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(HANSARD)

FORTIETH PARLIAMENT
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2017

LEGISLATIVE COUNCIL

Tuesday, 7 November 2017

Legislative Council

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

ELIJAH DOUGHTY

Petition

HON ROBIN CHAPPLE (Mining and Pastoral) [2.01 pm]: I present a petition containing 85 signatures couched in the following terms —

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

We, the undersigned draw the attention of the Members to the unlawful death of Elijah Doughty, an innocent fourteen year old Aboriginal juvenile in Kalgoorlie in August, 2016. The man who was subsequently charged by Police over his death was convicted and sentenced to a maximum period of three years imprisonment and that this sentence is inadequate and not consistent with the expectations or standards of the community.

Now we the undersigned ask that the Western Australian government causes an urgent appeal be lodged against that sentence and demand that the court impose a much more severe penalty that properly reflects the seriousness of the crime and is truly consistent with the expectations of the community.

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

[See paper 846.]

PAPERS TABLED

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

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Fifth Report — “Legal Profession (Law Library Fees) Rules 2017” — Tabling

HON ROBIN CHAPPLE (Mining and Pastoral) [2.04 pm]: I am directed to present the fifth report of the Joint Standing Committee on Delegated Legislation entitled “Legal Profession (Law Library Fees) Rules 2017”.

[See paper 847.]

Hon ROBIN CHAPPLE: The report that I have just tabled advises the house of the outcome of the committee’s consideration of the Legal Profession (Law Library Fees) Rules 2017. This instrument imposes 11 categories of fees for certain services offered at the new law library situated at the David Malcolm Justice Centre. The services include photocopying, printing, document delivery and interlibrary loans.

The committee was provided with the rationale, including cost-recovery information, for only five of the 11 fee categories. This is despite the requirements of the Premier’s Circular 2014/01 entitled “Subsidiary Legislation—Explanatory Memoranda” and two formal requests for the information. The time constraints associated with a disallowance motion in this house prevented the committee from pursuing further information about the remaining six fee categories. These six fees, for which the committee has no rationale, all relate to the law library’s document delivery service. Without vital information for these six fees, the committee was unable to determine whether the fees are authorised by the empowering provisions.

The committee found that because of the government’s provision of inadequate information, it was unable to perform its scrutiny function on behalf of the Parliament in relation to rules 6(1)(a) and (b), 6(2), 6(3), 6(4) and 6(5) of the instrument. Accordingly, the committee was also unable to make any recommendations about the disallowance of the relevant rules of the instrument.

I commend the report to the house.

MINISTER FOR REGIONAL DEVELOPMENT

Local Government Elections — Donation Disclosure — Hon Darren West — Personal Explanation

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development) [2.06 pm] — by leave: I acknowledge that I made errors in comments during a debate in this place last Thursday. I now realise that donors to candidates in local government elections are required to disclose their donations if those donations exceed \$200. I also acknowledge that Hon Martin Aldridge received a statutory declaration from a complainant on a matter relating to the City of Greater Geraldton local government election. I apologise to that person for suggesting that that person was a member of the National Party.

ESTIMATES OF REVENUE AND EXPENDITURE*Consideration of Tabled Papers*

Resumed from Thursday, 2 November on the following motion moved by Hon Stephen Dawson (Minister for Environment) —

That pursuant to standing order 69(1), the Legislative Council take note of tabled papers 469A–D (budget papers 2017–18) laid upon the table of the house on Thursday, 7 September 2017.

HON CHARLES SMITH (East Metropolitan) [2.08 pm]: If I may just reiterate briefly, because I know that members are keen to refresh their memories from last Thursday —

Hon Simon O'Brien interjected.

Hon CHARLES SMITH: Especially Hon Simon O'Brien.

I was acknowledging the state of the truly dreadful set of books the Labor Party inherited from the previous government and I said that it beggars belief that we are in this financial situation at all. Western Australia underwent a huge, once-in-a-century economic expansion and all we have to show for it is a mountain of debt and a whole lot of economic pain. I will quote some budget propaganda that the government released. I quote —

Everyone will need to share the burden to help get Western Australia back on track and the State Government is committed to minimising the impact on struggling families and small businesses.

It seems odd that the state government chose to target certain sectors while shielding others. Surely the burden should be spread across all sectors in our economy. Why then were some liquefied natural gas producers and banks, which make mega-profits, not asked to make a contribution when the goldmining sector was? This seems patently unfair to me. As we have previously heard on many occasions, the profit margins across the gold sector are simply not strong enough to absorb a significant royalty increase. As my colleague, Hon Robin Scott, has continuously said, a substantial increase in the gold royalty would have turned that beautiful town Kalgoorlie–Boulder in the heart of the goldfields into the centre of the dole fields. We stand with the people of the goldfields and that is why we decided to vote against the gold royalty rate increase.

Hon Peter Collier: You are going to have to do it again soon.

Hon CHARLES SMITH: So we hear.

We also stand for the battlers, the pensioners and the families who are now doing it tough. Some of the state's most vulnerable groups have been hit with power price increases of up to 30 per cent. As was recently reported in *The West Australian*, we now find that previously confidential advice from Synergy to the government shows that the doubling of the supply charge would disproportionately affect some needy customers. Again, I do not think it is fair that people like pensioners and others on low incomes should face the pain while certain businesses and sectors are shielded.

I know that the budget was sold to us as a deficit repairer; however, it seems to be lacking in some areas. For instance, limiting expenses by itself does not repair a budget; we also need to diversify and increase our income. This budget does not do that. The government could save money throughout the budget. For example, the cost of projects such as the Ocean Reef marina could go a long way towards funding another 500 police officers, but no, it is another vanity project for northern suburbs voters.

I cannot express how disappointed I am in the government's approach to the police. The lack of respect shown to these dedicated people by this government is just shocking. There can be no doubt in my mind that this government will soon be the prima facie cause of lawlessness in Western Australia. Our laws are weak and enforcement of those laws is even weaker. Our policemen and policewomen play a significant role in keeping our communities safe, yet this government has failed to consider their most basic needs. As an ex-police officer, I understand that WA needs an effective, reliable and responsive police force to counter emerging security threats and to enforce the law. This cannot be achieved if our police officers are not fully resourced and do not operate with high morale. The government apparently understood this before the election and promised a pay deal of 1.5 per cent. Since the election, that pay deal has been reneged on. There is no doubt in my mind that the WA Police Force faces a number of crises. There is a crisis of confidence in the government to provide for our police and a crisis in community safety. Our intrepid and hardworking police simply do not have the resources they need to deal with the ever-growing workload. Now we have a new regulation coming in that the police have to deal with—the one-metre rule for cyclists. The government wants the police to prosecute potentially hundreds of these new complaints. I do not know who is going to do it. If footage has to go to the computer communications squad for analysis, it is going to take at least two years before any prosecution is brought. That particular squad cannot cope with the amount of work it has to do now.

I turn to the promotion of the budget papers. We see the government spruiking law and order investments. The government is very proud to have created a few 24-hour police stations. It has, however, failed to mention that it

has not employed any extra officers to staff the stations. It has created the stations at the expense of police officers having to permanently change the rosters and work on their rostered days off. That is what is actually happening out there. The truth is that the government is placing even more pressure on an already overloaded service. Something is going to burst with the police service and I hope the government is ready for when that happens.

In my maiden speech to this house on 22 May this year, I made an appeal to all politicians in the government to consider introducing a workers' compensation-style scheme for the police. I do not see that anywhere in the budget papers. I cannot get a straight answer from the government and I have asked at least three times when this is going to come in. I never get a straight answer. I really hope that this year the workers' compensation scheme is going to be introduced. This is desperately needed.

Aside from law and order, one of the biggest issues facing the East Metropolitan Region is traffic congestion. I would like to acknowledge that certain funds have been spent on a number of important transport projects in the electorate. There is the new \$86 million traffic interchange at Roe Highway–Kalamunda Road in Forresterfield, which is fantastic. There is \$70 million for the Reid Highway dual carriageway between Altone Road and West Swan Road. I am glad to see some more investment in rail in an effort to alleviate some of the pressure on our clogged roads. I truly hope that the government can deliver on time and within budget. However, I must say that I am disappointed that the government has not allocated any funds in the forward estimates to construct the long-awaited Morley–Ellenbrook rail line. All we find over the next four years is a relatively small amount of funding for planning and design. This is despite the government promising during the March election campaign that it would commence work on a rail link by 2019 and finish in 2022. It is unclear still at this stage how the government will be able to fulfil its election promise. It was recently reported in the media that far from being fully funded and shovel-ready by 2019, the promised Ellenbrook–Morley rail line now appears to be contingent on Labor winning the next federal election. In other words, no federal funding has actually been secured for the project, just a verbal promise from the federal opposition leader to provide some funds should he become Prime Minister at some point. It is impossible not to be sceptical of such promises made by federal Labor. Many Western Australians and many members may remember when former Labor leader Kevin Rudd promised in 2007 a WA infrastructure fund of \$100 million a year, and guess what? That never happened. In 2010, Wayne Swan promised a \$2 billion WA infrastructure fund. Again, it never materialised. What guarantee do we have that Bill Shorten, if he becomes Prime Minister, will deliver even one cent? The answer is that we do not have any guarantees at all. I certainly hope Ellenbrook does get a train line; it is desperate for one. It is a fast-growing area in need of major infrastructure investment. I just wonder how the government thinks it is going to make that happen. Even during recent Senate estimates it was revealed that the McGowan government had not submitted a business case yet to Infrastructure Australia for the Ellenbrook rail line or any part of Metronet. Members will no doubt recall that the previous Liberal–National government was absolutely smashed over its failure to deliver this promised Ellenbrook line. I hope the government does not repeat the same mistake. The people of Ellenbrook, including me, as I live nearby, are sick and tired of these broken promises.

While I am talking about infrastructure, I would like to briefly make a point about the long-term planning in this budget, or the lack of any long-term planning. The government talks about reducing congestion and improving services, but it is difficult to see how this will be achieved, given Perth's population is set to soar and the population for Perth and surrounds is projected to swell by 75 per cent to around 3.5 million people. The government appears to be flying blind as we hurtle towards a much bigger city. The major parties are eager to promote and facilitate rapid growth through high immigration, but have failed to outline how they will finance and build the infrastructure needed to accommodate all these extra people. Over the last decade, Perth has experienced breakneck rates of population growth, and many established residents feel that their quality of life is now under threat. The major parties and Treasury need to realise that maintaining population growth at such a high level for an extended period will require massive ongoing investment in the state's rail and road infrastructure networks, not to mention schools, hospitals, water, energy and all the other physical and social infrastructure. If the population of Perth were to increase by 75 per cent, the stock of infrastructure would also need to expand by at least 75 per cent to avoid overload and prevent a degradation in living standards.

In a submission to an Australian Productivity Commission inquiry into infrastructure provision and funding, University of Queensland academic Dr Jane O'Sullivan noted, and I quote —

What is missing from the political discourse about infrastructure funding is the *loss of productivity due to crowding* of our existing infrastructure and services. Providing additional capacity to restore lost productivity gives no net benefit to the position of the average Australian business or citizen. Asking them to pay a user-charge for this new capacity, to replace what was taken from them by population growth, obviously leaves them worse off. Normally, when someone takes away something you own, and then demands payment to have it restored to you, this is called *extortion*.

According to Dr O'Sullivan, providing infrastructure for population growth is not actually an investment in the conventional sense. Rather, it should be considered a recurrent cost required simply to maintain existing

productivity levels and standards of living. Economists call this “capital widening” at the expense of capital deepening. To use Dr O’Sullivan’s words again —

There is no prospect whatever for the infrastructure currently planned by government to increase per capita productivity sufficiently more than that lost through crowding, in order to repay the debt with interest. Our current high need for additional infrastructure is not a one-off situation, it is recurrent as long as population growth is sustained.

The government can keep pouring record amounts of borrowed money into so-called congestion-busting projects year after year. Unless population growth slows to a more moderate growth, WA will keep slipping further behind in infrastructure and services. Given the costs associated with rapid population growth, it would be prudent for the government to develop a long-term population strategy aimed at maximising the quality of life of existing residents. The state government should also urge Canberra to reconsider its de facto Big Australia policy, which is, of course, the prime driver of rapid population growth in WA and elsewhere in the country.

Aside from slowing down the population growth and thus forestalling the need for a costly expansion of infrastructure, we need to be smarter about how we finance long-term infrastructure projects in this state. One Nation WA has previously proposed the creation of a WA infrastructure finance corporation. Such an entity would be financed with seed funding and direct public funding and operate on a commercial basis. The establishment of a WA infrastructure finance corporation would reduce state deficit and debt by taking over some of the long-term financing of major infrastructure projects. It could raise its own funds for infrastructure development and provide long-term concessional loans to support strategic projects in WA. This would improve intergenerational equity. Long-term infrastructure would be financed using long-term loans, so that future generations benefiting from the asset also share in paying off the cost of the investment. This would allow WA to finance and construct major projects while earning a return for the taxpayer. It would allow the government to cut its budget expenditure on infrastructure and free up funds to either pay down debt or invest in education, health, families, policing and other areas. It would also reduce the need for so-called asset recycling—selling off public assets to fund new infrastructure—and mean less foreign ownership of our assets.

The government says this budget is a roadmap for fiscal repair; I say this budget is a lost opportunity and full of broken promises. It risked inflicting a lot of unnecessary pain in the goldmining sector for little benefit by targeting the goldminers for a royalty hike, while giving a free pass to those multinationals making mega-profits. It would not have made a significant dent in the state’s debt; it would only have cost jobs and hurt regional communities, which, I might add, are already set to suffer thanks to the government’s decision to, effectively, disembowel the royalties for regions program. This budget also presents a risk to our community because it fails to consider the needs of our police officers. That will be palpably felt in all our communities.

We all know WA is being ripped off under a shockingly unfair goods and services tax redistribution system. If the GST were distributed on an equal per capita basis, Western Australia would receive \$6.6 billion in GST grants in 2017–18. Instead, we will receive only one-third of that—\$2.2 billion—and as a result, the state will need to borrow more. Meanwhile, the eastern states continue to treat Western Australia like an automatic teller machine. WA does the economic heavy lifting while other states, which produce very little, reap the benefits.

Economist Leith van Onselen observed —

It’s a bit rich for the big parasitic Eastern States to run population ponzi economies that exacerbate their enormous external imbalances while boosting their own GST allotments at the expense of surplus economies like Western Australia:

What is frustrating for ordinary Western Australians is the unwillingness or inability of the political establishment to fix the GST mess. The Labor and Liberal–National bosses in Canberra have not lifted a finger to help WA or reform the unfair GST redistribution system—a system that is undermining the Federation. From time to time, they may express sympathy for our plight, but never follow through with any firm action. Lately, we have had the commonwealth Leader of the Opposition, Hon Bill Shorten, do exactly the same thing by confirming that he will not do anything to fix the GST mess, should he be elected. Although the major parties have utterly failed Western Australians on the GST share, I am glad that the Commonwealth Grants Commission has at least finally signalled changes that will allow states to increase their mining royalty rates and keep at least 50 per cent of the additional income. If such reforms are implemented, WA may be in a position to enact a temporary budget repair levy that could be spread over those in the resources sector most able to afford it.

I also believe the government needs to consider lifting the foreign property buyers surcharge on the purchase of residential properties. There is a proposal for a four per cent surcharge but that would neither be a major revenue raiser nor a deterrent to foreigners entering the WA housing market and pricing out locals. Whatever the government’s reason for implementing the surcharge on foreign buyers, it does not to appear to be terribly effective at the current rate. Rather, it is a half-measure at best. I note that Victoria recently more than doubled its surcharge on foreign buyers to seven per cent. The Canadian province of British Columbia last year implemented a 15 per cent tax on foreign buyers, with Ontario soon following suit. The WA state government’s four per cent surcharge seems pretty paltry in comparison.

Contrary to what is reported in the media, One Nation is prepared to work alongside the government in good faith to mend the budget and tackle our state's alarming debt problem. However, the government must be prepared to negotiate with us and compromise; it cannot continue to break promises made before the election without any consequence.

HON RICK MAZZA (Agricultural) [2.29 pm]: It gives me great pleasure to make a contribution to the Estimates of Revenue and Expenditure—Consolidated Account Estimates 2017–18 budget reply. As members would know, Western Australia is facing very difficult economic times, with debt at approximately \$40 billion and deficits for many years to come. The pain is not only being felt in government but also is reverberating throughout the entire community. The increase in fees and charges for government services such as power and water is putting financial pressures on families, singles, pensioners and businesses. The unemployment rate in Western Australia is hovering at just under six per cent. Approximately 140 000 of the people who are counted as employed are engaged in part-time work and are in fact under-employed. I refer to an article by political editor Joe Spagnolo that appeared in *The Sunday Times* on 8 October this year. He reported as follows —

The number of West Australians claiming the dole has jumped by more than a third in just three years, with more than 95,000 people now on unemployment benefits.

New figures released by Social Services Minister Christian Porter show the harsh realities of a troubled State, with the WA economy still reeling from a mining slump that has seen unemployment rise to 6.2 per cent in 2016–17—the highest rate in 15 years.

WA Treasury is forecasting unemployment to be about 6 per cent this financial year.

While 70,973 people were receiving Newstart and Youth Allowance in June 2014, that figure has now swelled to 95,496—meaning the number of dole recipients has increased by 24,523, or 34 per cent, in just three years.

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The figures have prompted the Chamber of Commerce and Industry of WA and the WA Council of Social Services to appeal to the Labor Government to do more to stimulate jobs. CCI chief economist Rick Newnham said yesterday WA was now “88 per cent of the way down the business investment cliff”.

“Once investment returns to positive territory and new jobs are added, we will see the entire economy start to recover,” he said.

But he warned that any increases in taxes would only hamper economic recovery.

“To stimulate business investment WA must be seen as a stable place to invest,” he said. “Increasing taxes on business, particularly payroll tax, does the opposite, making WA the most expensive State to create new jobs.

WA is facing some problems, particularly in the job sectors. This reverberates all the way down the line. It is particularly evident in the housing market, which is generally the canary in the coalmine. During the past two years, median house prices have continued to fall; in fact, we have had negative growth. That is a sign that people are finding life pretty tough.

