors	One Bed Under 55	Two/Three Bed Family	Four/Five Bed Family
North Central	Feb 1999	Aug 1999	Mar 1996	Jan 1997	May 1995
North City	Jan 1996	Sept 1994	Nov 1993	Mar 1992	June 1994
North Coastal	Jan 1995	Jan 1995	July 1993	Feb 1994	Sept 1996
North East Metropolitan	July 1998	Jan 1998	Aug 1995	June 1996	June 1996
North West Metropolitan	Sept 1992	Sept 1992	Aug 1992	July 1993	Oct 1997
Cockburn	May 1996	Oct 1996	Dec 1996	June 1996	Mar 1999
Fremantle	Jan 1994	June 1995	April 1994	Oct 1997	July 1997
O'Connor	Feb 1998	Mar 1998	May 1996	July 1998	June 1998
Armadale	Dec 1995	Sept 1998	Nov 1997	Feb 1996	July 1995
Belmont	April 1999	Oct 1995	June 1996	Aug 1995	Mar 1996
Cannington	Aug 1997	June 1996	Sept 1996	Oct 1995	Dec 1997
Forrestfield	April 1995	Oct 1996	No Stock	Feb 1995	Aug 1995
Gosnells	Jan 1996	Sept 1996	Aug 1996	Jan 1996	July 1995
Kensington	Jan 1995	May 1995	Aug 1996	June 1995	Nov 1996
Thornlie	Aug 1995	April 1997	April 1996	May 1996	Dec 1996

In recent years, Homeswest has targeted its building programs to reduce all waiting times to less than three years. Significant improvements have been made in this area.

WATER METER READINGS, FRAUDULENT

1790. Mr PENDAL to the Minister for Water Resources:

I refer to the revised water meter readings in South Perth and ask –

(a) did the fraudulent readings also affect the suburbs of Como, Karawara, Kensington, Waterford and Manning;

(b) if so, what were the number of fraudulent readings in each area;

(c) will the Minister indicate the extent to which an average reading was distorted;

(d) have charges been laid and if not why not; and

(e) what steps have been taken to review the contracts of those companies employing the offending meter readings?

Dr HAMES replied:

(a) Of the suburbs mentioned only South Perth and Kensington were affected by the incorrect readings.

(b) South Perth 501
Kensington 415

(c) In relation to these suburbs, there were 693 meters under read and 223 meters over read. The pluses and minuses were spread over a range and it is not meaningful to average them.

(d) No. The Water Corporation is pursuing its civil remedies under the contract.

(e) The contract with Fieldforce Services Pty Ltd was terminated on 2 March 2000.

INDUSTRIAL INSPECTORS, NUMBER

1822. Mr KOBELKE to the Minister for Labour Relations:

(1) As of 1 January 2000, how many industrial inspectors are there as established under Section 98 (1) of the Industrial Relations Act 1979 and appointed under and subject to Part 3 of the Public Sector Management Act 1994?

(2) Has the Minister given any directions to industrial inspectors as provided for in Section 98 (2) of the Industrial Relations Act 1979?

(3) If so, will the Minister table copies of such directions?

(4) What is the actual number of industrial inspectors as of 1 January 2000, who are employed full time for "the purposes of securing the observance of the provisions of the Industrial Relations Act and of awards, industrial agreements and orders in force thereunder"?

(5) Have any employees of the Department of Productivity and Labour Relations who have been appointed industrial inspectors been disciplined or counselled on the basis that they have failed to fulfil the requirements under Section 98 of the Industrial Relations Act 1979?

(6) If so, how many industrial inspectors have been disciplined or counselled and over what time period has this occurred?

(7) As of 1 January 2000, how many of these industrial inspectors are -

(a) committed full time to investigating employment conditions and complaints in accordance with the statutory duties of an industrial inspector;

(b) industrial liaison officers;

(c) members of the Building and Construction Industry Taskforce; or

(d) senior inspectors or in other management positions?

Mrs EDWARDES replied:

(1) 21.

(2) No.

(3) Not applicable.

(4) 12.

(5) No.

(6) Not applicable.

(7) (a) 12
(b) 4
(c) 2
(d) 3

DEPARTMENT OF PRODUCTIVITY AND LABOUR RELATIONS, REGIONAL INDUSTRIAL INSPECTORS

1826. Mr KOBELKE to the Minister for Labour Relations:

(1) In which towns or centres outside of metropolitan Perth has the Department of Productivity and Labour Relations (DOPLAR) retained an industrial inspector?

(2) How are people with valid complaints under the Industrial Relations Act 1979 or orders made under it given assistance by DOPLAR when they live in an area of Western Australia in which there is no resident industrial inspector?

(3) Why has the Minister further reduced the level of Government services available to people outside of metropolitan Perth by the removal of industrial inspectors from a number of regional centres?

Mrs EDWARDES replied:

(1) Regional Workplace Advisers who carry Industrial Inspectors powers are based at Karratha, Bunbury, Albany, Geraldton and Kalgoorlie. The Geraldton position is currently vacant, but will be advertised shortly.

(2) People with valid industrial complaints living anywhere in Western Australia can report alleged breaches to their nearest regional office or the head office in Perth. They will be provided with immediate assistance by telephone, fax or letter, as they have in the past. In the more complex cases Inspectors will conduct on-site investigations.

(3) There has been no reduction of government services in regional areas. DOPLAR's Regional Workplace Advisers operate in five regional centres and retain full powers as Industrial Inspectors.

DEPARTMENT OF PRODUCTIVITY AND LABOUR RELATIONS, STANDARD LETTER FOR COMPLAINTS

1827. Mr KOBELKE to the Minister for Labour Relations:

(1) Does the Department of Productivity and Labour Relations use the following standard letter to contact an employer when a complaint has been received from an employee alleging non-payment or under payment of wages -

The Department of Productivity and Labour Relations has received a formal enquiry from (the complainant) who claims that your company owes him certain employment entitlements relating to his period of employment with your company.

One of the roles of the Fair Workplaces Division of the Department is to ensure that industrial laws are observed and employers and employees are informed of their rights and obligations in the workplace. We prefer to encourage both parties to resolve any problems or misunderstandings prior to any formal investigation by us.

(The complainant) has alleged that the following matter needs to be addressed:-

Non payment of wages – (specific award stated).

The Department now makes available to both of you a 21 day resolution period and strongly encourages you to use this opportunity to resolve this matter directly with (the complainant) who have been advised to do the same.

If a resolution cannot be reached within 21 days of the date of this letter, the Department may commence a formal investigation of the complaint to determine whether there has been a breach of Western Australian Industrial laws.

The investigation will be undertaken by an industrial inspector who is an impartial officer employed to ensure the observance of industrial laws. The inspector does not represent or act on behalf of your or your employee. An industrial inspector is empowered to conduct workplace inspections, examine an record, including time and wages records and interview you and your current employees.

If any breaches of Western Australian industrial laws are found, the Department may initiate prosecution proceedings against you. If convicted, an offender can be liable to pay all outstanding employment entitlements, penalties of up to $1,000 for each breach, court expenses and interest.

I enclose for your information a guide on the role of the Fair Workplaces Division and the investigation process".?

(2) Has such a standard letter also been used when the complaint relates to employment on a federal award?

(3) If so, then is such a letter appropriate where the employee was employed under a federal award?

(4) If not, then why not?

Mrs EDWARDES replied:

(1) Yes.

(2) Yes, with slight variation to the wording and the penalty provisions to reflect the federal jurisdiction.

(3) Yes. The letter has been approved by the federal Department of Employment, Workplace Relations and Small Business for this purpose.

(4) Not applicable.

ABORIGINAL COMMUNITIES, LAYOUT PLANS IN KALGOORLIE-ESPERANCE

1953. Mr BROWN to the Minister for Aboriginal Affairs:

(1) Has the Government prepared community layout plans for major Aboriginal communities in the Kalgoorlie/Esperance region?

(2) If so, are the plans publicly available?

(3) If not, is work underway to prepare the plans?

(4) When will the plans be completed?

Dr HAMES replied:

(1) Layout plans for the five Aboriginal communities are being developed for the Goldfields Region.

(2) On completion, the plans will be publicly available.

(3) Not applicable.

(4) It is expected that four of the community plans in progress will be completed this calendar year. The fifth is in the process of community consultation and a completion date is unavailable at this time.