There are four main levers that a government can pull in trying to balance the budget. The first is to borrow money. Members in this place were asked earlier this year to approve a loan bill for \$11 billion for the term of this government. It will be interesting to see whether the government will need more money and this house will be asked to approve another loan bill before the government finishes its term. The second lever is to raise taxes. The government has been doing that through increases in fees and charges for electricity, power, water and payroll tax. The third lever is to sell assets. That will reduce debt and thereby reduce the interest bill on that debt, which is currently in excess of \$1 billion a year. The fourth lever is to cut spending. It is unusual for a Labor government to take a knife to the machinery of government and the public service, but this government has frozen salaries and limited salary increases to \$1 000 a year. It has also implemented redundancies and spilt some blood in this area, with some very large redundancy payouts. Those cuts are estimated to save about half a billion dollars. It will take some time before any financial benefit is derived from those cuts. It may also reveal that there has been a brain drain within government departments and services have had to be cut.

I refer to an article in *The West Australian* by Gary Adshead, which states —

By introducing a voluntary targeted redundancies scheme—or a public service job shredder—the McGowan Government will get 3000 salaries off its books.

But, and it's a big but, State debt will still have risen to \$43.6 billion and we'll still have a deficit of \$1.1 billion in three years.

And to reach a point of trying to persuade the public that Labor will get the finances back on track, Premier Mark McGowan has had to rip up an emphatic promise made on the March election campaign trail.

He categorically ruled out raising taxes if elected because West Australians “had had enough”.

Well, he’s just broken his word and is blaming an unforeseen \$5 billion worth of writedowns in government revenue since Labor came to power.

The Premier says he’s sorry but the truth is his pre-election promise was foolish.

Taxes are continuing to increase.

I want to speak about government efficiencies. A case in point is firearms licences. During the last term of the Liberal–National government, the Shooters, Fishers and Farmers Party moved a disallowance motion against massive increases in firearms fees that had been imposed as part of a cost recovery program. That disallowance motion was supported by the then Labor opposition, and by a couple of Liberal members in government who crossed the floor. Those significant increases put the fees charged for firearms licences in Western Australia way above the fees charged in other jurisdictions. A parliamentary inquiry was conducted into those fee increases and it found that although the cost recovery was substantiated, it was based on a very inefficient and clunky system. Millions of dollars have been spent on a new processing system for the licensing of not only firearms but also pawnbrokers. That system has been in place for about 18 months. However, the new system is not cheaper, and it is certainly not more efficient. I am constantly receiving complaints about the inaccurate details on firearms licences. A recent policy change by police has prevented the use of Australia Post for the transport of firearms, imposing a big impact on the industry. Only 13 carriers have been approved by WA Police Force to carry firearms. Most of those carriers are based in the city and do not deliver to regional WA. Today I received an email from a country firearms dealer who will have to close his doors because of the lack of supply. Many firearms dealers will fail if something is not done very soon to rectify that situation. This is particularly a problem for primary producers in the regions.

Borrowing money is the quickest way to make sure that the bills are paid and the lights stay on. However, all debt has to be paid back. A further burden on the expenditure side of the ledger is interest charges. There has been a lot of talk by governments, both state and federal, about good debt and bad debt as they try to justify their struggling and runaway deficits. There is no such thing as good debt. That is a fantasy. There is necessary debt, but, sooner or later, debt needs to be paid back. If this government had the political will to take the necessary austerity measures, it could get this state back into the black. That would free up over \$1 billion a year that this government is paying in interest to be spent on schools, health, and increasing the number of police officers. It could even be used to cut fees, charges and taxes to improve the standard of living of people in the community.

As at 30 June this year, WA Treasury Corporation detailed state borrowings at \$44.9 billion. That is a significant amount of money. There is a real prospect that debt will rise to beyond \$50 billion in the next few years unless significant changes are made to reel in debt. The government needs to do more than get out the crystal ball and hope there is a magical turnaround as part of the economic cycle. The former government tried that method, and the upswing did not materialise. The government needs to do more than just hope there will be an economic recovery.

The budget forecasts that gross state product will lift from a quarter of a per cent in 2016–17 to three per cent in 2017–18, which is a 12-fold increase. If that significant increase is being relied upon as part of the debt reduction program, I fear for the future. The other option is to raise taxes and service charges to provide revenue for the government, but that places an impost on the community and businesses. Increases in power charges, vehicle registration fees and water rates all lower the standard of living for Western Australians, particularly vulnerable Western Australians, and people, in general, reduce spending. Business taxes such as payroll tax, which is a tax on jobs, should be phased out, not raised, to provide more business incentive to invest and create jobs, not put more imposts on those businesses. It is a real handbrake on enterprise and increases the cost of doing business in Western Australia. It is up to governments to provide a good business environment within Western Australia to stimulate the market.

An issue from just before the election comes to mind. There was some talkback on ABC radio 720 about the stadium footbridge, which had been contracted to a Malaysian company for around \$40 million. I cannot remember who it was, but an officer from the department said that Western Australia does not have the expertise to build this bridge. Someone from the institute of fabricators got on the radio and said that we definitely have the expertise here in Western Australia to build the footbridge. The department came back and said that it all gets back to cost. It came to mind that in Western Australia we impose occupation health and safety standards, which we need, payroll tax, land tax, stamp duties, power charges and everything else in this state that is an impost on business. Then we rub salt into the wound by saying that we will not build the bridge here because it is too expensive, so the government contracted a company in Malaysia. As it turns out, the wheels fell off the whole thing with the company in Malaysia and we are looking at \$90 million to build the footbridge in Western Australia. If we had had a decent business environment in Western Australia, with cheaper power and fewer taxes, maybe we would have had it built here in the first place. Often, increases in taxes such as payroll tax, stamp duty and land tax have diminishing returns for the state as companies cut overheads and reduce spending and enterprise slows down. People stop buying cars or properties, which reduces stamp duty, and there is less revenue for the state. This has been evidenced in reverse with the first home owner scheme. On page 513 of budget paper No 3, it forecasts

that expenditure on the first home owner scheme is expected to reduce by \$26.5 million in line with weaker expected demand. Basically, that is saying that with the reduced demand for building new homes, the applications and claims for the first home owner scheme will reduce by \$26.5 million, which is very telling. We will have diminishing tax returns. First home owner buyers entering the market are the drivers of any real estate market. The reverse example demonstrates that taxes and charges can be increased, but if productivity, investment and spending decline, the tax burden causes a further contraction of the economy, which, basically, evaporates a lot of the expected income.

On a positive note, notwithstanding that the \$5 000 boost was abolished to save \$21.5 million—it might be less than \$21.5 million because, obviously, a slowdown is predicted—it is pleasing to see that the government retained the \$10 000 first home owner scheme for new buildings and the stamp duty concessions for first home buyers when they buy a house or a property. These concessions are crucial for an already struggling new home building and real estate industry, so it is good to see that those have been retained, even though there will be a \$26.5 million reduction in applications. It kind of contradicts the forecast of gross state product to lift from a quarter of a per cent to three per cent if the housing industry is going to reduce substantially over the next few years.

There has been some recent media commentary on housing affordability being the best it has been in decades. In fact, the Minister for Housing, Peter Tinley, was crowing that housing affordability is the highest it has been in many years. I am sure that many affordable housing advocates here would welcome that. Unfortunately, housing affordability has not improved because of wages growth and a better economic climate. The affordability has improved because property values have continued to decline. This is a negative reason for affordability to improve, not a positive one. If someone does not own a property and they are entering the real estate market, it is good news for them. Affordability is good. But if someone has bought a property in the past five years, things will be very diabolical for them, particularly if there are issues such as job losses or a relationship breakdown and they have to sell that house; many people will be selling homes for less than what their mortgage is. An article in *The Australian* in September focused on this issue and reported —

Signs of rising mortgage stress have emerged as the rate of missed home loan payments across Australia hits a five-year high and more than \$26 billion worth of mortgages have fallen behind.

Even with the official cash rate sitting at a record low, mortgage delinquencies hit record highs in the mining downturn hit states of Western Australia, Northern Territory and South Australia, where unemployment is squeezing more borrowers, according to figures tracked by Moody's.

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Moody's said Western Australia, with a rate of 2.96 per cent, bore the brunt of the rising mortgage delinquencies, driven by a weak economy and falling house prices. Underemployment hit 10.4 per cent in Western Australia in May, well above the national average of 8.8 per cent. House prices in Perth fell 2.1 per cent over the year to July and have fallen for more than two years. More than 7 per cent of home loans in the West Australian outback were overdue in May.

People in the real estate market, maybe in the mortgage belt, are experiencing a lot of stress, particularly if their jobs are on the line. Even though affordability has improved, it is really not good news for everyone. For most people a family home is their single biggest investment asset and underpins their personal wealth. People also have an emotional attachment to their home, so if someone falls behind on their payments and is forced out of their home, it is not only a financial loss, but also a strong emotional loss as they are turfed out onto the street. With these delinquencies, I am sure that the number of bank foreclosures will increase, and that is not good for anybody.

Further impacting property prices is the introduction of a four per cent foreign owner duty surcharge on residential property, which is expected to raise \$48 million. Hon Charles Smith said that it is a bit low and that it should be higher, at seven per cent for foreign investors. Time will tell whether investors will shy away from the WA market. It is always quite popular to say that if foreign investors come in, we will tax them so that they do not compete as heavily with the local market, but at the end of the day we need foreign investment in Australia and in this state. We will see whether that four per cent deters them over time.

Hon Darren West: Is there a fracture on the crossbench?

Hon RICK MAZZA: We are certainly not making any donations to local government members anyway.

Hon Darren West: Just declare them if you do. We have three days.

Hon RICK MAZZA: I will make sure that we do. The other issue is —

Several members interjected.

Hon RICK MAZZA: Madam President, I seek your protection to continue my speech.

The PRESIDENT: Hon Rick Mazza has the call. I am sure that others will have an opportunity to speak, if they so choose, at a later stage.

Hon RICK MAZZA: The other option is asset sales. During the election campaign, the Liberal government was planning to sell Western Power and the Labor Party campaigned on not selling that asset. The total increase in the residential electricity tariff in this budget and out to the forward estimates is 27 per cent. That will compound and increase as time goes on. The wholesale supply of electricity in this state is contestable for industrial and large commercial users. Only domestic and small business users are forced to buy their electricity from Synergy. Synergy has a legislated monopoly on the sale of electricity to residential and other customers who do not consume a large amount of electricity. If this government really wants to phase out its retail subsidy, it needs to reform the retail market and allow electricity generation markets to compete as well. It needs to allow gas retailers to enter the electricity market. It needs to encourage the use of smart meters so that users can manage their demand and therefore reduce their costs. It needs to change the rules that prevent Western Power from providing cheap, standalone electricity on the edge of the network grid. It needs to bring real competition into the domestic and small business retail markets for electricity. We have seen it work in the retail gas supply in which there was significant competition and discounts of up to 30 per cent. The consumer benefits. If a person uses a gas heater in winter, they can shop around for the best deal on gas, but if they use a reverse-cycle air conditioner, the government can tell them to take it or leave it because it has a monopoly.

The government does not have a monopoly in the generation of electricity. There is plenty of privately owned generating capacity out there, such as Bluewater, but ordinary Western Australians cannot access it under the government's rules. If there is going to be meaningful competition in the electricity market, then that competition has to extend to generators and not just retailers. If the government is already subsidising electricity charges, then introducing retail competitors alone will not stand up. It is no good competing on a retail price when it is already lower than the wholesale price. It defies the laws of business gravity. There is a limit to how much the government can milk the taxpayer and businesses in Western Australia. Unless it is prepared to do something other than increase taxes, fees and charges, I think it will find the limit.

The community has been the subject of increasing power costs as the government winds back its subsidies. The impact on small businesses and struggling households has meant applications for hardship utility grant scheme assistance has skyrocketed as vulnerable people feel the financial pain of keeping their lights on. An article by Daniel Mercer was published in *The West Australian* last month, titled "Electric Shock". I quote —

More households than ever are seeking help to pay their power bills with a big increase in applications to the State Government's hardship fund in the past three months.

Official figures show more than half of the \$20 million allocated for the hardship utility grant scheme has been spent in the first quarter of this financial year as an 11 per cent increase in power bills begins to bite.

Almost 20,000 applications have been made to State-owned power provider Synergy by people struggling to afford their bills.

The figure for the three months to the end of September compared with 27,000 applications for 2016–17, a figure that was nearly three times the number of applications in the previous financial year.

Under HUGS, people in financial distress can apply for grants of up to \$581 a year for help to pay electricity, gas and water bills.

Residents above the 26th parallel can apply for up to \$962.

The State's welfare lobby said the latest figures were alarming but not surprising given WA's economic troubles and the size of cost-of-living increases in the Budget.

As the cost of living goes up, of course, peoples' standard of living goes down.

If the government is going to repair the budget and provide cheaper power to the residential and small business communities, then it needs to consider and investigate the sale of Synergy. In 2014–15, Synergy's revenue was \$3.2 billion. I know this government is not really enamoured of selling assets, but I will read from an interview conducted in 2014 between the ABC's John McGlue and then shadow Treasurer, Ben Wyatt. I quote part of the transcript —

JOHN McGLUE

So what assets do you think are appropriate to be sold?

BEN WYATT

Well, I think it's those assets that ultimately can ... that does service the private sector in the main, that assets that can charge a user pays model along the way that doesn't necessarily require a subsidy from Government, and at the moment I think some of those port infrastructure and I think the Government has made the point around Kwinana Bulk Terminal ...

JOHN McGLUE

You're the shadow treasurer—what are your ideas, what assets do you think could be sold?

BEN WYATT

Broadly, the principles I look to are... are those assets being used in the main to benefit the private sector, are those private sector industries providing or being charged an appropriate fee—user pays, if so, then that may be an appropriate vehicle or appropriate asset to remove off the State's balance sheet and redirect that money into retiring debt.

JOHN McGLUE

What about the State's energy assets? Could you see some of Synergy's generation power plants being sold, for example?

BEN WYATT

Well, I think Eric Ripper in his retirement speech made the right point and that is that at some point I think it is inevitable that the energy assets will be sold ...

There we have it from our current Treasurer, who has not said no to selling Synergy.

I do not know what Synergy is worth. I do not know whether any modelling has been done on Synergy, but if for argument's sake it were worth somewhere around the \$10 billion mark and that was used to reduced debt, it could save us quarter of a billion dollars a year in interest payments. It would certainly help out the state and reduce our debt.

I am a believer in privatisation and capital being in the hands of the people who have the incentive and innovation to create service and efficiencies, otherwise they simply will not survive, so I can see the benefit of selling assets such as Synergy to provide competition, reduce energy costs and reduce state debt. However, there are some institutions that government must stay in control of—fundamental services such as policing, for argument's sake. I read there were plans to sell Landgate and I have a problem with that. Landgate is an institution that holds the land titles for every Western Australian in this state, which underpins the wealth of the entire state. It contains very sensitive information. The security of the Torrens land title system within Landgate is paramount to the state's whole economic fabric. I think selling Landgate would be a very poor move. The government could sell other assets, such as Synergy, which would also provide a level playing field for other retailers that enter the energy market if they are not competing against a government trading enterprise, but another private enterprise. I hope the government sees good sense in not privatising Landgate.

Another lever that can be pulled is to cut spending. Looking through this budget, I think it is still a fairly big spending budget. Fees and charges have increased and there have also been concession cuts, and the poor old pensioners have copped it again. In the last term of government, the pensioner rebate cap on water and council rates was reduced to \$550 a year for council rates and \$600 for water rates. In this budget, that cap has been reduced to \$100 each for water and council rates. That is a bit harsh on pensioners and older Western Australians who obviously own their own homes. They have probably spent a lifetime paying off a mortgage. They are not a burden on the state housing system. A little bit of a reward might be a concession on their rates, but no; along with high utility prices, the poor old pensioners have copped a bit of a kick in the teeth with a cap of \$100 each on those rates. In contrast, the budget shows spending on items such as a wave energy research centre—\$19.5 million, and a SmartRider ticketing system upgrade of \$34 million. I have spoken to a few people who said the SmartRider system works quite well for them so I do not know why we need to spend another \$34 million on upgrading it. Education assistants for schools will get \$48.3 million, which is great if the government can afford it but, in a time of austerity, I think that could wait. Unfortunately, things are tough and some things need to be sacrificed.

I will also touch on the rural fire service. Hon Colin de Grussa went into some detail about the importance of establishing a rural fire service and the recent Economic Regulation Authority report on setting up that rural fire service. I confess that I have not read the whole report; I have read the key outline, which would suggest that the cheaper model is around \$4 million to establish, which I think would be very, very good value for money. The community has been crying out for it for some time. The Euan Ferguson report recommended a separate rural fire service. The Economic Regulation Authority report suggests that a rural fire service is actually quite affordable. When we look at items like \$4 million for a regional film project, we can see that again it is about prioritising expenditure: do we spend \$4 million on a regional film project or do we put \$4 million into a rural fire service? I think things are a bit skewed there. It is about prioritising what is important to the community rather than pork-barrelling.

I am very disappointed about the \$10 million cut from local government road funding grants, which was in retaliation for the disallowance motion we had on preventing the removal of concessions on motor vehicle stamp duty and registration. Country roads are very important to this state. They provide access for farmers to transport fertilisers and grains, and we know that the road toll in country Western Australia is much higher than it is in metropolitan Western Australia and, of course, road conditions can play a big part in that. We have limited the ability of many country shires to build and maintain new roads, and it has been suggested to me that some jobs out there are also on the line because if the local shire cannot afford to build and maintain those roads, it may not need

staff to operate maintenance machinery. It was, I think, a poor move by the government to reduce that road funding grant. Other areas certainly could have been cut if a prudent eye had been cast over some of that expenditure. We are looking at \$19.5 million for a wave energy research centre when Synergy is closing down 300 megawatts of generating capacity due to oversupply, yet we cannot spend \$10 million on road funding grants. It is another example of poor prioritising.

A lot more work can be done on selling assets, sharpening the pencil and realising departmental efficiencies, prioritising expenditure and implementing austerity measures in these tough economic times. I suppose only time will tell whether this government has the ticker and good judgement to turn things around.

HON SIMON O'BRIEN (South Metropolitan) [3.02 pm]: I think we should note these budget papers. This is the first budget of the new government and I want to comment a little about what we might look for in the first budget of a new Labor government. There are a few key indicators that I will share with members that might be of assistance to the house. In the course of my brief comments this afternoon I will be touching on credit ratings. I want to talk a little about Ellenbrook rail. I will come to that perennial issue that has been raised from time to time. I also want to tell members a little bit about the sorts of things they might find useful to bear in mind when analysing this budget, being the first of a new Labor government.

Many of this lot—here and in another place—have actually been here before. They have some form. In a moment I want to take members back to 2001 to look at what happened then and at the parallels that are already emerging in 2017. I will not get too much into hackneyed political expressions such as “hypocrisy”, but some members might identify that theme beginning to emerge as they contemplate successive Labor governments. “Arrogance” is another word that is bandied about freely, but one word I do want to introduce members to is “dissembling”, because I have noticed that that is a characteristic of successive Labor governments in particular. If members look for the word “dissembling” in their thesaurus, they will find synonyms relating to putting on a false front or a smokescreen, and words or expressions like “sham”, “fake”, “four-flush”, “conceal”, “cloak”, “camouflage” or “cover-up”. That is what we have seen in the past and I think that is what we are already starting to see now.

Let us contemplate briefly as we note these present budget papers the last time Labor came into office. I have some memories of that event, back in 2001; there are some similarities. Geoff Gallop was the Labor leader and new Premier then, as members might recall. What did Kevin Reynolds, another redoubtable commentator around town and a good Labor man have to say? He said that Gallop and his crew were like the dog that chased the car, caught it and then did not know what to do with it. We have had these debates and used those lines before, but it was true. We also saw some determination from the incoming Treasurer, Hon Eric Ripper, to not repeat the disastrous government actions of the previous WA Inc—era Labor governments. He told us that himself in his farewell speech in the other place. Slash-and-burn came to be the recipe for his approach to government action. I will give members a couple of examples of how that happened, and they might contrast them with their own observations of the day, if they cast their minds back.

Let us talk about road funding, for example. That was one of the first major casualties. I am particularly aware of this because I observed how it adversely affected my region at the time. Of course, later on I became the first Liberal Minister for Transport since, I think, Hon Cyril Rushton, who I doubt any current members knew, so I was a bit of a novelty at the time, but we are dealing with events long before that. What happened with the capital expenditure allocated to road funding? In the lead-up to the 2001 election, the transport portfolio was held by ministers Eric Charlton and Murray Criddle respectively, both of whom were members of this place and both of whom I am glad to say I have had occasional dealings with since; they are decent men. Eric Charlton was a bit of an individual, let us face it, and one of the things he did was to develop and get through the cabinet of the Richard Court government a very large road funding program to try to make sure that we had the road infrastructure to meet the needs of the state as it grew. It was also designed to make sure that the users of roads—by nature, that is all of us—could be as safe as possible when using those roads, and we had already seen a lot of progress by 2001.

Do members remember the Kwinana Freeway south of Leach Highway in the days of the Dowding and Lawrence governments? The freeway had been extended a bit but there was a set of traffic lights at each intersection. As a member for the South Metropolitan Region, with my office at Canning Bridge, I had to get down to Rockingham or Secret Harbour or other such places all the time, and it was quite something to notice that as far as Thomas Road there were ongoing sets of traffic lights—stop, start, stop, start, stop, start. Large trucks had to stop and start, pushing out diesel particulates and making all the noise that went with it. By the time I got to Thomas Road, it did not go anywhere, so I would have to go down Johnson Road, Millar Road and all the other roads cutting through the back way, including Kerosene Lane, to get to my destination south of Rockingham. It was great when Minister Criddle, who was responsible at the time, finally completed the work that was needed to repair that situation and prepare Kwinana Freeway for the future. Let me briefly tell members about the scope of works. It involved not only all the grade separations on all those majors intersections down south where I mentioned, but also the necessary liaison with local residents and so on. It is not easy to retrofit that sort of infrastructure when in many cases communities have developed. But it had to be done and it was done. Do members know what else had

to be done? Half the freeway had to be moved about 30 metres to one side because when it was initially built, no room was made down the middle for a future railway. A whole carriageway of the freeway was moved a little bit to one side and then grade separations and all those bridges were done—bridges that members are familiar with and pass not infrequently. That opened before the 2001 election, which was great. We saw a huge change overnight. Residents told us that it was terrific because all that stop–start noise disappeared, it was better for everyone’s health and people were getting around a lot more quickly—and it was easier on car brakes as well. There was another part of that project. I will mention a few examples.

Kwinana Freeway was also built far beyond Thomas Road. I think there was 13 or 14 kilometres of extension from Thomas Road right the way around to Safety Bay Road, which really opened up the south west corner of the metropolitan area. It was just about ready to open at the time of the 2001 election. I will refer to that in just a minute. What did Treasurer Ripper do for better or worse as he slashed and burned the funding program? He certainly got right into road funding. Some substantial amounts of expenditure were cancelled outright while some were deferred. What did the Labor members of the day do about that? I do not know what they did behind closed doors, but publicly I never heard a peep about it. There was a big project to upgrade Coalfields Highway. Coalfields Highway is often looked at as having a western half and an eastern half. Most of the western half was actually done under Charlton and Criddle’s ministerial responsibility, which was terrific. It had the higher priority and the rest of it, the eastern part if you like, was funded in the forward estimates. A new member for Collie was elected. He is a champion of his local area. Members know him because he is still around in the other place. There was a not a peep from him—nothing—when that funding was ripped out from his community, and it was the same story right across the state with new Labor members, all of who were elected because they were going to stand up for their community, yet those communities had the funding taken from underneath them. That is what happened in 2001–02. I will come back to Coalfields Highway when I get a bit of time.

Other aspects of capital expenditure were deferred. Just think about the Mandurah railway. We probably could have played that better in opposition because it was a Court government initiative and much of the heavy lifting and funding had been arranged under the Court government. A few things happened under the new Labor government. One of those things was to change part of the route, specifically north of Cockburn into the city. That changed the dynamics in a number of ways, and, as I said, in retrospect we—dare I say, I—could have handled the debate at the time a lot better because we tended to make it Labor’s project, which, from the point of view of posterity, is a bit unfortunate. But it was not only about changing the route and so on. It was not about the fact that a large part of the purpose of the railway was to service electorates such as Riverton and other electorates out Canning Vale way—electorates for which the new Labor members did not grizzle at all that their people were not getting the train service that was initially set out to be provided. No; it all became about changing the route, and those changes were made possible in a climate of capital infrastructure withdrawal because all that expenditure on the project was deferred. Members need to look out now to see how much money is, one way or another, being cancelled and how much is being deferred. I think they might find that instructive. Of course, all that was just the beginning and there was plenty more to come. There was that failed Office of Shared Services experiment, which wasted hundreds of millions of dollars. That money was just thrown away. I will come back to that in a little while. Then, of course, there were all the Corruption and Crime Commission investigations and minister after minister after minister resigned in disgrace. Of course, plenty of other ministers have endured. They spent time in opposition and are now back again. Can a leopard change its spots? I doubt it very much indeed.

One little story that I have told the house before concerns the opening of the Kwinana Freeway extension in 2001. To my recollection, it seemed like the opening took place the Saturday after the election, but it was probably a little bit later than that. There was the new minister, not of transport but of a thing called planning and infrastructure. That minister had been around various places. She actually spent the best part of a term in this house previously, but by this stage she was off in another house. She later went to another house and now she is back again, I am delighted to say.

Hon Tjorn Sibma: It’s a magical mystery tour!

Hon Simon O’Brien: It is a magical mystery tour!

I remember that she presided at the opening of the Kwinana Freeway extension from Thomas Road all the way down to Safety Bay Road. Barbara Scott and I, as the members for South Metropolitan Region, were there. We were not invited by the new government, of course. Rather, we were invited by the local council, the Town of Kwinana, which was nice. Murray Criddle, the most recent transport minister, was not invited, which I thought was just a plain bitchy thing to do and typical of incoming Labor governments. Barbara and I were delighted to be there. We sat through a 45-minute diatribe about how wonderful the Labor Party is at building roads. That is what we had to suffer through. To add insult to injury—because it was a pain having to sit there—there was not one mention of those who had been involved in the funding and the driving of that project. There was not one mention of Ministers Criddle or Charlton, which is very bad form, but, again, it is also about the word I used in my opening remarks—dissembling. I think that is most regrettable. I wonder how much of that we have already seen and how much more we are going to see. We shall see.

That is enough about a former government coming into office. Let me tell members about another former government when it came to office in 2008—not 2009, of course, because a very early election was held in 2008. A number of members opposite probably still lie awake at night and think about what fun that was. Premier Carpenter, of course, decided out of the blue, without consultation with his colleagues, to visit the Governor. I do not know whether anyone here was spoken to. I remember Hon Sheila McHale used to accompany him everywhere at that stage. Poor old Treasurer Ripper and his partner, our good friend Hon Ljiljana Ravlich, who was then minister for something or other—education was it?

Hon Peter Collier: Local Government.

Hon SIMON O'BRIEN: It was Local Government by then. There is another poisoned chalice; but I digress. They were off having a holiday somewhere up the coast. They heard on the radio or somewhere that apparently they had all resigned so that an election could be called. Were they really that ramshackle? Was that really what happened? Apparently it did, because not long afterwards I found myself as a new minister. I inherited an office on the 13th floor of Dumas House west. Guess who had been the previous occupant of that office? None other than my colleague I referred to earlier, Hon Alannah MacTiernan; the nomadic, itinerant member who goes from house to house to house. At that time she was a member of the Assembly and a recent Minister for Planning and Infrastructure. I had to do a few things. First, the dysfunctional Department of Planning and Infrastructure had to be dismantled and a new Department of Transport was created, and I am proud of that achievement. I might add that the officers who worked in that department were delighted to be a part of it. I will say some more about that on another occasion. Anyway, there I went. Members can imagine that when I was heading there I was wondering what was going to happen. I took physical possession of that office but had no staff at that stage. What do members think I found as I settled into that office and into that portfolio? The recent occupants had departed not only in a state of high dudgeon but also in some haste. There was not much left. There was a bit of scorched earth. I would not say they had cleaned the place—“cleaned out” possibly. There were a few things left. I found in a cupboard a wretched old Christmas tree from about 1927 and a few other things like that. I also found a locked safe in the minister’s office. I eventually got it open but there was nothing in there. Maybe there were a few empty bottles around; I do not know.

Hon Tjorn Sibma: Vases.

Hon SIMON O'BRIEN: Vases, yes.

There was one thing in great abundance as the weeks progressed and we established the new office—loose ends. There were stacks and stacks of loose ends because Minister MacTiernan had also been taken totally unaware by Premier Carpenter’s desperate and precipitated action. It had been a very busy job—it always is with transport. The things that I found were things left undone—as I say, loose ends. We had a bunch of port authorities, the boards of which in many cases were inquorate because renewals had not been processed because obviously no-one—at least not the minister and her advisers—had anticipated that the Premier would do something as precipitous as he did, which was to go to the Governor so early.

It was an interesting election, too. I have reminded members here before about one of my favourite moments when Premier Carpenter was with a former colleague from here, Graham Giffard. At that stage he was Mr Graham Giffard because he had left this place to become the Labor candidate for some place in —

Hon Samantha Rowe: East metro.

Hon SIMON O'BRIEN: The east metropolitan region—was it Swan Hills or something?

Hon Peter Collier: Yes, it was Swan Hills. One of those ones out there.

Hon SIMON O'BRIEN: One of those ones out there. The promise was: we are going to build a railway line to Ellenbrook. I remember seeing Graham Giffard as not only the nodding dog behind Carpenter during the announcement, but he also had this sign. Again, this is a great Labor tradition—put up a sign saying you are going to do something. It said this will be the site of the new rail line. He was very energetically banging in this sign on the location of this new Ellenbrook railway line. I recall one person who was conspicuous in their absence from that appearance and announcement and from any discussion that followed thereafter. Who was that person? It was the Minister for Planning and Infrastructure. She was not to be seen.

When I took over the ministerial office and inherited the detritus of what had passed for a transport department, there were various things in process. There were appointments—stacks of them—to be made to a whole lot of boards of port authorities and the like. I got on to that promptly, because it could not be done during the caretaker period. There were other reports from government agencies about projects in train—no pun intended—as one would expect. But there was not one thing about an Ellenbrook rail line. When the new Premier, Colin Barnett, asked me to have a look at this Ellenbrook rail line and advise the new cabinet, I said, “Righto.” I went looking but there was nothing. I could not even find anything scratched on the back of an envelope. There was no business case at all. It was simply a rash declaration made by a desperate Premier in the dying days of his administration. For the record, Graham Giffard never got elected either, though I wish him well in whatever he is doing now.

Nonetheless, an undertaking had been given by the incoming government or by the leader of the incoming government and as a result I tasked the Public Transport Authority with examining the prospects of an Ellenbrook rail line and providing some fairly advanced advice to the new government. The advice I received was that the department did not know where the proposal had come from. But even on the most cursory examination—I got the department to do a lot more than a cursory examination; I got it to do a detailed examination—the advice I received about that particular project was, “Minister, this project is a complete dog. Don’t touch it; you cannot possibly justify it on any cost-effective basis or on any principle of merit. And if you want to, because you’ve got a rush of blood that says you’re desperate to build a rail line to Ellenbrook, bear in mind you’d be using so much of the transport infrastructure dollar that there would be a heck of a lot of other Western Australian citizens who would miss out.” In short, they are the sorts of contemplations that a government has to take when determining how to expend finite dollars. That is what happened.

Now, years down the track, we apparently have another pledge for another railway line to Ellenbrook. I read in the paper that this one might even go underground. That would be interesting because that brings us full circle now that we have a new Labor government. I have identified some of the articles of form, so I think members can see where I am going with my remarks this afternoon. I will bet London Bridge to a brick that undertakings have been given about Ellenbrook rail by this incoming government that do not stack up. There is a vacuum somewhere, which is the homework that has not been done, and yet commitments are being made. They are being dignified with this term “Metronet”. Everything is Metronet—Metronet this, Metronet that. “Put a Labor badge on it, whether you originated the project or not.” Hey, that sounds a little like the extension of Kwinana Freeway down to Safety Bay Road in 2001. Do not let the facts get in the way. Do not be scared to dissemble, put up a smokescreen, conceal, cloak, camouflage, cover up or four-flush; that is what we are seeing.

Members might, therefore, be concerned to contemplate all this in the context of the current budget, because here we go again: an incoming Labor government’s first budget. I am seeing much of the same being practised by people I have seen practising it before. Perhaps they will not learn from the unfortunate outcomes of the past, but that does not mean that other members in this place should let them get away with it. This is the first of a number of budgets this government will deliver.

Hon Dr Sally Talbot interjected.

Hon SIMON O’BRIEN: I invite members to contemplate this and those budgets in light of some of the examples. I have given only a few today; there are plenty more. I see Hon Sally Talbot is prematurely trying to move to give me an extension, but I do not need it! I have adequate time. Do not incur the wrath of your colleagues just yet —

Hon Dr Sally Talbot: I am enjoying it. I wouldn’t mind hearing a bit more!

Hon SIMON O’BRIEN: All right! I will give you some more! Look at members opposite. I cannot lip-read, but I am darn sure I saw at least one of them say, “For God’s sake, Sally, shut up”!

Hon Dr Sally Talbot: They would not do that!

Hon SIMON O’BRIEN: I am sure they did not! I might need to clean my glasses; I am sure I would not have seen that! But it is all right. You asked for it; I will give it to you!

In the future I look forward to having a few tussles with the former Minister for Planning and Infrastructure, who is on urgent parliamentary business. I could not believe that I was suddenly going to be in the same place at the same time as this house-hopping, itinerant member of various Parliaments who has graced us again with her presence. But I look forward to that. She probably would not mind if, in her absence, I gave members one more story about what happens when governments come and go. We have heard from her and other members about what happens when there is a change of government, and new governments start opening the previous government’s stuff. That is just one of those things that happens. I heard Hon Alannah MacTiernan comment on this recently. Unfortunately, I was in a place where I could not really interject at the time.

In talking about who owns various projects, I point out to members that a lot of projects, because of their scale and other factors, tend to be very complex, and for statutory and other reasons can actually take years to come to fruition. A lot of very big projects persist over successive governments. The other day in this place we heard some reference to who was trying to claim the credit for Forrest Highway. I hope I did that particular opening justice by pointing out that there were, indeed, several parents of this very good project. I remember that the late Don Randall, former federal member for Canning, and the former Minister for Planning and Infrastructure sitting in another place, were tit-for-tatting in the media about who had done what. A lot of people had been involved in that project. I reminded people at the opening that it went back certainly to Minister Charlton, and very definitely to Minister Criddle, and that was something that had not been introduced. I acknowledged them. I also acknowledged the input in the ministerial time of Hon Alannah MacTiernan. At the time and in the years leading up to it—because it was years—some critics were saying that she had somehow been tardy in moving that project forward. Maybe she was or she did not particularly like it—I do not know—but I point out that this was at a time when we had a Treasurer who was, shall we say, a little parsimonious when it came to spending big sums of money. For

a massive project such as this, there had to be a reliance on federal funding being found and sourced. In due course it was sourced and the project went on and took a few years of construction. Believe it or not, the vast majority of the construction happened on my watch. I was the one who had to sweat over whether we were going to get enough weather to put those tens of thousands of tonnes of final seal on many kilometres of carriageway in time for the opening. But we got there in the end.

We also did some other things. We extended the project because of some good economies that we were able to achieve. I managed to properly build what was to be a simple road linking Mandurah with the now Forrest Highway into a proper grade, dual carriageway, four-lane highway called Mandjoogoodap Drive. I think it is the longest single-word street name that we have, to my satisfaction. Main Roads Western Australia was most upset. It had to get a special sign made because using its compulsory letter signage, the name would not fit on anything that anyone had in stock. Hon Stephen Dawson, we all have some claim to fame. That, at least, is mine.