ABORIGINAL HERITAGE, RESPONSIBILITY

1955. Mr BROWN to the Minister for Aboriginal Affairs:

(1) Has the Government clarified the responsibility for Aboriginal heritage, including site protection and management, Native Title issues relating to heritage and monitoring of approvals or agreements related to the *Aboriginal Heritage Act 1972*?

(2) If not, does the Government plan to clarify and publish a paper clarifying that responsibility?

(3) If not, why not?

(4) If so, when?

Dr HAMES replied:

(1) The Aboriginal Affairs Department is responsible for the administration of the Aboriginal Heritage Act 1972. Under this legislation, Aboriginal sites are managed and protected. Native title issues are not dealt with under the AHA.

(2)-(4) Not applicable.

QUESTIONS WITHOUT NOTICE

FINANCE BROKERS INVESTIGATION

604. Mr McGINTY to the Minister for Police:

(1) Will the minister confirm that the police briefing note regarding the finance brokers investigation recommended, "That under no circumstances should we form a joint investigation with the Ministry of Fair Trading", and, "Meetings have been held with officials from the Ministry of Fair Trading and the general feeling is that they lack the leadership and investigative skills to adequately deal with what has obviously been a serious problem for a long time", and,"any liaison with the Ministry of Fair Trading should be kept to a minimum, and only to fulfil necessary requirements. I believe any involvement on a joint investigation with the Ministry of Fair Trading would result in the WA Police Service being placed in a negative position whereby we would be required to support and defend the Ministry of Fair Trading. Their recent inaction in failing to act upon complaints makes their position indefensible"?

(2) Will the minister table the briefing note?

(3) Did the Ministry of Fair Trading make an approach to the police about finance brokers investigations this year?

Mr PRINCE replied:

I thank the member for the question and for some notice of it, and as a result of that I have been able to obtain a response from the police.

(1) A briefing note was prepared by Acting Detective Superintendent Migro, who was relieving as the divisional officer at commercial crime. The briefing note was in response to issues raised by the Commissioner of Police. The passages quoted in the question are included in the briefing note, but that is not all that is in the briefing note.

(2) No, I will not table it.

Mr McGinty: There will be another instalment tomorrow!

Mr PRINCE: If the member wants to give me his copy, I will table it.

Mr McGinty: You are the minister.

Mr PRINCE: I do not have a copy. If the member gives me his copy, I will table it.

(3) On two separate occasions this year, officers from the Ministry of Fair Trading have approached the commercial crime division requesting a briefing on investigations currently being conducted concerning financial broking issues. These briefings have been conducted. Two matters have been forwarded to the commercial crime division by the Ministry of Fair Trading for investigation.

BOND-RELATED COMPANIES, RECOVERY OF LOSSES

605. Mr BRADSHAW to the Premier:

There have been reports in the media about attempts to recover Bond-related company moneys. What is the State doing to recover its losses from Bond-related companies?

Mr COURT replied:

I thank the member for the question. I was asked earlier today about some of the details surrounding what the Government was doing about these matters. There have been a lot of stories in the eastern states Press today about what actions are being taken to recover some of the moneys lost in these Bond companies. The simple answer to the question is that the Government is doing plenty. When we came into government, we put in place a strategy to limit the WA Inc losses and a number of outstanding liabilities, in particular to do with projects like the PICL deal. Secondly, we instituted legal actions to try to recover some of those moneys. The biggest action that we still have outstanding is being funded by the Insurance Commission of Western Australia and is to do with the dealings particularly surrounding the Bell organisation. The Insurance Commission is trying to recover money from the Bell operations and from Southern Equities Corporation Ltd, which was formerly Bond Corporation. The third party insurance fund, which the Leader of the Opposition knows a lot about because he was the minister responsible, has had losses in excess of $300m. A decision was made to commence legal actions to try to recover these moneys. It has spent in excess of $28m to date, which is certainly a great deal of money, but when we consider the extent of the losses, the advice that we have is that we should continue with these actions.

Mr Kobelke: What is the extent of the claim?

Mr COURT: I will get to that. If I can simplify it, we have agreed to fund the Bell liquidator, Tony Woodings, so that he can try to get money back into administration so that we can then get some of those funds back. It is believed that the action may be able to recover around $500m.

Mr Kobelke: For all claimants, or just the Government?

Mr COURT: I will tell the member. If we were successful in the fraud or loss of profits actions which we are currently working through, the moneys recovered could be as high as $1b. If any of those funds are recovered and after the costs have been deducted, two-thirds of those funds will be split between the Australian Tax Office, the Insurance Commission and a Dutch investor who is involved in the actions. However, because of the arrangement that we have put in place for funding, the Insurance Commission will get 53.5 per cent of that two-thirds of the funds recovered. In order to help with the cost of this, in conjunction with the liquidators, the Insurance Commission has negotiated an insurance package with a group of underwriters to alleviate its exposure. That puts a limit on the exposure that we have to the funding of further legal action that will need to be carried out so that we can hopefully recover some of those hundreds of millions of dollars that have been lost. As I understand it, this is the largest underwriting package ever put together anywhere to fund legal action of this nature, and it basically signifies that the insurers believe that we have a very good chance of winning this case, and that is why that action was taken.

What has angered us is that the Opposition has questioned why we are spending this money in trying to recover these funds. The Opposition Finance spokesperson, Hon Nick Griffiths, said that on the face of it, the State's money has been put at risk, and he has a concern that the litigation may be being used by the Government for political purposes. The Opposition is saying that for political purposes, we are trying to recover hundreds of millions of dollars of taxpayers' moneys that have been lost. A senior Labor source has said that while Labor leader Dr Geoff Gallop had taken a calculated gamble in raising the WA Inc issue, the commission's huge financial exposure to what was thought to be a $2m court case could prove to be a major problem for the Government. We are prepared to take that risk, on the advice that we have, to get those moneys back. However, when the Opposition is acting as a patsy for the banks from which we are trying to recover those funds, we have every right to be concerned. The Leader of the Opposition was the minister responsible for the State Government Insurance Commission. He knows the extent of losses, and he knows the options that he had to try to get those moneys back, but the actions were not taken. We will not back off. The banks want us to back off. They believe they can outlast us on this issue, but I think the underwriting -

Mr Ripper: Do you think this could be the solution to your deficit problem?

Mr COURT: It would certainly help, my friend. To put it simply, the banks want us to back off, but we will not do that. There is one other case against Southern Equities Corporation Ltd; that is the former Bond Corporation. The Government

is involved in suing accountants, and it is a creditor. People are trying to recover certain assets, which include some paintings which have been mentioned in the Press recently. Once again, this is in an effort to try to recover some of the moneys that the Labor Party was responsible for losing when it was in government.

MFA FINANCE PTY LTD, MINISTRY OF FAIR TRADING INVESTIGATION

606. Mr McGINTY to the Minister for Fair Trading:

I refer to expressed police concerns that any cooperation with the Ministry of Fair Trading would contaminate their criminal inquiry into the behaviour of finance brokers. I further refer to the revelation that a Ministry of Fair Trading officer has followed police around, requesting from elderly victims of finance brokers, copies of statements they have given to the police and I ask -

(1) Is the Ministry of Fair Trading formally investigating MFA Finance Pty Ltd?

(2) Why is the minister's officer shadowing the police investigators?

(3) Has the minister ordered him to stop immediately, given police distrust of the Ministry of Fair Trading and concern that the integrity and security of the police investigation will be compromised?

Several members interjected.

The SPEAKER: Order! The minister should take his seat. When a question has been asked and someone has been given the call to answer, it is not acceptable for people to interject across the Chamber.

Mr SHAVE replied:

I thank the member for Fremantle for the question.

Mr Graham: Really and truly. You really thank him.

Mr SHAVE: Yes.

(1)-(3) On 15 March, the member for Fremantle asked me about this so-called proposed task force that was suggested in January. He could not understand why I did not have details of that, irrespective of the fact that I was on holidays during the month of January and it would have been a little difficult to obtain those details. Nevertheless, I sought some information on the matter. As the member has raised the question again, it is appropriate that I advise him of that information. The Ministry of Fair Trading has advised me that it was not involved in developing the suggestion of the task force, to which the member for Fremantle referred last week.

Mr McGinty: The police did not want to know anything about it.

Mr SHAVE: The member for Fremantle has not clarified whether the ministry asked for the setting up of this joint task force. He continues to talk about a memo which I have not seen and which he has not had the courtesy to table in the House. The Minister for Police has said that there has been discussion within the Police Force.