Anyway, that was done. In the course of that we had to build, believe it or not, railway tunnels. Building railway tunnels is a very complicated exercise in the middle of Perth. I built a far greater length of railway tunnel than anyone else in this state. It was not as difficult a job, and I have not raised before, but it just shows that those are the sorts of things that happen as successive governments work through major, detailed projects that take years to construct. I will tell members this: whether it was Don Randall, Murray Criddle, Eric Charlton or Alannah MacTiernan, they all got an invite to the opening and were all mentioned as contributors to the project. Most of my comments were not about the ministers, but about the thousands of men and women who contributed to making this substantial and enduring piece of infrastructure. I contrasted that with the bridge-building capacity of my father, who during the Depression had been part of a team involved in building some of the significant, substantial wooden bridges that even to this day we still see in the south west along main roads. It was something to be proud of, and I am certainly proud of the achievements of all those people.

I have made some points that members might find instructive and useful. I wanted them on the record because I will contrast all that with the performance of this government as we see other budgets come forward. But I leave members with one more thing that brings us right up to date—that is, the question of credit ratings. Hon Ben Wyatt, the current Treasurer—the erstwhile potential Leader of the Opposition whose troops deserted him at the critical moment, but the —

Hon Jim Chown interjected.

Hon SIMON O'BRIEN: Perhaps. Who knows what will happen? If Stephen Smith is not available, they might have to look elsewhere.

In recent weeks, Hon Ben Wyatt has been getting us all ready. He has been preparing the commentariat and the people of Western Australia for a downgrade of the state's credit rating by Standard and Poor's, and Moody's. I have debated this issue previously with such knowledgeable people as Hon Darren West.

Hon Tjorn Sibma: Call him back in!

Hon SIMON O'BRIEN: No—he is just out at the local government department!

Let us come back to civilisation. Hon Ben Wyatt was like a kid waiting for Guy Fawkes night. He was so excited. He was almost quivering with anticipation.

Hon Tjorn Sibma: Fingers crossed!

Hon SIMON O'BRIEN: He had his fingers and toes crossed! He was hugging himself with delicious anticipation that Western Australia's credit rating would be downgraded.

Hon Peter Collier: And whose fault would that be?

Hon SIMON O'BRIEN: It would all be the former government's fault!

On 31 October, Hon Ben Wyatt, the Treasurer, put out a media statement headed, "S&P Global Ratings maintain WA's credit rating". I do not know exactly how Ben Wyatt dictated this media release, but I think it would have been through clenched teeth. Later that day, he delivered on television the good news that WA's credit rating had not been downgraded. He said, "Isn't that fabulous! I'm so happy! We might have thought that because of the mismanagement of the previous government, we were headed for a downgrade, but, joy oh joy, we are not." He also said at the time, in a clutching-at-straws tone of voice, that we are still waiting for a credit rating from Moody's. A few days later, on Friday, 3 November, he put out a media statement headed, "Moody's reaffirms WA's credit rating". That is despite the commentary from the Australian Labor Party and the Wyatt-McGowan government about the terrible set of books that the Labor government had inherited. That nonsense line has been put by many members opposite, including one this afternoon. However, it is starting to wear a bit thin, because they cannot say how much of that can be attributed to mismanagement by the former government and how much can be attributed to fluctuations in global markets, the inequity in the goods and services tax, and a range of other

matters. I am not saying that the former government did not have some failings in this respect. However, unless the government confronts the issues in this state honestly and is dinkum with the people of Western Australia, it will get the wrong outcome. That is why I have raised this matter.

Ben Wyatt put out two media statements—one on 31 October about Standard and Poor's, and one on 3 November about Moody's. The subject was, "Oh, bummer; they did not downgrade the state's credit rating, so now we cannot belt the Liberal Party in opposition." However, someone in Ben Wyatt's office would have said, "But it is worse, Ben, because that benchmark has now been set not by one worldwide ratings agency, but by two, and if in future there is a downgrade in the state's credit rating, you and the Labor Party will have to own it." That is the disaster of this situation. Therefore, if the government wants to play this game of dissembling, it needs to understand that it will get caught out in due course, just as former administrations have been caught out. The government cannot maintain this line of dissembling forever. It augurs badly for the new Labor administration that it started government in this way. In 2001, I criticised the then new Labor government—it is starting to be a bit of a habit —

Hon Stephen Dawson: At least you're consistent, member.

Hon SIMON O'BRIEN: Thank you, minister. I am consistent and constructive. I am trying to help. This is a house of review, after all.

I said to Hon Kim Chance, the then Leader of the House, in quite a heated debate about some scandal or other that had erupted, that the government did not expect to get elected and it did not know what it was doing. I said that normally a government that is swept into office would have something positive to offer, a new program, an intention to do things, some enthusiasm and optimism, and show leadership. However, all governments come and go, and that gives us some comfort now that we find ourselves in the depth of deepest, darkest opposition. I gave Hon Kim Chance the Kevin Reynolds quote again. I said that his government has skipped that step and gone straight from election to decay. I am seeing in some of the public utterances from this government a symptom of the same thing—a government that has gone straight from election to decay. The government does not understand its responsibilities. It does not want to play a straight bat. It prefers to dissemble and play politics. It does not have any manners—many of them —

Hon Sue Ellery: Not all of us.

Hon SIMON O'BRIEN: I said many of them. I am convinced from what I have seen, not only now but also in the past, that if this administration is not careful, it will suffer the same fate as some of its predecessors. In fact, some of them are the same personalities. I do not have a great deal of interest in further discussion of this particular budget. However, I will be watching closely, through the same prism, as further budgets and further press releases unfold, to see for how long this government continues to blame everyone but itself for the problems it has made and is continuing to make for itself.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [3.48 pm] — in reply: I thank the many honourable members who have made a contribution to the debate on the Estimates of Revenue and Expenditure. The contributions were, to say the least, expansive and covered a range of areas. A number of members acknowledged the financial mess that has been left by the former Liberal–National government. Hon Simon O'Brien slightly acknowledged that.

Hon Simon O'Brien: It was proportionate.

Hon STEPHEN DAWSON: He certainly recognised the enormity of the financial mess left by the former government.

Many members offered a variety of views on how the state government could tackle or address budget repair moving forward. Some told us that we should stop spending and break our election commitments, while others gave us lists of projects to fund. Sometimes conflicting views were provided by members of the same political party. Many members used the opportunity to provide their views on a number of policy matters that are under active consideration by government. Obviously, we take those views and contributions on board and I will certainly ensure that they are passed on to the appropriate ministers.

Some members raised the foreign buyer surcharge. Some said that it was not high enough while others questioned its impact and whether it might be too much. A range of other taxes were addressed, including the gambling tax and the goods and services tax and that we get a raw deal from the feds. A number of members raised the 3 000 voluntary targeted redundancies that have been announced by government, and we will move through that issue over the next few months.

Every member in this place is entitled to make a contribution. As the minister representing the Treasurer in this place, I certainly undertake to ensure that a copy of the debate is forwarded to the Treasurer so that he can be aware of all the contributions by members of the Legislative Council. With that, I thank members for their contributions.

Question put and passed.

DANGEROUS SEXUAL OFFENDERS LEGISLATION AMENDMENT BILL 2017*Second Reading*

Resumed from 14 September.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [3.52 pm]: I rise as the lead speaker for the Liberal opposition on this bill and indicate that we support the Dangerous Sexual Offenders Legislation Amendment Bill 2017. We do so not because we consider it will make any meaningful difference to the law, not because it will make the law any easier to administer, not because it will enhance public safety, not because it will make any discernible difference to the management of dangerous sexual offenders in the community, but because next time a dangerous sexual offender is released, it will leave no scope for Attorney General Quigley and the McGowan government to blame anyone other than themselves, and they will be exposed to be the frauds that they are. Their approach to this vexing problem of what to do with dangerous offenders who have completed their sentence but at the end of their sentence remain a continuing danger to others in the community if released without supervision, has been going for quite some time. It involves a very delicate balance between a recognition that we do not engage in preventive detention except in extreme circumstances under the principles in which our community is based. There is no question that people who commit harm on others in our community ought to fall under the control of the law; and, if necessary, to be imprisoned as a sentence of last resort under the principles of our community—a denial of their liberty. The need for that is several-fold.

One is the protection of the community from the depredations of that offender. Another factor is punishment. Another is general deterrence to demonstrate to others the consequences of offending against that particular law in that particular manner. Another is personal deterrence to bring home to the offender that if they repeat that sort of behaviour, they will again suffer the consequences, whatever they might be. But it is also a basic principle of democratic societies that have some regard to personal civil liberties that we do not, as a rule, confine people for what they might do in the future but have not already done.

Over the past couple of decades, there has been a greater recognition that that principle requires some qualification. There always has been a qualification that those who are not responsible for their actions by way of mental illness or mental disability but prove to be a danger to others ought to be kept under some control and, regrettably, sometimes might need to be detained under some security. However, over the past several decades there has been a greater understanding that there are other categories of offenders who may be responsible for their actions and who may be beyond rehabilitation or reform and for whom committing serious crimes is a habit. They have a proclivity to do so and no amount of personal or general deterrence or punishment will deter them from that course. One of the more notorious categories of offenders is sexual offenders.

In the early 2000s, that was recognised and quite pioneering legislation allowing for an element of preventive detention was passed in Queensland. That legislation was effectively picked up by the WA government of the day—the Attorney General of the day was Hon Jim McGinty—and introduced in Western Australia. That legislation, the Dangerous Sexual Offenders Act 2006, has been an asset to the manner in which the community manages offenders of a certain category. There are very good arguments for extending that sort of preventive detention to other cases in which there is a clear-cut prospect that a person will continue to reoffend in a serious fashion.

The point of the legislation in 2006 was to provide for that very preventive detention against those categories of offenders, and I will go into that in a little while. Particularly disturbing is that the legislation, albeit capable of being improved in a variety of ways and by and large operating in the manner intended when it was passed, came under the criticism of the very party that had passed it. That was done only for the purposes of political gain. It is edifying to see the way the Australian Labor Party, under the leadership of Mark McGowan, approaches this issue. It is typical of a McGowan-led Labor Party over the past few years. It picks an area of public concern, exploits that concern and public fears, criticises the government of the day and derides measured efforts to address the issue. The Australian Labor Party claims to have a solution, introduces some half-baked amendments or a private member's bill that purports to fix the problem and raises public expectations knowing that what it proposes is either untenable or so flawed that no reasonable government could agree to it. It hopes the Liberal government of the day would reject the amendments. When those amendments and proposals are duly rejected, the Labor Party claims the nasty, heartless Liberals are endangering the public and supporting criminals, and exploits that for what it was worth. The Labor Party raises expectations with dishonest election commitments and, when in government, hopes the problems would go away. If they do not, members opposite will again blame the Liberals for not passing amendments or not introducing measures they claim would have fixed the problem in the first place. The Labor government then introduces some amendments that are a pale imitation of what been put forward previously and are a pale imitation of its election commitments. Members opposite claim they are making the toughest laws in Australia, then lie and dissemble to avoid being held to account for not fulfilling their election commitments.

We have seen this on a number of occasions. We saw it starkly with the Misuse of Drugs Amendment (Methylamphetamine Offences) Bill that we dealt with earlier this year. It will be recalled that during the election campaign—I stress that I understand others may have a different view of mandatory sentencing, but I will not go

into the merits of that—the Liberal Party put forward a proposal for mandatory minimum sentences of imprisonment for certain categories of drug trafficker. Because the McGowan-led Labor Party was so anxious to get into office and because it did not have a law and justice platform of any value, it fastened onto that proposal. Then Leader of the Opposition Mark McGowan, now Premier McGowan, said forthrightly to the media and through the media to the public of Western Australia: “Yes; we’ll do that too.” He told everyone the Labor Party would do that too and what happened? At the first chance the Labor Party got to put its election commitment into action, did it do it? No. Instead, it went through the half-baked idea that somehow increasing a maximum sentence from 20-odd years to life imprisonment will make a difference to drug trafficking in this state. We will see. The Labor Party has to be careful it does not claim too much credit for that sort of stuff because although now Attorney General Quigley tweeted to members of the public back in February that crime was out of control and that no-one was safe in the community, he has since quietened down that theme. The evidence seems to suggest that before this government got into office, methylamphetamine use was declining, albeit there is a long way to go before it is satisfactory. I am sure members opposite will take credit for it anyway. That is one example.

We saw it with the so-called no body, no parole legislation. It exploits the grief of those who have lost people to murderers who have not disclosed the whereabouts of their victims’ remains. The Labor Party introduced an amendment in the other place that does not even mention “no body, no parole”. Members opposite complained when it was tweaked to focus on that issue, rather than making general comments about police cooperation that were put forward in the then opposition’s amendment. It complained it was “de-fanged” by a nasty, heartless government. Then, earlier this year, the Labor Party introduced a totally different piece of legislation and demanded that it be simply accepted at face value. The Standing Committee on Legislation is currently considering it and we will see whether it meets the public’s expectations.

We saw it last year with the Asbestos Diseases Compensation Bill, which took up a lot of the time of this place. It was arguably the most appallingly badly drafted piece of legislation that has haunted this house. It finally got to a second reading; we agreed to a second reading, then Parliament rose. Notwithstanding submissions from the government that there were problems with the legislation, that it needed to be more carefully considered and that there was scope for some improvement, at no stage during the debate were any of those arguments accepted, right up to the death knock. The then opposition, now government, contended that that legislation was well drafted and would solve the problem, and that many victims of asbestos diseases out there were depending on its passage and would be disappointed if it was not passed. That was last year. This government has been in office since March and the bill has not come back—that perfectly drafted piece of legislation. When I asked a question about where the bill was, I was told that the government was looking into it and that a lot of work still needed to be done. I thought it was perfect! Members opposite were on their feet in this place telling us it could not be improved and how essential it was. They said it needed to be passed in that form but now, over six months later, we have still not seen it or anything that looks like it. Where is it? Again, expectations were raised. The government of the day was criticised and half-baked pieces of legislation were put up, hoping they would be rejected in order that the then opposition, the McGowan Labor Party, could take credit for making an effort and blame the other side. Then, when it comes to the crunch, members opposite are faced with the same difficulties that the former government faced, and have gone quiet on it, hoping no-one will raise the subject.

That is not the only example. I recall a private member’s bill being introduced in the other place by one Graham Jacobs, MLA, about limitation periods for being able to sue for child sexual abuse. The then opposition would not accept that further work was needed before a piece of legislation of that gravity could be passed. They claimed we were protecting child abusers. They ranted and raved about it. Where is it? The bill is drafted, so put it in; the Labor Party has the numbers. I ask rhetorically: why has it not been put in? Once again, members opposite do anything to criticise, never mind principle, never mind public confidence; political advantage will out. That is the whole point of it—raising people’s expectations and then saying it is a little more difficult than what was said originally. Was there any concession that the Liberal Party was correct in any of these cases in not accepting what the ALP put up? Not in the slightest; it does not have the spine for that. We now see it with the Dangerous Sexual Offenders Legislation Amendment Bill.

We tried to hold the McGowan government to its election commitment on mandatory minimum sentences for drug traffickers. We tried to improve the “no body, no parole” proposal last year, by the simple expedient of referring it to a committee, or supporting in this place its referral to a committee, and we were criticised by the now Attorney General who said that we were somehow protecting and giving comfort to murderers. We will see about that. We tried in the other place to introduce amendments to this bill, the Dangerous Sexual Offenders Legislation Amendment Bill 2017, to meet the McGowan government’s election commitments, and we shall do so again, all in the spirit of assisting the McGowan government to find its way clear—albeit kicking, screaming, squirming, wriggling and grizzling—to do what it promised to do. It criticised us for not doing this last year and claimed that it was not only possible but also essential, and met community expectations. There are amendments to this bill before this place to do what the then McGowan opposition proposed to do last year to tighten up this bill and strengthen it, as was said back then, to meet community expectations and to do what was possible to make the bill better. Those amendments were rejected in the other place without much explanation, but I hope the Leader of the

House in her management of this bill will be able to assist us further and hopefully will agree to these amendments and do what the government expected us to do last year, what it said in its election manifesto it would do, and what is within its power now to do. Either that, or the Leader of the House might be able to explain why the government was wrong and we were right, and why the now government made promises that, as it turns out, it cannot keep. I still live in hope that there is such a thing as a conscience on the other side.

I will turn more to the bill in a little while, but I made some comments about the manner in which this legislation has increasingly become a focus of attention and why it is that, in a sense, this government—now that the McGowan Labor Party is in government—has come to reap the whirlwind it has sown over the last couple of years. This is by no means an exhaustive account of everything that has been said, although it is entertaining to go back through the *Hansard* to read some of the vaporings of the now Attorney General when he gets into full flight, loses all sense of proportion and reality, and has to resort to personal abuse of members of the government, public servants or whoever else he feels stands in his way, to get his message across. For example, let us go back to an article that appeared on page 15 of *The Sunday Times* of 19 August 2012 about cutting the sex drive of what was reported as almost half of the state’s most notorious rapists and paedophiles, under the heading, “Cut sex drive or it’s jail”. The article reported a comment attributed the then shadow Attorney General, John Quigley, who said —

... it should be mandatory for dangerous repeat sex offenders to undergo chemical castration before being released.

“Without this, the danger to our children far outweighs any consideration or concerns of the offenders,” he said.

I cannot say that that was the start of this little campaign, but I would certainly be interested in what other measures the government is taking in this regard. Now that he has the ability to do so, is the Attorney General, Hon John Quigley, making it mandatory for dangerous repeat sex offenders to undergo chemical castration before being released; and, if not, why not? Or is this another piece of puffery to take advantage of public concerns and to get himself a headline, without any real thought behind it or intention of fulfilling it, just to have a bit of a go? No doubt the Leader of the House will be able to help us out there, as I am sure there have been great discussions about this very important area of public policy and the safety of the community. It certainly exercised the minds and efforts of the then Labor opposition for something like four years. Surely the government has not forgotten that. Is there anything proposed in the legislation to require the chemical castration of paedophiles or sex offenders; and, if not, why not? Was John Quigley lying? Was he making it up at the time? I cannot believe that! There is bound to be a good explanation for why that has not been covered by this legislation. It is a very important bill for public safety and one that needs to be passed very urgently, although it was introduced a couple of months ago, of course, and has been sitting on the notice paper ever since. I would like the Leader of the House to explain what is happening in that regard about mandatory protections such as chemical castration.

It cannot be because it may be contrary to United Nations conventions or any other civil libertarian consideration. I will come to some other quotes later. It was quite patently obvious during the debate in the other place from comments made by the now Attorney General that he thought those considerations ought to have been set aside for public safety. We will see whether he is a hypocrite now, or was simply lying, or has a propensity to say whatever he likes.

Hon Sue Ellery: It is unparliamentary language to talk about someone lying.

Hon MICHAEL MISCHIN: I gave an option. I am prepared to give him the benefit of the doubt and say that he is dishonest and incompetent, but perhaps there is another explanation for why he says one thing and then does another when he actually gets into the position of responsibility he has been seeking for the last eight years; I think it has been longer than that. I would not trust him any earlier than that. I think he has been there since the McGinty days. On that subject, I did not hear him complaining about the release of dangerous sex offenders back in the days post the Dangerous Sexual Offenders Act being passed in 2006. It was during that period that a number of them were released. In fact, at that time the Labor Party did not seem to have a problem with the way in which the legislation was working; it did not think it was flawed or inadequate. Perhaps the Leader of the House will be able to explain why the government’s attitude has changed.

I turn now to a radio interview from 19 March 2014 that was conducted on the back of a dangerous sexual offender being released under the Dangerous Sexual Offenders Act. Again, I cannot comment because I have not gone back to all the material, but I think it outlines the level of the debate that was being engaged in at that time. This time, it was the then Leader of the Opposition, the now Premier McGowan. Again, this is someone who is now in a position of responsibility and capable of doing what his rhetoric suggested ought to have been done under our watch. The interview was with Gary Adshead. The now Premier was very vocal about the risks to the community at that time, although he has quietened down since the Labor Party got into government. I do not know why that is, but he seems to have lost interest in dangerous sex offenders since then. Gary Adshead asked him —

Okay, let’s start with, you probably just followed before the news we were talking about this man who has been released into the community on a supervision order. Now he is a man who has raped two women,

sexually attacked in some way shape or form 13 women all up. His record is deplorable. Even when he was released on a supervision order in 2012 he breached it within weeks and went back in the slammer, came up for review, he's now been released again. Even the Attorney General, Mr McGowan, seemed very frustrated by this, what do you think about it?

Mark McGowan responded —

Ah, personally I'm outraged. I think any right thinking person is outraged. It's only a matter of time I expect before this person offends again. I find it perhaps quaint that the Attorney General is upset about it, but the question is, why didn't the Attorney General do something about it?

A couple of dangerous sex offenders have been released under this government's watch, and I rhetorically ask the Leader of the House, who perhaps will assist us: "Why didn't the Attorney General do something about it?" What could the Attorney General have done? Mark McGowan had the answers. The facts were at his fingertips. The radio transcript continues —

The Attorney General can speak to the Director of Public Prosecutions. The Director of Public Prosecutions ... ah, did not oppose the release of this prisoner. If the Attorney General had spoken to him, or had had words with him about their approach on this, well the outcome may well have been different.

Adshead goes on to say —

Okay, you're saying that, they've got to remain independent of the judiciary in terms of how it does its job. You're right in terms of the DPP did not oppose, in fact, put forward some submissions that under this 10 year supervision order this person could be released into the community, hopefully safely. You're saying that he could've expressed concerns that the DPP were going to go down that path and support it.

Mark McGowan said —

Well the DPP isn't the judiciary,

He got that bit right —

the DPP is an independent statutory office holder appointed by the Government.

He got that bit right, but "independent" seems to have a flexible meaning for this government. I will get to that in a moment. He continues —

If I was the attorney general and I knew this was coming on I would've had words with the DPP about the approach the DPP took. I don't think that is inappropriate and I think it is a gross failure and gross negligence on the part of the Attorney General not to have done so.

I now interpose and say that there is a thing called the Director of Public Prosecutions Act, which was passed by a Labor government to establish an independent statutory Office of the Director of Public Prosecutions. One of its provisions states that the Attorney General of the day can direct the Director of Public Prosecutions on general matters and policy, but not individual cases. If the Attorney General directs the director or instructs the director about individual cases, the DPP is obliged to report that in the annual report. I do not think that has ever been done because Attorneys General have tended—at least up until now—to be conscious of their responsibilities to not interfere politically with independent statutory office holders. I see that Premier Mark McGowan may have a different idea about how that ought to operate. Certainly, it would seem open to his current Attorney General to follow the instructions and the guidance of the Premier. I look forward to the next annual report to see how many times Attorney General Quigley has words with the DPP about the DPP's approach in individual cases. He went on and talked about toughness on crime and said —

I'm saying the Attorney General should have spoken to the DPP about the approach the DPP took.

There cannot be any doubt as to what he has in mind. Premier McGowan is of the view that a proper Attorney General ought to call the Director of Public Prosecutions to tell them what to do. He then goes on to opine other bits about the legislation and claims —

The only reason this man was able to be released is because Joe Francis, the Minister for Corrective Services, has allowed for this bracelet system by which a bracelet can be put around the offender's ankle, therefore they can be released into the community. Had this bracelet system not been in place, or not been available for dangerous repeat sex offenders, I expect the judge would've said, 'this man should stay in prison'.

That is pretty interesting. No doubt the Leader of the House will explain to us, firstly, whether the GPS tracking system is still in place given the risks it poses when dangerous sex offenders are released into the community who otherwise would not have been released; and, second, what the government is doing to stop that from happening.

Again, I digress for a moment to point out that last year when the former government was moving amendments to this legislation in this place, a number of amendments were proposed by the then opposition, one of which included directing courts to not take into account the availability of global positioning systems or other tracking devices

when considering whether to release an offender on a supervision order. I do not see anything like that in this bill. I am a bit disappointed; I thought that that was pushed ardently back then and it now seems to have disappeared. I do not know why that is not being provided for as an additional safeguard by this government, which is so concerned about this issue and thought it was worthwhile raising back then. Perhaps the Leader of the House will take the opportunity to make good what they were frustrated in doing last year and meet the expectations that they had raised. McGowan went on to say —

If it were not for this bracelet around his ankle I expect the judge would not have released him. If the DPP had objected, the Director of Public Prosecutions had objected, I expect the judge would not have released him. But the judge acted on the advice of the DPP and he used a system brought in by Mr Barnett's Government. This is a monumental failure that I think is not protecting the community adequately from a dangerous sex offender.

Adshead says —

Alright, would you guys take it up in the Parliament?

McGowan says —

Oh, I expect we will, I mean most people are outraged by this sort of thing, but especially when you can see failures but government. ... as I said we see numerous failures by a Government that talks tough on crime but action is sparse.

I invite the Leader of the House to take it up in Parliament on behalf of the now Premier and introduce measures that will require judges to not take into account GPS tracking as a factor and to explain to us why the Attorney General has not told the DPP what action to take in these cases.

I digress for a moment because I have found another very interesting comment in this radio transcript. They were talking about renewable energy and Mark McGowan made the classic comment —

It was outrageous thing to go and rip up contracts with citizens of the State, which is what the State Government did and then they backtracked on it. People who signed up for these contracts signed up in good faith, they invested money on the back of it, it was a shocking example of what a State would try to do, and I'm glad that they were forced out of it.

That is quaint for a Premier who came into office saying he was going to tear up contracts!

Getting back to dangerous sexual offenders for a moment, while there is still time before we have to break for the next stage of proceedings, I will quote a comment from the then shadow Attorney General about how matters ought to be dealt with—that is, the breach of orders under a supervision order and the question of whether someone ought to be released on bail pending determination of that breach. The then shadow Attorney General told us that the way it ought to be done is that the police need to be told by the minister of the day to bring on applications to revoke bail. What appears to have happened is that the offender was arrested, or summonsed, brought before a court —

Debate interrupted, pursuant to standing orders.

[Continued on page 5436.]

QUESTIONS WITHOUT NOTICE

MINISTERIAL CODE OF CONDUCT — CONFLICTS OF INTEREST

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

I refer the Premier to part 5 of the Ministerial Code of Conduct relating to conflicts of interest.

- (1) What is the distinction between actual and perceived conflict of interest?
- (2) Is a minister required to declare any conflict of interest in relation to agenda items prior to every cabinet meeting; and, if not, why not?

Hon SUE ELLERY replied:

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

- (1) I refer the honourable member to the Integrity Coordinating Group paper in relation to conflicts of interest, a copy of which I now table. Further to that, the Integrity Coordinating Group website elaborates as follows —

Hon Nick Goiran: Who are they?

Hon SUE ELLERY: Why does the member not ask a question and I will answer it. Right now I am answering his leader's question. I will start my answer again —

- (1) I refer the honourable member to the Integrity Coordinating Group paper in relation to —

Hon Nick Goiran interjected.

The PRESIDENT: Order! Hon Nick Goiran, I know you are really keen to hear the response to this question. You might allow the Leader of the House to finish the response before you encourage.

Hon SUE ELLERY: I will start again. The answer is as follows —

- (1) I refer the honourable member to the Integrity Coordinating Group paper in relation to conflicts of interest, a copy of which I will table. Further to that, the Integrity Coordinating Group website elaborates as follows —

An **actual** conflict of interest may arise when an employee is asked to make a decision as a public officer that directly affects or impacts their personal or private interests.

Importantly, some conflicts may only be perceived—an employee's decision could be questioned based on a personal or private interest that may not actually have impacted any decision.

I seek leave to table the document.

Leave granted. [See paper 848.]

- (2) Yes.

MINISTER FOR WATER — STAFF SALARIES

784. Hon PETER COLLIER to the minister representing the Minister for Water:

That is a very interesting answer.

- (1) How many staff within the minister's portfolio received a salary last year that is more than 50 per cent of their base salary or more than double their base salary?
- (2) What are the base salary, total salary, role and entitlements, allowances, and overtime for each position referred to in (1)?
- (3) Do any of the staff referred to in (1) hold union positions or union membership?
- (4) If yes to (3), what positions and what union?

Hon ALANNAH MacTIERNAN replied:

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

- (1) For Aqwest the answer is nil and nil; for Busselton Water it is nil and nil; and for the Department of Water and Environmental Regulation it is nil and nil. Regarding the answer for the Water Corporation, due to the level of information required, it is not possible to provide an answer in the time available and I therefore request the honourable member place this part of the question on notice.
- (2) This question is not applicable to Aqwest, Busselton Water and the Department of Water and Environmental Regulation. Regarding the answer for the Water Corporation, due to the level of information required, it is not possible to provide an answer in the time available and I therefore request the honourable member place this part of the question on notice.
- (3)–(4) Union membership is not information collected or required to be disclosed.

NATIVE TITLE — YINDJIBARNDI CLAIM

785. Hon MICHAEL MISCHIN to the minister representing the Minister for Aboriginal Affairs:

I refer to answers from the Attorney General and the minister to questions without notice asked on 1 and 2 November about the government's decision not to appeal the Yindjibarndi native title claim decision.

- (1) Will the minister provide detailed chronology of his involvement in the decision-making process leading to the decision not to appeal the Yindjibarndi judgement; and, if not, why not?
- (2) Precisely what public comment has the minister made about the decision following its delivery, and when did he make those comments and to whom?
- (3) When precisely did the minister first receive and consider legal advice on the decision and the desirability and merits of an appeal, and from whom?
- (4) Why, if the decision not to appeal was made on or about 11 October 2017, as claimed by the Attorney General, did the minister not record the decision until 2 November, the date of my question?
- (5) With reference to the Attorney General's answer on 1 November, which other ministers were involved in the decision, what was the extent of their involvement and which argued for and which argued against an appeal?
- (6) How are the minister's reasons for refusing to appeal a decision subject to legal professional privilege, rather than the legal advice he received?

The PRESIDENT: Minister for Environment, thank you. I was distracted by the very long question that has just been asked of you!

Hon STEPHEN DAWSON replied:

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

- (1) Legal advice was received on or about 29 September 2017. The decision was made on 11 October 2017 and recorded on 2 November 2017.
- (2) The minister released a media statement following the decision by the Federal Court on 20 July 2017.
- (3) State Solicitor's Office advice was received on or about 29 September 2017.
- (4) The decision was made at a meeting on 11 October 2017, with representatives of the State Solicitor's Office and the land approvals and native title unit in the Department of the Premier and Cabinet. The paperwork was not finalised until 2 November 2017.
- (5) The decision was made by the minister responsible for native title, the minister for Aboriginal Affairs.
- (6) The minister's reasons would reveal matters that are the subject of legal professional privilege.

SCHOOLS — BUILDING CONDITION ASSESSMENTS

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

- (1) Has a new building condition assessment process commenced across government schools?
- (2) If yes to (1), when did the assessment commence and when is it expected to be completed?
- (3) If no to (1), why not?

Hon SUE ELLERY replied:

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

- (1) Yes.
- (2) A pilot study of a new BCA process was undertaken on a small number of schools, initially commencing in December 2016, and was focused on confirming the methodology. As a result of the pilot study, there were further changes to the methodology. The full BCA survey of every school is now underway and that will produce a report for every school as per the process in previous years. It is anticipated that the survey will be completed in mid-2018.
- (3) Not applicable.

DEPARTMENT OF HEALTH — STAFF — WORKING WITH CHILDREN CHECKS

787. Hon NICK GOIRAN to the parliamentary secretary representing the Minister for Health:

I refer to the minister's answer to my question on notice 98, in which he informed the house that as at 28 June 2017, the Child and Adolescent Health Service had two employees recorded as having "application pending" for a working with children check card.

- (1) Were those two applications lodged on 23 March 2017 and 28 March 2017?
- (2) Do these two employees now have a valid working with children check card?
- (3) If yes to (2), on what date did they obtain a valid card?
- (4) If no to (2), why not?
- (5) On what date did the two employees commence employment in child-related work?

Hon ALANNA CLOHESY replied:

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

- (1) One application was lodged on 28 March 2017. A record of the application date could not be found for the other.
- (2) Yes.
- (3) It was on 29 June 2017 and 10 July 2017.
- (4) Not applicable.
- (5) It was on 20 October 2014 and 14 October 1991. These applications were renewal of expired working with children checks.

GASCOYNE MASTER PLAN

788. Hon JACQUI BOYDELL to the Minister for Regional Development:

I refer to the draft Gascoyne master plan rolled out by the previous state government that seems to have been abandoned by the Ministers for Water and Regional Development.

- (1) Is the government going to force the Gascoyne Water Co-operative, and ultimately growers, to pay more than they already are to access water-related infrastructure?
- (2) When is the government going to hand over those water-related assets to the GWC?

Hon ALANNAH MacTIERNAN replied:

I thank the member for the question.

- (1)–(2) I know that her family is involved in this issue, and that her parents are growers in the Gascoyne. I understand that this is an issue of very deep concern to the member. We are working closely with the Minister for Water on this to determine a stable way forward. There is a bit of conflict on the river about exactly which mechanism should be used, and there is deep concern about the stability of the cooperative organisations that would be established and whether we have a strong enough organisation to manage this effectively and in a stable manner. We note that Harvey Water, for example, is a very stable, mature organisation, and that has worked well. There is concern about whether we are at that point with the Gascoyne, but we are working through the issues through them. We are concerned not to create an environment of instability.

CANAL ROCKS BOAT RAMP — CLOSURE

789. Hon RICK MAZZA to the Minister for Environment:

I refer to the proposal to close the Canal Rocks boat ramp.

- (1) What is the rationale for the closure?
- (2) Has the government received an alternative proposal for the site of the boat ramp or close to the site of the boat ramp?
- (3) Has the impact on the recreational fishing community been assessed?
- (4) Has the department assessed the cost of upgrading the ramp?

Hon STEPHEN DAWSON replied:

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

- (1) A report by M P Rogers and Associates into a review of the management of Canal Rocks boat ramp and jetty was commissioned by the former Liberal–National government in June 2016. The final report provided to the Department of Biodiversity, Conservation and Attractions in August 2017. This report was commissioned following ongoing concerns from Naturaliste Volunteer Marine Rescue and others about the safety of using the facility in both low and high-swell conditions. The report indicated that without construction of substantial breakwaters, continued use of the facility presents a significant risk to public safety because for the vast majority of the time—estimated at 90 to 95 per cent—it does not comply with the current Australian standard. The site poses a potential liability to the state, and RiskCover has advised that given the findings of the study there appears to be a clear and imminent risk of serious injury to users of this facility, and that in the absence of compelling reasons to change its view it will move to exclude all claims and/or liability arising from the use of this facility. Last Saturday I had a very constructive meeting with the Member for Vasse and representatives from the Naturaliste Volunteer Marine Rescue, the City of Busselton and other key stakeholders. It was agreed that a peer review of the M P Rogers and Associates report would be undertaken urgently. This review will be considered prior to making a final decision.
- (2)–(3) No.
- (4) The purpose of the M P Rogers and Associates study was to assess the cost of upgrading the boat ramp and jetty. The report concluded that without construction of a substantial breakwater, continued use of the facility presents a significant risk to public safety. A previous report prepared for the City of Busselton had indicated that the cost of the breakwater was estimated at \$5 million. No further costings have been undertaken in relation to the construction of a breakwater at Canal Rocks.

NATIONAL TRANSPORT COMMISSION — TOURISM OPERATORS —
ELECTRIC PERSONAL TRANSPORTERS

790. Hon AARON STONEHOUSE to the minister representing the Minister for Road Safety:

I note the McGowan government's public commitment to the reduction of red tape across the tourism industry. I also note recent media reports that suggest the government is waiting for feedback from the National Transport Commission before loosening its legislation on segways that are currently only legal in Western Australia if used as part of a supervised tour.

- (1) What practical steps is the minister taking to ensure that her portfolio contributes to the reduction of red tape for tourism operators?
- (2) Given that unsupervised segway use is already legal across a number of jurisdictions, including the Australian Capital Territory and Queensland, is the minister really suggesting that we need a national approach to a vehicle that can travel a distance of fewer than 40 kilometres and achieve top speeds lower than those of the electric bicycles we already allow on both our roads and our pavements?
- (3) Is this the best example of handballing the minister has encountered, or does she have better ones up her sleeve—perhaps a national approach to rollerskate safety?