Mr Ripper: Has he spoken to you about it? Do you speak to the Minister for Police about these matters?

Mr SHAVE: I raised the issue with the minister because I knew nothing of it. I have gone back to the ministry and required its officers to trawl through all their files looking for any advice to ascertain whether they can give me an indication that they asked for some sort of task force to be set up. The member for Fremantle also asked me whether I would support a joint task force. The answer to that is no. What happens when there is a joint task force between the Education Department and the Minister for Police is that the position of the Police Department is compromised.

Mr Prince: Absolutely.

Mr SHAVE: Yes. Without being disrespectful to my deputy leader or people who work in the Education Department, what happens -

Mr Kobelke: You just happened to pick on him.

Mr SHAVE: No, I was not picking on him. He knows that we have a very good relationship. The reality is that there cannot be joint task forces in these situations.

Dr Gallop: Of course there can. It happens on many occasions.

Mr SHAVE: What would happen if someone in the Ministry of Fair Trading was actively involved in trying to cover up something? That is the point.

Several members interjected.

Mr SHAVE: Members opposite do not like this because what they are hearing is something that they know should have been clarified previously. The question of whether the Ministry of Fair Trading is investigating MFA Finance Pty Ltd is an operational matter.

When the member for Fremantle raised the issue of MFA Finance in this Parliament on 16 November, I referred all of the

information to the Commissioner of Police. The Commissioner of Police wrote to me on 22 November and said that he had received on that day a complaint from the member for Fremantle. The commissioner was already dealing with the issue because I had brought it to his attention. Whether it be MFA Finance or anyone else, if someone brings an allegation to me, it will be dealt with through the proper processes and people will be subjected to the law, regardless of who they are - whether they be the Premier, relatives of the Premier or members of this Parliament.

In conclusion, I have sought advice from the ministry about whether Mr Willers, as an officer, is seeking information from people in his inquiries. The ministry will provide me with that advice. When I receive it, I will advise the member for Fremantle of that advice in this House.

EMPLOYMENT PROJECTS

607. Mr OSBORNE to the Minister for Employment and Training:

The local Joblink in my electorate of Bunbury has had great success in placing constituents in meaningful employment. Are any other projects being implemented by the State Government to improve employment opportunities.

Mr BOARD replied:

I thank the member for Bunbury for that question. I congratulate the Joblink in Bunbury because it is one of the most outstanding Joblinks in this State. It is coincidental that at the moment some 200 community-based people from around Western Australia have come to Perth to discuss ways of improving their participation in the Joblink area in Western Australia. We are now approaching one million people employed in Western Australia. Although the Government will never be complacent about the State's unemployment rate, at 6.3 per cent Western Australia has the second lowest rate of unemployment in Australia, only behind New South Wales which is on an Olympic-driven thrust at the present time.

What is often overlooked is that the partnership between the Commonwealth and State Governments in creating jobs and putting people into employment, particularly those who are disadvantaged and the long-term unemployed, is provided by community-based people through a statewide Joblink program. There are 49 in this State, and 400 community-based people become involved in that Joblink process. Fifteen thousand employers are part of that network, and last year they assisted some 30 000 people into employment and training. That is a record number for this State. While those people are in Perth today, I congratulate our Joblink for the work they are doing in placing people in employment in this State.

ROADS, FLOOD DAMAGE

608. Mr GRAHAM to the minister representing the Minister for Transport:

Record rains in the north west of the State have caused a huge amount of damage to the road system, with some towns still being isolated by floodwaters.

(1) What is the dollar value of the damage to roads, including local council roads?

(2) What federal and state funds have been made available to ensure that roads are repaired and reopened without delay?

(3) Small towns such as Halls Creek, Marble Bar and Nullagine are among the worst affected towns in the north west. What guarantees can the Government give that access roads to these small towns will receive the highest possible priority for road funding?

Mr COWAN replied:

The Minister for Transport thanks the member for providing some notice of the question and has provided the following response -

(1)-(2) In the Kimberley, Pilbara, Gascoyne and Goldfields-Esperance the current extent of damage is still being assessed but is expected to be in the order of $24m. That estimate is broken up as follows -

National highways, main roads and state highways	$12m
Local government roads	$12m

Under natural disaster provisions, the Commonwealth Government will be requested to provide financial assistance directly for the national highways. Main roads and state highways will initially be provided with assistance from Main Roads' budget. Under natural disaster provisions, local government roads are funded by the Fire and Emergency Services Authority of WA on the basis of 75 per cent of the total damage costs. Main Roads will provide funding to local governments in the first instance to ensure that urgent works can be carried out expeditiously.

In addition to the rain brought about by cyclone Steve, during January abnormally heavy rain fell in the southern part of the State and caused estimated total damage as follows -

National highway	$800 000
Main roads and state highways	$1.12m
Local government roads	$8.889m

These figures are preliminary estimates only and will be subject to change. It is difficult to provide more accurate

estimates until detailed inspections and assessments of damage are possible. This is particularly so in relation to local roads as many are still flooded. However, it provides an initial indication of the magnitude of the damage to roads as a result of this event.

(3) The Government's highest priority in allocating emergency funding for roads is to ensure that access to all of the State's communities is maintained. Where access has been severed, Main Roads and local governments work closely together to open the road in the shortest possible time.

POLICE SERVICE, VOLUNTEER ASSISTANCE

609. Mrs ROBERTS to the Minister for Police:

Is the Western Australia Police Service so short of funds and personnel that it needs volunteers to perform front desk duties at police stations and to operate radio communications?

Mr PRINCE replied:

Not to my knowledge. The police have an exceptional budget which they manage extremely well. Currently, a great number of calls are made on that budget and I propose to give a summary of the major successes which the police have had in recent times, all of which cost a lot of money to produce. The police are achieving a much better clearance rate than previously. They have had more money spent on capital than in the past 15 years or more and their procedures and equipment are getting better.

Mrs Roberts: It's a shame you can't run the state's stations.

Mr PRINCE: If the member for Midland can give me a particular instance - no doubt she will as a supplementary question - I will have it looked into.

POLICE SERVICE, VOLUNTEER ASSISTANCE

610. Mrs ROBERTS to the Minister for Police:

Given the minister's answer, how does he explain the actions of one of his district superintendents, who is pleading for volunteers to staff the front desk at the local police station, answer telephone calls and use the police radio so that officers can be released for other duties?

Mr Prince: Which one?

Mrs ROBERTS: Superintendent Gronow at Geraldton.

Mr PRINCE replied:

He is an excellent superintendent, a first-class man and used to be a brilliant forensic officer specialising in firearms. He is an absolutely terrific bloke and a very good commander in that area. I will find out if the member's information is correct.

Mrs Roberts: Perhaps you could give him some more money so he can get some real police officers to do police duties.

Mr Court: Have you seen his new police station?

Mrs Roberts: They just can't staff it. They are going to give volunteers coffee and a meal.

Mr PRINCE: Yak, yak, yak, yak.

Mrs Roberts: It is a very serious matter, minister, with serious implications.

Mr PRINCE: If the member for Midland's information is correct, which it usually is not, I will find out and let her know.

PLANNING DECISIONS, MORE JOBS AND BETTER MANAGEMENT

611. Mr TUBBY to the Minister for Planning:

Given that the coalition Government promised more jobs and better management and is fulfilling that promise, can the minister inform the House how recent planning decisions will result in even more jobs and better management?

Mr KIERATH replied:

The Government has taken both promises seriously. This has been borne out by many of the decisions that the Government makes and, particularly, that I have to make in my role as Minister for Planning. Two of the most recent examples are the Kwinana motorplex and the St Andrews project at Yanchep and Two Rocks.

To put some of the members opposite in the picture, the speedway had to move from Claremont, not because of noise but because the Royal Agricultural Society wanted the site for another purpose. The Government decided on a site not only because it is an excellent venue but also because an important aspect was to try to find more employment for the people of Kwinana by providing hundreds of jobs, particularly among young people. I remind members - one member in particular - that Kwinana was ignored under the previous Labor Government, probably because it is in a safe seat and Labor did not have to worry about it. Kwinana has had large unemployment, especially among its youth. One of the pleasing aspects is that the young people of Kwinana are greeting the announcement with a great deal of glee as they can see a great

deal of opportunities for jobs, particularly in the hospitality industry, associated with the complex. It appears that the members for both Peel and Rockingham would rather not have those jobs for young people in their areas.