Hon STEPHEN DAWSON replied:

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

- (1) Part 15, division 2 of the Road Traffic Code 2000, "Electric personal transporters", prescribes the provisions in which EPTs such as segways can be used by tourism operators. The Minister for Road Safety ensures agencies within her portfolio respond in a timely manner in support of safe and sustainable tourism. The minister recently declared a new EPT use area in the City of Albany to enable the development of segway tours and to support tourism in WA. Once completed applications are received by the minister, minimal time is taken for approval.
- (2) National research through the National Transport Commission (NTC) is examining the extent to which existing regulations across jurisdictions may impact upon road safety and innovation. WA and other states will use the findings to consider the impact any proposed changes to their respective road traffic laws may have on the community, including tour operators and private use.
- (3) No.

WATER QUALITY — REMOTE COMMUNITIES AND TOWNS

791. Hon ROBIN SCOTT to the parliamentary secretary representing the Minister for Health:

- (1) Is the minister aware that senior medical practitioners have expressed concern about the poor quality of bore water routinely drunk by residents of small remote communities and towns, including Leonora, Laverton, Wiluna, Meekatharra and Mt Magnet?
- (2) Is the minister aware of the work of Dr Christine Jeffries-Stokes of the Western Desert Kidney Health Project?
- (3) What actions are being taken by the government to counter the adverse health consequences of drinking water that contains dangerous levels of nitrates, arsenic and even uranium?
- (4) Does the minister agree that action has to be taken without delay to protect remote area residents and their children from very serious harm, potentially including kidney disease, diabetes, cardiovascular disease and cancer?

Hon ALANNA CLOHESY replied:

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

- (1) I am advised that Dr Christine Jeffries-Stokes raised such a concern with the Minister for Health in a meeting on 29 June 2017.
- (2) Yes.
- (3) The WA Department of Health requires all drinking water supplies in the region that are managed by either the Department of Communities or the Water Corporation to conform with all health-related criteria set out in the "Australian Drinking Water Guidelines", including for uranium, arsenic and nitrates. Exceptions exist in relation to naturally occurring levels of nitrate in a small number of other communities. Elevated levels of naturally occurring nitrate have been identified in a number of remote water supplies managed by both the Water Corporation and the Department of Communities. The level of nitrate does not exceed the recommended safe level for consumption by adults and children; however, the levels are above the guideline prescribed for bottle-fed infants up to three months of age. Accordingly, a longstanding management strategy has been developed between the Department of Health and both

water supply agencies to address this issue. Under this strategy, healthcare professionals who work with these communities have been asked to remind parents and carers of infants who are under three months of age and are not exclusively breastfed to use bottled water, not tap water, when they make up their infant formula bottles. Both water providers have agreed to provide bottled water upon request from either healthcare professionals or affected nursing mothers.

The Minister for Health has asked the Department of Health to investigate the findings of the Western Desert Kidney Health Project and work with the Department of Communities, the Department of Water and Environmental Regulation, the Water Corporation and other stakeholders in WA to address any issues found and to provide advice to both the Minister for Health and the Minister for Water on this matter. A collaborative approach is the best way to foster continual improvement of the quality of drinking water in remote water supplies in WA. A senior public health physician is also available to discuss the issues raised by the research across the WA goldfields more generally, the validity of the findings and any possible next steps. Other findings of this thesis beyond quality of drinking water would also be covered by this process.

- (4) Although there is a compelling argument to improve water quality across remote locations and Aboriginal communities in general, there is no evidence that the nitrate or uranium levels in drinking water in the affected communities is responsible for the specific disease burden apparent in the Western Desert in relation to diabetes or kidney disease.

COURT SECURITY AND CUSTODIAL SERVICES — 2016–17 ANNUAL REPORT

792. Hon ALISON XAMON to the minister representing the Minister for Corrective Services:

I refer to the 2016–17 annual report “Contract for the Provision of Court Security and Custodial Services”, and to the increase in incidents subject to abatement following transfer of these services from Serco to Broadspectrum.

- (1) Is the minister aware of the significant increase in incidents since Broadspectrum took over the contract?
 (2) If yes to (1), has the minister taken any action regarding this issue?
 (3) If yes to (2), what action has been taken?
 (4) Is the minister considering cancelling Broadspectrum’s contract because of the unacceptably high numbers of incidents since Broadspectrum began providing this service?
 (5) If no to (4), why not?

Hon STEPHEN DAWSON replied:

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

The minister advises as follows.

- (1)–(2) Yes.
 (3) The Department of Justice has applied abatements to each incident, and the contractor was required to implement corrective action to prevent the recurrence of incidents.
 (4) No. However, the minister has requested the department to closely monitor all contracted services to ensure compliance, and to apply abatements and issue improvement notices where applicable.
 (5) A higher level of incidents occurred in 2011–12 in the first year of operation for the previous contractor. The Department of Justice will continue to monitor incidents under the contract and apply abatements where applicable.

CANAL ROCKS BOAT RAMP — CLOSURE

793. Hon Dr STEVE THOMAS to the Minister for Environment:

I refer to a report commissioned recently by the Department of Biodiversity, Conservation and Attractions—formerly Parks and Wildlife—into the future of the Canal Rocks boat ramp, and a recommendation to close the facility due to safety concerns.

- (1) How many boat ramp users have been injured on or at the ramp in the last 30 years; and what was the nature of those injuries?
 (2) Have any fatalities ever been reported on or at the facility; and, if so, how many, and when and how did they occur?
 (3) Has the government received legal advice on its liability in relation to the boat ramp; and, if so, will the minister table that advice?
 (4) Have there been any reported injuries or fatalities on or at nearby boat ramps at Hamelin Bay, Gnarabup and Gracetown; and, if so, how many, and how and when and how did they occur?

Hon STEPHEN DAWSON replied:

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

- (1) Department of Biodiversity, Conservation and Attractions records show the following injuries on or at the ramp: June 2003, minor back injury; and March 2007, minor injuries, no precise details provided. I am aware that a further six accidents have been recorded by DBCA associated with the use of the boat ramp and there is the possibility that further injuries have occurred but have not been reported.
- (2) No.
- (3) DBCA has received advice from the government insurer, RiskCover, regarding liability at the boat ramp. RiskCover has advised that given the findings of the M P Rogers and Associates report commissioned by the former Liberal–National government, there appears to be a clear and imminent risk of serious injury to users of this facility. RiskCover has advised that in the absence of compelling reasons to change its view, it will move to exclude all claims and/or liability arising from the use of this facility.

Last Saturday, I had a very constructive meeting with the member for Vasse and representatives from the Naturaliste Volunteer Marine Rescue, the City of Busselton and other key stakeholders. It was agreed that a peer review of the M P Rogers and Associates report would be undertaken urgently. This review will be considered prior to making a final decision.
- (4) There have been no reported fatalities at Hamelin Bay boat ramp, and there has been one reported injury involving a trip injury in the car park in March 2013. In relation to reported injuries or fatalities on or at nearby boat ramps at Gnarabup and Gracetown, these boat ramps are managed by the Shire of Augusta–Margaret River and are not the responsibility of DBCA.

BROOME PORT — DREDGING

794. Hon KEN BASTON to the minister representing the Minister for Transport:

I refer to the answer to question without notice 749 of 1 November, which reads, “The Kimberley Ports Authority has commenced the studies and dredging is expected to be completed in the fourth quarter of 2018, based on a suitable dredge being available”. I refer also to the long lead times that are often required in securing a dredging vessel.

- (1) Has the Kimberley Ports Authority made inquiries about the availability of a dredge in the fourth quarter of 2018?
- (2) If yes to (1), can the minister confirm the availability of a dredging vessel during this period; and, if not, why not?
- (3) Once a dredging vessel is secured for this work, how soon will the proposed date of the dredging activity be made public?

Hon STEPHEN DAWSON replied:

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

- (1) Yes.
- (2) An expression of interest to identify capable dredge contractors will be released this calendar year. Following this, a formal procurement process will take place in the first half of 2018.
- (3) The proposed date for dredging can be made available to the public after the formal procurement process and environmental approvals have been completed.

LOCAL GOVERNMENT ELECTIONS — DONATION DISCLOSURE — HON DARREN WEST

795. Hon MARTIN ALDRIDGE to the Leader of the House representing the Premier:

I refer to the article in *The West Australian* of 4 November 2017 headed, “Labor MP accused of donor breach”.

- (1) Given Mr West’s admission in the article that he had not complied with the local government regulations, will the Premier stand him aside as a parliamentary secretary until an investigation by the Department of Local Government, Sport and Cultural Industries is undertaken?
- (2) If no to (1) what action will the Premier take against Mr West given the standards that the Premier has set for the local government sector and his desire to have the power to sack councillors who do not live up to those standards?
- (3) Given the assertions made by the Minister for Regional Development; Agriculture and Food in the Legislative Council that disclosure by donors is not a requirement and that she herself participated in fundraising activities for local government candidates, is the Premier satisfied that the minister and other members of the executive government are compliant with Western Australian law?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question. The Premier has provided the following answer.

- (1)–(3) As I understand it, complaints have been made to the Department of Local Government, Sport and Cultural Industries. Those complaints will be assessed by the department and a determination made in due course.

FIREFIGHTING APPLIANCES — VOLUNTEER BUSH FIRE BRIGADES

796. Hon COLIN de GRUSSA to the minister representing the Minister for Emergency Services:

I refer to the Department of Fire and Emergency Services supply of firefighting appliances to bush fire brigades.

- (1) What is total number of firefighting appliances in operation by volunteer bush fire brigades in each region of Western Australia?
- (2) What is the split of light and heavy firefighting appliances in each region of Western Australia?
- (3) What is the range of vehicle brands and models used; and what percentage of each makes up the volunteer firefighting brigade appliance fleet?

Hon STEPHEN DAWSON replied:

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

The minister advises that, unfortunately, with the level of detail required, the Department of Fire and Emergency Services is unable to provide this information in the time provided, and I ask the member to place this question on notice.

POLICE — GRADUATING SQUADS — RESIGNATIONS

797. Hon CHARLES SMITH to the minister representing the Minister for Police:

Can the minister provide the house with data on how many police officers from each recruit squad within the last 12 months have resigned from the job within 12 months of graduating from the police academy?

Hon STEPHEN DAWSON replied:

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

For the recruit squads that graduated between 1 November 2016 and 31 October 2017, three police officers resigned within 12 months of graduating.

TRADING SCHEME — RENEWABLE ENERGY COMMITMENTS

798. Hon TIM CLIFFORD to the minister representing the Minister for Energy:

I refer to an article published in *GovernmentNews* on 5 November 2017, in which Piers Verstegen, the director of the Conservation Council of Western Australia, stated —

Professor Garnaut's recommended ETS is an example of policy that could be adopted now by the WA Government to drive the transition to affordable renewable energy, and make our state a leader in the global clean energy economy of the future.

- (1) Will the government adopt an emission intensity scheme, or a renewable energy target, or RET?
- (2) If no to (1), what strategies will the minister put in place to provide instruments or mechanisms to ensure that Western Australia will contribute to lowering carbon emissions?
- (3) If yes to (1), when will the scheme or target be put in place?

Hon STEPHEN DAWSON replied:

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

- (1)–(3) The McGowan government considers that a national approach is the most efficient and effective way to deliver on Australia's international commitments to reduce greenhouse gas emissions. The Western Australian government will work with other Australian jurisdictions to achieve this outcome as part of the work of the Energy Council of the Council of Australian Governments. The scheme currently under consideration is envisaged to apply through the National Electricity Rules, to which Western Australia is not a party. However, Western Australia will consider whether it will apply the same or similar scheme. In the absence of a national approach, the McGowan government will explore suitable alternative options for Western Australia.

GERALDTON SOBERING UP CENTRE

799. Hon JIM CHOWN to the parliamentary secretary representing the Minister for Mental Health:

I refer to the government's recent decision to close the Geraldton Sobering Up Centre on 30 December 2017. The centre in question is located at 3110 Larkin Street, Geraldton, and has been running since 2003.

- (1) How many people used the Geraldton Sobering Up Centre in 2016–17?
- (2) How many people are employed at the Geraldton Sobering Up Centre?
- (3) What is the total annual cost to government of running the Geraldton Sobering Up Centre?
- (4) Are any community or council donations received towards the running of the centre?

Hon ALANNA CLOHESY replied:

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

I am advised as follows.

There were 1 415 admissions to the Geraldton Sobering Up Centre in 2016–17. This represents an average of approximately seven people admitted a day and occupancy of approximately 38 per cent.

- (2) Hope Community Services employs four permanent workers at the Geraldton Sobering Up Centre, three of whom are full-time and one is part-time. There are two long-term casual workers and a further pool of five people who will work shifts as needed.
- (3) In 2016–17, the Mental Health Commission provided \$512 826 to fund the Geraldton Sobering Up Centre. Funding for 2017–18 will be \$256 182, which will be paid pro rata for the period 1 July 2017 to 31 December 2017.
- (4) The Mental Health Commission does not and should not have information relating to donations received by contracted community-managed organisations.

PUBLIC SECTOR LEADERSHIP COUNCIL

800. Hon DIANE EVERS to the Leader of the House representing the Premier:

I refer to an answer given by the director general of the Department of the Premier and Cabinet, Mr Darren Foster, during the Standing Committee on Estimates and Financial Operations hearings of Tuesday, 17 October, to my question about leadership and coordination of cross-agency solutions to complex issues.

- (1) Will the minister detail the processes that the public sector leadership council will employ to support collaborative cross-agency solutions to complex issues, and include —
 - (a) how often the council will meet;
 - (b) the issues the council will address first;
 - (c) other issues the council might address subsequently;
 - (d) how the issues that will be addressed by the council will be selected;
 - (e) how the efficacy of the council will be evaluated; and
 - (f) any other relevant information?
- (2) Will the minister please list the working groups involved in cross-sector collaborations, and the issues they are considering?

Hon SUE ELLERY replied:

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

- (1)–(2) There are a number of different cross-agency efforts being undertaken to support a collaborative approach to complex issues in Western Australia, one of which includes the public sector leadership council. The council, which meets monthly, aims to drive reform across the public sector; receive briefings on key strategic issues of sector-wide interest; review progress on whole-of-government objectives and election commitments; and model collaboration and problem solving on cross-cutting issues. The council allows members to identify issues for discussion and provides an opportunity to share experiences and learnings to enhance the proficiency of the sector in responding to complex issues that require whole-of-government outcomes.

A number of other working groups have been established or have continued to focus on specific complex public policy issues that do not stop at the boundaries of an agency and require a whole-of-government solution. Some of these include justice planning and reform, information and communications technology,

the strategic assessment of the Perth and Peel regions, and state emergency management. Other key issues that will be addressed through cross-agency collaboration include responding to the service priority review, an inquiry into government programs and projects, and a sustainable health review.

The Department of the Premier and Cabinet can brief the member further on the details of the cross-sector collaboration efforts.

HIGH STREET, FREMANTLE — UPGRADE

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

This is dated 2 November, when notice was given. I refer to the government's plans for road upgrades proposed as an alternative to the cancelled Roe Highway plans.

- (1) What is the general scope of the road and related works that the government will carry out on Stirling Highway, East Fremantle; High Street; Carrington Street; Leach Highway; and Stock Road?
- (2) What is the budgeted cost for these works?
- (3) What is the budgeted cost for resumption of residential properties along the route and how many properties are affected?

Hon STEPHEN DAWSON replied:

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

- (1) Main Roads Western Australia is investigating a number of options for the upgrade of High Street between Stirling Highway and Carrington Street. These upgrades may involve improvements to High Street and the intersection of Stirling Highway. No work is currently planned between Carrington Street and Stock Road.
- (2) The budget for the High Street upgrades between Carrington Street and Stirling Highway was announced as part of the Boosting Jobs, Busting Congestion package at \$118 million.
- (3) No resumption of residential properties is planned as part of the High Street improvements between Stirling Highway and Carrington Street.

NATIVE TITLE — MAYALA CLAIM

802. Hon ROBIN CHAPPLE to the minister representing the Minister for Lands:

I refer to an article titled "Kimberley native title claimants fear island will be handed to fish farmer", published online by the Australian edition of *The Guardian* on Tuesday, 24 October 2017.

- (1) Is the minister aware the Mayala claimants have been waiting almost 20 years for their claim, which includes Barnicoat Island, to be determined?
- (2) Is the minister aware that if a crown lease is granted to Marine Produce Australia, it will permanently extinguish any chance of native title for the Mayala people over Barnicoat Island?
- (3) If yes to (1) and/or (2), when will a decision be made about the future of Barnicoat Island?
- (4) Will this decision be informed by consultation with the Mayala claimants who will be directly impacted by the decision?
- (5) If no to (4), why not?

Hon STEPHEN DAWSON replied:

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

- (1)–(5) Yes. The matter is before the National Native Title Tribunal and Mayala are represented in these proceedings.

ELECTRONIC CONVEYANCING

803. Hon TJORN SIBMA to the minister representing the Minister for Lands:

I refer to the mandated implementation of electronic conveyancing or e-conveyancing for all mortgage, discharge of mortgage, and refinance transactions in Western Australia from 1 December 2017.

- (1) What financial interest does the state government have in PEXA?
- (2) What additional costs will be borne by users from 1 December as a consequence of the implementation mandatory e-conveyancing?
- (3) What share of the fee charged for mandatory e-conveyancing will the state government receive?
- (4) What advice has the minister received from Landgate on the costs of electronic conveyancing?

Hon STEPHEN DAWSON replied:

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

- (1) The state government holds a 12.15 per cent shareholding in PEXA. Three other state governments—New South Wales, Queensland and Victoria—are also shareholders. The state made a series of investments in PEXA between 2011 and 2016 with the approval of the then Ministers for Lands—Hon Brendon Grylls, MLA, 2011 to 2013; Hon Terry Redman, MLA, 2013 to 2016—the Treasurer of the day, Hon Christian Porter, MLA; Hon Troy Buswell, MLA; and Hon Mike Nahan, MLA.
- (2)–(3) Nil.
- (4) The member is asked to clarify which electronic conveyancing costs he is referring to.

**DEPARTMENT OF EDUCATION AND TRAINING — STAFF —
WORKING WITH CHILDREN CHECKS**

Question without Notice 739 — Answer Advice

HON SUE ELLERY (South Metropolitan — Minister for Education and Training) [5.07 pm]: I would like to provide an answer to Hon Nick Goiran's question without notice 739 asked on 1 November 2017, and I seek leave to have it incorporated into *Hansard*.

Leave granted.

The following material was incorporated —

- (1) Yes.
- (2) As advised in the answer to QON266 asked on 16 August 2017, the number of staff without a valid Working With Children Check (WWCC) card as of 3 August 2017 should correctly have been stated as 29. The answer provided on 15 August 2017 stated 31. However, when preparing the answer to QON 266, the Department of Education discovered that two of the 31 records were duplicate entries, meaning that the answer to QON23(b) should have been 29. In the period between 3 and 29 August 2017, eight of the 29 had obtained valid WWCC cards.
- (3) No. The answer was corrected and an explanation given in the answer to QON 266.
- (4) The Department is not made aware of the issue date of a WWCC card. The notification received from the Working with Children Screening Unit at the Department of Communities and the actual card issued only contains the expiry date of the card.

As these staff would have been on leave at the time of applying for the WECC cards, they would not have provided their site managers with their card details. This would occur on return to work, and their details would then be updated on the Department's system.

Person No (as identified in LC QON 266)	(Q4) Card Expiry Date
1	09/05/2020
2	07/08/2020
13	18/05/2020
14	01/03/2020
16	15/01/2020
19	20/01/2020
26	11/08/2019
28	16/08/2020

- (5) No.

LOCAL GOVERNMENT ELECTIONS — GIFT DISCLOSURE

Question without Notice 770 — Supplementary Information

HON SUE ELLERY (South Metropolitan — Leader of the House) [5.07 pm]: I wish to clarify the answer I provided to the Legislative Council on Thursday, 2 November 2017. At the time the response was prepared, the Department of Local Government, Sport and Cultural Industries was aware of only one formal complaint regarding election donations. However, an email complaint regarding election gifts had been sent to the department's generic information inbox by Hon Martin Aldridge, MLC, on Wednesday evening, 1 November 2017.

Unfortunately, the departmental officer responsible for allocating that complaint to the governance section of the local government, liquor and gambling division was not at work due to illness on both Thursday and Friday and the complaint was not actioned until Monday, 6 November 2017.

I am advised that the department is updating the management of its generic email addresses and will be improving the information available on its website to ensure that members of the public are aware of the department's complaints email address. This will ensure that these matters are directed to the appropriate people and dealt with in a timely manner. In this case, I understand the complaint in question had already been received by the department from a different source and it was actioned last week.

CITY BEACH SENIOR HIGH SCHOOL SITE*Question without Notice 708 — Answer Advice*

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.08 pm]: I would like to provide a response to Hon Donna Faragher's question without notice 708 asked on 12 October, which I table.

[See paper 849.]

LOCAL GOVERNMENT — HAZARD MANAGEMENT PLANS*Question without Notice 778 — Answer Advice*

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [5.08 pm]: I would like to provide an answer to Hon Ken Baston's question without notice 778 asked on 2 November 2017 and I seek leave to have it incorporated into *Hansard*.

Leave granted.

The following material was incorporated —

The Minister for Emergency Services advises:

- (1) The Minister is not aware of "up to 60 bushfire-prone local governments in south-west WA that have not submitted potentially life-saving hazard management plans." The government is aware of 59 local governments that had been identified as priority local governments for the development of a Bushfire Risk Management Plan (BRMP). Of the 59 priority local governments, DFES received funding to work with 16 local governments. Of these 16 local governments, 15 have had their plans endorsed by the Office of Bushfire Risk Management (OBRM).
 - (2) Government has allocated an additional \$3.7 million of funding for 2017/18 through DFES to support 27 of these local governments to develop a BRMP. DFES has and continues to support other local governments outside of this arrangement to develop their BRMP's through access to supporting systems, training and advice from regional and specialist staff.
 - (3) Funding was made available in the 2017/18 Budget process (as per 2); Further funding allocations will be considered in accordance with budget processes.
 - (3) The Minister is provided with regular briefings on the Emergency Services portfolio, DFES provides advice to communities in Western Australia on seasonal fire risks posed irrespective of whether a BRMP has been completed or not.
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QUESTION ON NOTICE 374*Paper Tabled*

A paper relating to an answer to question on notice 374 was tabled by **Hon Stephen Dawson (Minister for Environment)**.

MINISTER FOR ENVIRONMENT — MEETINGS — SOUTH METROPOLITAN REGION*Ruling by President*

THE PRESIDENT (Hon Kate Doust): Last Thursday, 2 November 2017, Hon Nick Goiran requested a ruling on the appropriateness of the Minister for Environment's answer to question on notice 345, asked in the Legislative Council on 5 September 2017. Part of the question requested the names of individuals who attended meetings, events or functions with the minister, and the tabling of documents connected to them. I quote the minister's reply —

The documents prepared contained names of private individuals and are considered to be personal. If the Honourable Member requires this information he is encouraged to submit a Freedom of Information Application so that the consultation and decision making processes mandated by the Freedom of Information Act 1992 can be followed.

The basic rule for a Presiding Officer regarding parliamentary questions is that it is not the Chair's responsibility to tell ministers, or indeed any member, how they should respond to questions, provided an answer is within the standing orders. It is also not the Presiding Officer's role to determine whether an answer is correct. Those of us who have been here for some time have heard on many occasions the expression from this chair: "You may not like the answer that is provided, but that is the answer you have been given." There is no obligation for a minister to provide an answer to a question and the Presiding Officer cannot require a minister to provide an answer. However, if an answer is given, it must comply with the standing orders and the established practices and customs of the house. The basic requirements in the standing orders are that answers must be concise and relevant. The answer provided complies with these requirements.

Former President Hon Barry House made a statement to this house on 17 September 2015 affirming the rules I have referred to above but also encouraging ministers not to frame their answers in a way that gives the impression that the tabling of documents requested by a member is dependent upon the outcome of an FOI application. This statement reflected the position that the FOI act was intended to operate in addition to the accountability function provided by Parliament, rather than as a substitute for it. If a minister refuses to table documents for any reason, including the privacy concerns of individuals, it is within any inquirer's rights to take advantage of laws that provide an avenue to access that information by another means. The inclusion in an answer of the fact that this avenue is available to the member does not result in the answer being out of order.

DANGEROUS SEXUAL OFFENDERS LEGISLATION AMENDMENT BILL 2017*Second Reading*

Resumed from an earlier stage of the sitting.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [5.12 pm]: I was engaged in the exercise of recounting a bit of the history of how the Dangerous Sexual Offenders Legislation Amendment Bill 2017 came into being, and some of the elements that one would have thought ought to be covered by this bill if it was to make good on the then opposition's rhetoric over the last several years about community safety, and to set the scene for the amendments that the current opposition proposes be passed in order to, as the then opposition put it, strengthen the legislation.

I already covered a number of assertions by the then shadow Attorney General, now the Attorney General, John Quigley, in which he contended that any sex offender who was released ought to undergo chemical castration, that the Director of Public Prosecutions ought to be instructed by the Attorney General of the day how to approach these individual cases, and how, back in 2014, now Premier McGowan contended that the problem that underlay the release of dangerous sex offenders on supervision orders under the legislation that had been put in place, and indeed was initiated by the Labor government in the Gallop days, resulted from the availability of GPS tracking and monitoring, which allowed judges to release offenders that otherwise ought to remain in detention. He contended that it was the Barnett government's fault for introducing a measure such as GPS tracking and that judges would not ordinarily release these people if it were not for the availability of GPS tracking. Back in 2014, around the same time, not to be outdone by the then Leader of the Opposition, on 20 March, John Quigley went on the ABC *Mornings* program with Geoff Hutchison. Apparently, someone under a supervision order had allegedly breached the order and, because the police regarded the breach as relatively trivial or at least of a low level, the offender was released on lockup bail. John Quigley opined that the police sergeant at the lockup would have made the decision to release the offender and that it was not a contested bail hearing. He said the offender had already breached the undertaking he had given to the Supreme Court judge a week before and what ought to happen was that the Minister for Police should have been on the phone to the commissioner that morning to say she wanted an application to be brought on for revocation of bail. John Quigley opined that two things had gone wrong, and he added ominously that he had seen it happen before. He decided he would have a go at me—at the time I was a prosecutor with the DPP—claiming I had been instructed to oppose someone being released on conditions, and that halfway through the hearing I “caved in and changed my mind” to consent to him being released. I do not know how he knew what my instructions were and he appears to have not understood the mechanics of that case, but if he was suggesting some form of unprofessional conduct, I urge him to take it up with the appropriate authorities. As usual, he did not have a clue what he was talking about. He simply wanted to have a go.

I am fully cognisant of what my responsibilities were, and one of them, as a prosecutor—all prosecutors understand this—is that you do not push untenable arguments when you are representing the state of Western Australia. You are there to assist the court, not to simply obey the instructions of those who are clueless, as John Quigley appears to have been. I do not understand what he thought my instructions were and why he thought I had “caved in and changed my mind”. He does not give even enough information to be able to identify the case, but, as usual, as one has learnt to expect from this member of Parliament, he says anything that gets him a headline, and has little regard for the truth. In any event, he instructively thought that what ought happen was that the then Minister for Police should be meeting with the Premier and I should have said, as Attorney General, what they would then be doing to get a contested bail hearing before a magistrate on that day. Again, it appears to be political interference with the justice system and the responsibilities of the police at an operational level, and with the Director of Public Prosecutions at an operational level, which is an interesting position to take for someone who claims to have some understanding of the law. I would have thought that even a first-year law student would know better than that, but this man is now in charge of the Office of the Director of Public Prosecutions, as well as the other organs of government that fall under the Department of Justice. It is a disturbing thought that someone with that level of understanding of the appropriateness of how to behave has been put in a position of responsibility like that.

Nevertheless, it is interesting that none of this seems to have been translated into the legislation that the Attorney General has now put before this place. If he were serious about it, rather than just trying to show off and pretend to know better, why he has not introduced these important reforms to the scheme under the Dangerous Sexual Offenders Act? I have no doubt that the Leader of the House will be able to help us out here.

Then on 26 March we had the person who actually introduced this legislation back in 2004, Hon Jim McGinty, on the 6PR *Drivetime* program, offering his opinion on how the legislation should work. He did not accept the idea that had been put forward by the then Director of Public Prosecutions, Mr Joe McGrath, SC, now a justice of the Supreme Court, and quoted by interviewer Paul Murray that, according to the transcript —

... ‘Any suggestion that the Attorney-General should take over the matter misunderstands that the justice system has an independent prosecutor and the role of prosecutor. The Attorney-General cannot decide on his own initiative to give directions to me —

That is, Mr McGrath —

in a particular case—that would be an interference that is not allowed’.

So said Joe McGrath, the then Director of Public Prosecutions.

Jim McGinty who, as I understand it, never practised law let alone prosecuted, had a different view. He claimed, according to the transcript —

... it’s a bit of a sophistry by the DPP. Nobody’s talking about the Attorney-General issuing direction for the DPP —

I digress for a moment to point out that that is not quite the way Mark McGowan saw it, but McGinty accepted that it was prohibited by the Director of Public Prosecutions Act —

... so it would be silly to even think in those terms... so... sure, can’t issue a direction, but surely the two senior legal officers, the Attorney-General and the DPP... I think the public would expect that they would, sit down and talk about issues, they’d discuss them... questions would be asked... the..., the Attorney-General would be alerted to a major controversy that’s looming... in this area.

Now I think all of those sort of things are reasonable and that’s not what Joe McGrath is addressing, he’s addressing something which is blatantly obvious and that is the DPP cannot be directed in a particular case by the Attorney-General.

Perhaps the Leader of the House can explain to us the current Attorney General’s view on all that and whether the Premier agrees, because they seem to have had a very different view and were authoritatively telling the public about it, all those years ago, and where we can find it in this legislation that is going to be such a great, essential and overdue reform.

Paul Murray, as equally learned in the law as Mark McGowan, then said, according to the transcript —

When you took that Dangerous Sexual Offenders Act to the Parliament it had a specific section in it, Section-6, which says, ‘The Attorney-General may perform the functions of the DPP’. What was the reason for putting that in the Act?

McGinty said, according to the transcript —

Oh, very clearly that... from time to time in the public interest the Attorney-General might come to a different conclusion than the DPP when dealing with a dangerous sexual offender and we wanted to place beyond any doubt whatsoever that it was then the duty of the Attorney-General of the day to act and that he had... concurrent powers, the same powers as the DPP to make any application to the court to keep a dangerous sex... sexual offender in jail or any other related application. But basically it was... to make sure that the D... the Attorney-General of the day knew that he had the power and couldn’t hide behind public statements about inappropriateness of him becoming involved in these matters.

So it’s clearly the case in Section-6 of the Dangerous Sexual Offenders Act that the Attorney-General should get involved in these matters.

The position seems to have been that the draftsman of the legislation—although I think it was really pretty much copied from the Queensland legislation—considered that not only do we have the Director of Public Prosecutions acting on behalf of the state and making decisions, but also, if the Attorney General of the day does not like a decision, he ought to make his own decision, so we have the state being represented by two people with conflicting views, and one presumably overrides the other.

I note that this also was contended by shadow Attorney General Quigley in his contributions to debates on this subject last year, but he seems to have resiled from that point of view in the debate on the legislation before us, and I look forward to the Leader of the House explaining that to us. I find it rather baffling that the Attorney General can set up two alternative points of view. He derided the position I tried at length to explain last year, but he now accepts it and claims that it is in fact the case, but without admitting that he was wrong. Perhaps that is in the nature of the man. Perhaps the Leader of the House will be able to help us out by explaining what the true position is.

If the law is, as intended, that the Director of Public Prosecutions is responsible for representing the state and making decisions on behalf of the state, but we can also have the Attorney General of the day making contrary decisions on behalf of the state and there is a residual power involved, why has the Attorney General not appealed the last few decisions? Why has he not exercised that power and run appeals? I am sure that he will say something like, ‘The legal advice I got was that I can’t—that an appeal wouldn’t succeed.’ But that did not stop him a few years ago from contending that there ought to be appeals and that either the Minister for Police or the Attorney General should be able to tell the DPP or the police what to do. What has changed? Maybe it is because he is finally in government. Dissembling and deceiving the public worked very well for him in opposition, but he does not need to do that now. He is faced with the stark reality of being responsible for doing things that he previously considered, for political advantage, ought not to be done or to be done differently.

Again, if he believed that that was the way to go and that that was an appropriate power to have, and if he thought that the former government's legislation of last year introduced some legal impediment to that power, why has he not addressed it in the current legislation? Why has he not fixed it so that he can get in there, get stuck in amongst it, make the decisions himself, and interfere when he thinks that the Director of Public Prosecutions has got it wrong or is being too indecisive or inactive? As we have been repeatedly told by Premier McGowan, this is an activist Attorney General. This is a man who reforms and fixes problems.

With a view to improving this legislation, I would welcome the Leader of the House introducing amendments to correct this problem and to allow the law to fit in with the way the then shadow Attorney General Quigley and Leader of the Opposition McGowan thought the legislation should work, backed up by former Attorney General McGinty's views on the way in which the law ought to be, all in the interest of community safety. I am sure that the Leader of the House will be able to tell us why that is not being done.

She can also perhaps explain what is meant by these little—not quite instructions—chats between the political first law officer of this state and the independent statutory authority responsible for making these decisions. The Director of Public Prosecutions by law cannot be instructed, but ought to be telling the Attorney General as these cases come up where there might be controversy, so that they can sit down and have a bit of a yarn about it; not quite instructing, but perhaps shaping each other's thinking in a way that does not have to be reported under the Director of Public Prosecutions Act. Once again, perhaps the Leader of the House can explain how these things are done under a Labor government and whether these things are done in other cases involving independent statutory officers. I would like to know on how many occasions since Attorney General Quigley took office he has been informed by the director of these sorts of cases and on how many occasions he has fulfilled the expectations of his mentor, Jim McGinty, and had these little fireside chats with the Director of Public Prosecutions to run over a few things and have a chat about controversial cases and how they ought to be handled. I look forward to hearing how these things are done and on how many occasions these meetings have taken place. I make it quite plain that I am not talking about consultation with the director to be informed about the manner in which the DPP's office is functioning or about issues that may be coming up. I am talking about the sort of chat that Jim McGinty has in mind in which the director says, "There might be something coming up that'll be embarrassing to the government. Can we have a yarn about it so I can get your views on it, Mr Attorney General?" Jim McGinty presumably would sit down with the director and exchange views, and there would not be so much of a direction or an instruction—that would be wholly improper—but plainly some kind of influence that falls a little bit under that. However it is conducted, I am interested to know how many chats there have been with the DPP about dangerous sex offender applications since this government took office. Surely, there must have been some because a couple of dangerous sex offender cases have come up in the news, and the way that Jim McGinty saw it happening is presumably the way that Attorney General Quigley has been doing it; and, if he has not, perhaps Jim McGinty might have a word in his ear about how he sees the office of Attorney General being run.

The 6PR transcript continues, and McGinty said that when there is a different conclusion from the DPP —

...we wanted to place beyond any doubt whatsoever that it was then the duty of the Attorney-General of the day to act and that he had ... concurrent powers ...

There is further discussion and Jim McGinty opines further as to how he framed the legislation. Paul Murray said —

Well Jim, Michael Mischin has said of this case ... of TJD, he doesn't agree with Commissioner Kevin Sleight ...

I had said that I probably would have come to a different decision, which is accepting, I should point out, the independence of the judiciary in these matters, but I did not believe that TJD should be back on the streets. The transcript continues —

Does he have an ability to use Section-6 now?

Then we get the insight from Jim McGinty, who said —

Well he's compromised now ... for this reason, Paul, clearly the Attorney-General can make any application that the DPP could ... for instance he could appeal against the decision to release TJD, because that's really what it's all about and ... I think everyone except the judge and the DPP thinks it was a bad decision.

Now what ... the Attorney-General could do would be to lodge an appeal, but the first question that the Court of Appeal would ask is, 'well, how you can appeal if the DPP agreed with the order ... to release him'. ... at this stage of the whole thing ... the DPP and the Attorney General are completely compromised, but the ... Act ... certainly does make a provision for Michael Mischin as the Attorney-General, regardless of the view of the DPP, to make an application to keep this person behind bars, to appeal, to do a whole range of things and that's exactly what was envisaged.