Similarly, in the St Andrews project at Yanchep and Two Rocks the planning process is being used to enhance the management of the State by providing more jobs. One of the problems with a growing city is urban sprawl. We have said that in order for the St Andrews development to proceed, it must deliver 60 000 jobs. These will be special jobs in specially targeted areas of industry in that it will be a self-sustaining city rather than an urban sprawl.

Mr Brown interjected.

The SPEAKER: Order! I indicated to the member for Bassendean yesterday that all interjections are disorderly, particularly ones that have nothing to do with the question. I am trying to allow members an opportunity for some interaction; I will not be so kind next time.

Mr KIERATH: I gave those two examples because the project at Yanchep will provide in the vicinity of 60 000 jobs. I gave two extremes - one project with about 300 jobs for young people and the other with about 60 000 jobs - to indicate that this Government is honouring its promises of more jobs and better management, something of which we on this side of the House are very proud, especially on the jobs front. The constituents of some members opposite have a lot to thank this Government for in the number of jobs it has been providing.

TEACHING HOSPITALS, DEFICIT

612. Ms McHALE to the Minister for Health:

(1) In their most recent management reports to the Metropolitan Health Service Board, which teaching hospitals have anticipated an operating cash deficit projected against their 1999-2000 budget?

(2) What is the estimated deficit for each hospital?

Mr DAY replied:

(1)-(2) I thank the member for some notice of this question. The Metropolitan Health Service, which in part comprises the government-operated public hospitals in the metropolitan area, has the responsibility to manage within its very considerable allocation of funds, which this financial year is $1 040m out of our state budget. That is a significant increase in the approximately $1 009m expended in the past financial year. The MHS expects to manage within the allocation of $1 040m this financial year and therefore the situation of individual hospitals at this stage of the year is not material to the final outcome for the MHS at the end of the financial year. What is important is the collective outcome at the end of the financial year of all the hospitals as they comprise the MHS and, as I said, I expect the MHS will be operating within its allocation.

ROYAL PERTH HOSPITAL, DEFICIT

613. Ms McHALE to the Minister for Health:

As a supplementary question, is the minister aware that Royal Perth Hospital has a projected deficit of $9m, and that savings can be achieved only by reducing services to patients? This situation applies at other hospitals as well.

Mr DAY replied:

The Government in the past three years has established the Metropolitan Health Service to apply a coordinated and sensible approach to the management of public hospitals in the metropolitan area. Royal Perth Hospital is within that area. The Metropolitan Health Service management and its board has the responsibility to ensure that services are properly provided at all of its hospitals, including Royal Perth. The service has the ability to allocate additional funds and to move funds around within its budget if the need arises.

RURAL HEALTH SERVICES, FUNDING

614. Mr BARRON-SULLIVAN to the Minister for Health:

In view of recent comments about the provision of services to rural areas, what changes in funding for rural health services have occurred in Western Australia in recent years?

Mr DAY replied:

I thank the member for some notice of this question. As I indicated in part in my answer to the previous question, the Government takes very seriously its responsibility to provide the resources for the provision of high quality health services for everyone in Western Australia. That is why the Government has increased the allocation to Health from $1.2b, when we came to government, to in excess of $1.8b - a $600m a year increase in the Health provision. That increase has strongly flowed through to our rural health services. For example, when we came to government, the Labor Government had been expending approximately $216.5m annually on rural health services. This Government expects to expend $340m this financial year to provide high quality health services to rural Western Australia, an increase of approximately $124m a year. This substantial increase has flowed through to individual health services: The Central Great Southern Health Service - which incidently includes the Kojonup Health Service, which was the subject of some recent discussion - received an 8 per

cent increase; the Lower Great Southern Health Service, a 9.7 per cent increase; the Geraldton Health Service, a 13 per cent increase; and the Northern Goldfields Health Service, a 7.9 per cent increase.

While on the subject of the Northern Goldfields Health Service, I am reminded of an article in yesterday's *Kalgoorlie Miner* about the facilities and services provided at Kalgoorlie Regional Hospital. Some visiting federal Labor members of Parliament visited the Kalgoorlie Regional Hospital in recent days, and I was interested in their comments about the standard of facilities and services they found; they were impressed by the high standards. As members of the ALP Caucus in Canberra -

Ms Anwyl: Who is in the photograph, and where are they standing? They're not in the hospital! They are standing in an aged care facility. Get your facts straight!

Mr DAY: Members opposite do not like to hear about this. I am delighted that the views of these federal members extend to the provision of health services generally in the Kalgoorlie area.

Several members interjected.

Mr DAY: Members opposite do not want to hear it! These federal parliamentarians are members of Labor's social policy and community development committee. They indicated that as members of the ALP Caucus, they will use the information gathered on their visit to Kalgoorlie in the preparation of policies for the next federal election. I suggest that the State Labor Party does the same thing, and takes note of the good facilities the State Government has provided. Members opposite should learn from their federal counterparts.

METROPOLITAN HEALTH SERVICE BOARD, PAYMENTS TO CREDITORS

615. Ms McHALE to the Minister for Health:

(1) Can the Minister confirm that the Metropolitan Health Service Board has deferred payments to creditors from 30 days to 45 days in a desperate attempt to balance the budget?

(2) Why is the Government intent on damaging small business in order to deal with the crisis in health funding in efforts to balance the Health budget?

Mr DAY replied:

I thank the member for some notice of this question.

(1)-(2) I have been advised by the Metropolitan Health Service that it will continue to pay its creditors in accordance with Treasurer's Instruction 308(4), which, following an exception for a certain qualification, reads -

> . . . all commercial payment shall be made as close as possible to the end of the month following the month in which the claim for payment is made whilst ensuring that payment is received by the creditor on or before the last day of that month.

My interpretation is that in some cases creditors may be paid within 30 days, and in some cases in excess of 30 days; nevertheless, payment is within the time specified in the Treasurer's Instruction. The Metropolitan Health Service has a responsibility to manage its funds responsibly and appropriately on behalf of taxpayers. It is doing so.

RESOURCES INDUSTRY, RECOVERY

616. Mr BLOFFWITCH to the Premier:

The Premier today opened the Mienex 2000 International Mining and Engineering Expo in Perth. What evidence was there at the expo that the resources industry is recovering from the Asian economic downturn?

Mr COURT replied:

I had the privilege of opening the Mienex 2000 International Mining and Engineering Expo at the Burswood International Resort, and it was encouraging to see a lot of optimism in an important industry. A highlight of the expo was the large number of high technology related companies and services now provided in this State. Interestingly, it is estimated that more than 60 per cent of the world's mining operations now use Australian software in their operations, whether it be in mining, exploration or other activities. It is estimated that technology sector exports related to mining already are worth in excess of $1b, and by 2005 technology exports will be our fifth largest mining export. It was terrific to see today that many such companies are Western Australian operations employing many people, particularly younger people with expertise in the technology areas. The Government will continue to do whatever it can to provide support for the resources sector, whether it be in mining, exploration or value-adding of the minerals. If members want to see a good display of the breadth of the services provided, I suggest that a visit to the expo would be well worthwhile.

FOSTER CARERS, GST

617. Mr CARPENTER to the Minister for Family and Children’s Services:

The goods and services tax, which the minister supported, will impact upon the expenses of people who act as foster carers in Western Australia. Can the minister tell Parliament exactly the increases in state government payments to be made to foster carers to help cover the extra financial burden to be caused by the GST?

Mrs van de KLASHORST replied:

I am on the same wavelength as the member for Willagee. I met with the head of Family and Children's Services last week to discuss this issue. I have approached Treasury, which is working through this matter in light of the fact that the Ministerial Council on Commonwealth, State and Territory Treasurers last Friday considered the extra cost for such organisations. I am awaiting the results of that process. Mr Fisher and the Treasurer met yesterday to discuss how we would cope with the increase. One must remember that the GST proposal involves a change to the whole tax system, which will see increased taxes and benefits, as well as decreased taxes to people in Western Australia. Overall, the situation should balance itself out.

Mr Carpenter: Can the minister guarantee that the extra costs will be met by the State Government?

Mrs van de KLASHORST: We are working through all of those matters, and I am waiting upon the results of two or three meetings - one is arranged for this week - concerning this area. No decision has been made. We are waiting on the Commonwealth Government as well.

The SPEAKER: The member for Willagee got in a defacto supplementary question.