I would like the assistance of the Leader of the House on that interpretation of the way the legislation is meant to function, because as I read it, the DPP makes decisions on behalf of the state. The way McGinty sees it happening

is that if the Attorney General comes to a different view, he can, and should, do entirely the contrary of the DPP. Even Jim McGinty does not seem to understand how the difficulty of inconsistent decisions is resolved, and he certainly has not explained it, but I am sure that the Leader of the House, with the assistance of the Attorney General, will be able to explain that for us, because this is important. For all the criticism that was levelled at me and our government over the last several years relating to the manner in which this legislation operated, here is an opportunity for this government to fix the problem in the public interest, but I have not seen anything in the bill that does that. The proposals being argued for last year by the then opposition to strengthen the legislation—which were so essential to improve it and were rejected for reasons that the opposition did not accept—and that, according to the Attorney General, have led to the release of further sex offenders, are not being addressed. I think that we are entitled to know why. Is it because the Labor Party got it wrong last year? Is it because at the time it was convenient to upset the public and prey on their fears and concerns to get political advantage, something that it does not want to do now, or is it because of some other reason? Perhaps the political opportunism that was so attractive over the past couple years is less attractive now that Labor is in government and has to make it work within the framework of the law, constitutional entitlements and the like. But that did not stop it last year. What level of hypocrisy are we looking at with this government?

On the question of these high-level chats and how I was then being encouraged to have a chat with the DPP, presumably not just to shoot the breeze but to decide what ought to be done in this particular case without getting so far as to instruct or influence the DPP in the exercise of his independent statutory discretion—exercised, I should add, with a far greater knowledge of the law than Jim McGinty and with an understanding of prosecutorial ethics and guidelines and the responsibilities of the state—Jim McGinty had no problem with it, and said —

Well I think he's wrong and I think he's letting the public down by adopting that attitude. It's ... not the way the things were done,

The mind boggles as to what was done under McGinty's regime. It continues —

it's not the way things were envisaged to be done by the legislation itself that expressly gives them ... treats the two of them, the DPP and the Attorney-General as equals.

Of course, Paul Murray picks up on that and states —

This is the bloke who wrote the legislation, he should know what it was meant to do, and what it's meant to do is protect the community, and that should be a cooperative effort between the Attorney General and the DPP not sort of some arcane debate going on about who has more power and who has more independence. That's bloody ridiculous.

I hope that the Leader of the House will be able to clarify it for us definitively. How many of these discussions has John Quigley had with the Director of Public Prosecutions in the exercise of the director's responsibilities to deal with cases as an independent statutory authority? Did he have any discussions about these cases before they came to court? Why in the case of the last one did he only find out several days afterwards about the decision? Surely, he was keeping track of this. I would be astonished if in the light of this counsel, the man who drafted the legislation, that John Quigley has been falling down on the job. But maybe he does not need to do this now, because he realises that there are no points to be gained and he realises that the reason that there are independent statutory authorities that are supposed to be free from political interference is that they can get about doing their jobs according to law. Maybe it is just laziness or maybe it is just incompetence, but the Leader of the House can help us out there.

Anyway, the debate kept going. There were still lots of opportunities to be milked. One article that I particularly enjoyed at the time, and it gave an idea of the hysteria that was being built up by the ALP, was one that appeared on ABC online on Sunday, 18 October 2015 titled "Labor MP Peter Tinley organises rally over possible release of sex offender Alwyn Brown into Coolbellup". I quote —

West Australian Labor MP Peter Tinley has demanded the State Government confirm whether a dangerous paedophile has been released into his electorate, claiming his constituents have a right to know so they can keep their children safe.

As I recall, with the last dangerous sexual offender who was released, Attorney General Quigley said that he was not above the law and he could not tell the public where a dangerous sexual offender would be released if the court said there was a suppression of the location. At one stage, John Quigley actually used parliamentary privilege to reveal certain information about a dangerous sexual offender. Peter Tinley, as I recall, is still a member of Parliament. Oddly enough, I have not seen him out and about calling up John Quigley and demanding that he reveal the whereabouts dangerous sexual offenders being released, but he certainly did at the time. The article continues —

Mr Tinley used social media to organise a protest rally in the southern Perth suburb of Coolbellup today, where at least one media outlet —

So, it is a rumour —

has reported the convicted sex offender has been released.

On Facebook, Mr Tinley wrote: “FLASH MOB NEEDED: Right here is your call to action folks.”

A flash mob! When I raised this last year during the debate on the bill then before the house, Hon Adele Farina could not tell me what a flash mob was, but perhaps with the ability to talk amongst her colleagues she has since found out what Mr Tinley thought was a flash mob. The Leader of the House will be able to help us, and I will not take, “You will have to ask him” as an answer. It seems pretty important for public safety, when the public has a right to know certain things, like Mr Tinley said, that people be told this information. I look forward to the Leader of the House explaining where in this legislation the public’s right to know is entrenched so that poor Mr Tinley does not have to go to the trouble of calling out flash mobs and calling people to action to get information that a judge has thought should not be put in the public domain. It would certainly assist the Attorney General, John Quigley, so he does not have to feel that he is above the law in revealing this important information to Mr Tinley and his constituents.

Hon Rick Mazza: What is a flash mob?

Hon MICHAEL MISCHIN: I do not know what a flash mob is. I think it is sort of a rent-a-crowd that Labor MPs can call on from time to time. They are like spontaneous demonstrations. Remember the spontaneous demonstrations that used to happen in the Soviet Union or what happens in North Korea when they want to protest something? They have a mob of people who suddenly appear on the streets bearing placards.

Hon Sue Ellery: Do you know what a flash mob really is?

Hon MICHAEL MISCHIN: I am looking forward to finding out what a flash mob is, Leader of the House, but they seem to be available at the beck and call of certain Labor MPs when there is a public issue that they want to raise against the government of the day. Members on the other side might perhaps also explain why over these last two dangerous sexual offender cases there has been no flash mob. Are people in the community safe in their collective beds at night? Are they not worried? Are Mr Tinley’s constituents not worried about dangerous sexual offenders? I got the impression that the reason this legislation was being introduced was to allay community fears, but we have not seen any flash mobs being called over the last several weeks or months. If they are genuinely grassroots community movements, what has happened to them? Where is Mr Tinley’s flash mob when we need it? Anyway, the article continues —

About 50 residents gathered to hear from the Member for Willagee and to sign a petition demanding more information about the offender’s release.

That is easily fixed. Attorney General Quigley can improve this legislation by introducing an entitlement, can he not, to save people the trouble of having to petition to demand more information about the offender’s release and simply provide it or legislate to enable people in the community to find out. The Leader of the House will no doubt explain why that is not being done. The government has the ability. It has the numbers down in the Assembly to get anything it likes through, and I would be happy to support legislation of this character if it gets the support of the other place and fulfils Labor Party commitments to the community. I look forward to an amendment. The article continues —

On Thursday, a Supreme Court judge approved the release of Alwyn Wayne Brown under a five-year supervision order.

Brown was declared a dangerous sex offender in 2010 after committing a string of offences against young girls, including the attempted rape of a six-year-old.

His release is subject to 51 conditions.

Mr Tinley told residents if its confirmed that Brown is living in Coolbellup, it is a “very dangerous situation”.

“We’ve got to get a better sense of what’s going on so we can secure our own kids and our own community,” he said.

“We do need a better response from this government, it’s very, very unfortunate; it’s a very dangerous situation and we’ve got to stop it.”

Mr Tinley urged people not to take the law in to their own hands and to be moderate in their responses.

WA Attorney-General Michael Mischin called Mr Tinley’s actions “disturbing”, accusing him of “opportunistically inciting fear ... for political purposes”.

I stand by that comment —

“He is being irresponsible or ignorant or both if he is telling his constituents that the Government is able to ‘intervene’ to override a judge’s decision,” he said in a statement.

I stand by that comment. Indeed, I was interested to learn from Attorney General Quigley in respect of the last case that he did not feel that he could override a judge's decision either. There is a turn-up for the books! The article continues —

“Even Mr Tinley should know that courts do not ‘consult’ with the community before they make orders according to law; nor can a government ignore a court order pending some sort of ‘consultation’.”

I look forward to the government, now that it has the opportunity, to fix that problem or to explain—perhaps Mr Tinley can explain to his constituents—why it is not fixing the problem. Why is Mr Tinley not honouring the work of the flash mob of 50 concerned citizens by ensuring that his party, now that it is in government, is fixing the problem that was of such great concern to him back then and which has been repeated since then under this government's watch?

A study was commissioned into the Dangerous Sexual Offenders Act. Mr Deputy President, you may recall that a couple of years before some work had been done to tighten up some definitions and expand its operation in a number of ways. I may be wrong here—perhaps the Leader of the House will be able to help me out and disabuse me of this—but at the stage of those amendments being considered by this or the other place, I do not recall any of this being raised by the then Labor opposition. I recall it was supportive of proposed amendments, but there was nothing to suggest that they should have gone further and that there were defects in the legislation. That was until Messrs McGowan and Quigley, joined by Mr McGinty and others, made it an issue and decided that the legislation was not working as it should have been because people classified as dangerous sexual offenders were being released under supervision orders.

The outrage continued. A quite lengthy review of the legislation was undertaken and a lot of work done on it, including analysing the patterns involved in the consideration of these cases and the improvements that could be made. There was considerable consultation with not only the courts but also police and other authorities responsible for the management of these offenders such as the Department of Corrective Services. The review concluded that the act was operating in an essentially sound fashion; however, a number of amendments were proposed that could improve and tighten it up. They were foreshadowed and introduced.

I will not go into the details of those amendments because they were the subject of considerable debate last year, but the importance of the public debate at the time was to try to reassure the public that although we were dealing with very serious, odious offenders—offenders whom one would have no sympathy for—there were limits to the way a government could operate in the field of preventive detention. Rather than simply prescribe that no person can be released after they have completed their sentence and take away the courts' discretion in being able to assess the merits of detention as against the ability to control an offender who has served out his or her sentence under a supervision order in the community with stringent conditions, it had to be dealt with properly. It had to be dealt with carefully. The amendments proposed last year went a considerable way in plugging gaps and addressing certain problems, and also strengthened the legislation in that regard. They were apparently of no value at all according to now Attorney General Quigley. Some of the debate came up about an offender by the name of Comeagain, and also one called Lyddieth.

At the time of the announcement of the legislation being introduced an article stated —

The State Opposition said it would back government amendments to strengthen the Dangerous Sex Offenders Act, but said the changes did not go far enough.

Shadow attorney-general John Quigley said Mr Mischin promised to meet public expectations in the handling of sex offenders released from prison.

But he said the proposed changes, including allowing court's assessing an offender to consider submissions from victims, fell short of public concerns.

“What the Attorney-General has announced today concerning serious dangerous sex offenders legislation is a fizzer,” he said.

“No more than window dressing.”

So apparently it had no effect at all and would have made no difference. Revealingly, though, the article continued —

Labor has so far refused to set out in detail how it would change the act, but Mr Quigley had flagged Labor amendments that would require prisoners to convince the court they were no longer at risk of re-offending.

I will come to those in due course. The article continued —

“Then the prisoner should have a responsibility, should have an onus, of telling the community, through the court, that they are no longer a serious danger of reoffending,” he said.

The window-dressing amendments so easily dismissed as being of no consequence—crafted after consultation with the Director of Public Prosecutions, the Department of Corrective Services, WA Police, the Commissioner for Victims of Crime and courts and others—involved, amongst other things, doubling the length of time for which

a dangerous sexual offender can be detained between the periodic reviews prescribed under the act from one year to two years, allowing for courts to consider in their decision-making process offences committed in other jurisdictions by the person accused of a dangerous sexual offence, and introducing a minimum 21-day delay on the release of the offenders so that strict supervision arrangements could be put in place. Part of that was to facilitate any community notification that needed to occur. The amendments would also allow courts to restrict media or public comment by dangerous sexual offenders about victims of their serious sexual offending. Members will recall that there was an offender at the time who wanted to publicly apologise to one of his victims, and went on TV to achieve that end. That caused distress amongst the victims and others. The amendments allowed victims to make a written submission to the court about conditions for their protection, including any supervision order that may be made. I would have thought that was a pretty good idea, but apparently it was a fizzer—just window dressing, according to our legal paragon in the other place. They also allowed for a wider range of expert reports to be ordered by the court relating to the offender so that the court was more properly informed of the risks and could make an assessment accordingly; that apparently was window dressing and a fizzer. The amendments applied the legislation even if the person likely to be charged would be mentally unfit to stand trial, and facilitate the exchange of information between agencies. That was all around the idea of victim safety, but at the same time was trying to ensure that the legislation worked as it was intended to. For the first time, as members will be aware, the act provided that the needs of victims be considered.

Given that electronic monitoring was a very useful tool in strictly supervising these sorts of offenders while they were out in the community, we retained that opportunity and ability, although I am sure that, given the trenchant comments criticising that, this government would be now only too eager to ensure that that was not a factor that could be used in any way for the release of these offenders. The leader can tell us what is being done about that. But then shadow Attorney General Quigley said —

“There is nothing in the Attorney-General’s announcement today that would assuage the community’s concerns about the release of some of these serious dangerous sex offenders,” ...

Shadow Attorney General Quigley also —

... suggested that Labor’s proposed changes to the laws, which were yet to be drafted, would put the onus on offenders to convince a court they were suitable for release.

There was an opinion piece by one Liam Bartlett in *The Sunday Times* of 3 July 2016, where he got into it, trenchantly criticised the government for not doing enough and spoke in glowing terms of Labor’s proposals back then. I quote —

Labor wants dangerous sex offenders to prove they are no longer at risk of reoffending before being released.

Mr Quigley is demanding that every single condition listed on these orders is treated with equal importance. One sniff of a breach of any of them and the DSO goes directly to jail until it can be tested. His changes to this madness are the only thing that makes sense.

Sitting suspended from 6.00 to 7.30 pm

Hon MICHAEL MISCHIN: I will continue going through the expectations that were raised by the then Labor opposition about how this legislation ought to operate with a bit of comparison with what we have been presented with. I will suggest how it might be “improved”, for want of a better term, in order to meet the expectations that have been raised for it, now that the McGowan Labor government is in a position to do what it promised the public. Before the dinner break I quoted from the sort of comment that one was tending to read in the popular press in the year or so leading up to the last state election. I think it is worth recapping that comment by Mr Liam Bartlett. He drew comfort from the assurances that the then shadow Attorney General Quigley was giving regarding what Labor would do if only it had the opportunity. He stated —

Labor wants dangerous sex offenders to prove they are no longer at risk of reoffending before being released.

Mr Quigley is demanding that every single condition listed on these orders is treated with equal importance. One sniff of a breach of any of them and the DSO goes directly to jail until it can be tested. His changes to this madness are the only thing that makes sense.

We will see how that was translated into Labor Party policy before the last election and whether, indeed, it matches up with the legislation that has been presented to this place and has already been dealt with by the other as part of the great reforms, or whether it comes short of the expectations that had been raised.

Before doing that, I also want to mention the work that had been undertaken by the last government. A review into the Dangerous Sexual Offenders Act 2006 was being conducted. It took quite some time, but it was a thorough review of the operation of the legislation, with a canvassing of possibilities as to how it could be improved and an identification of the potential defects of the legislation as it was then operating, particularly in light of the public concern that had been expressed regarding the release of offenders such as TJD and others. As I have mentioned,

the public's concern was quite legitimate, but it was being exploited by the then Labor opposition to achieve political opportunities and to criticise the government on a matter of public safety.

On 20 October 2015, a motion was moved in the other place by the then Leader of the Opposition, Mark McGowan. He moved —

That this house calls on the government to urgently release the 2014 review of the Dangerous Sexual Offenders Act and immediately introduce amendments to the act, which the government promised would be introduced a year ago in the spring session of 2014.

The then Leader of the Opposition, Mark McGowan, acknowledged that —

The current laws, passed by Jim McGinty as Attorney General back in 2006, —

I think I was saying 2004, but it was 2006 —

were a significant improvement on the situation prior to then. However, with the expiry of nine years since that period, the time has come to perhaps repair the flaws and deal with the situation the state has confronted since at least 2012: the release of people who everyone in the community knew would be a danger to the community, despite the good intent of these laws.

The laws that the Labor government had passed in 2006 were apparently working quite fine, thank you very much, until 2012, when the Labor Party decided there was a political opportunity to be taken by criticising the way they were operating by allowing the very people that the laws were meant to control to be released into the community on strict supervision orders. Apparently, until that time, any offenders who had been released—certainly while Labor was in government—were unobjectionable and met community expectations. Apparently, those were not people who everyone in the community knew would be a danger to the community and their release prompted no effort on the part of the then Labor government to remedy the way the laws were operating. Around 2012, because the opportunity arose to exploit public fears, after nine years suddenly the laws were flawed and needed some work. The then Leader of the Opposition demanded —

We are saying to Parliament: release the review now. That is the least it can do.

...

We are saying: release the review, and change the laws.

That was supported by the then shadow Attorney General, John Quigley, who, amongst other things, said —

This report that has been hidden and secreted from the public of Western Australia has to be tabled today.

...

What is happening here is just insane.

He was talking about the release of people who had been classified by the courts as serious dangers to the community, which is the threshold test for having them declared a dangerous sexual offender. That is the label that is applied to people who meet that threshold test. He continued —

What is happening here is just insane. The only way we are going to get to the bottom of it is for this Parliament to unanimously vote this afternoon for the release of that report, and no-one in the community would oppose that.

I should add that Mr Tinley of Willagee, of flash mob fame, joined in with that. Reasons were given by the Minister for Police about the work that had been put into the report. Some elements of it were confidential, but work was being done to pursue the recommendations with appropriate consultation and careful drafting and crafting to produce some significant amendments, which were ultimately presented to this place and passed last year. Those amendments were described as “fizzers” and simply “window dressing”. Nevertheless, on 28 June 2016, I tabled the review. I explained the reasons why, what was proposed and what had been done as part of the review. In doing so, I said —

In tabling the DSO review, I note that the government has sought and obtained legal advice on the release of information contained in the DSO review.

Based on legal advice, material that is subject to legal professional privilege or is cabinet-in-confidence has been redacted from the DSO review now tabled. This means that some parts of the document are heavily redacted and may therefore be difficult to follow. However, within these limits, the tabled document seeks to expose the reasoning and recommendations that lie behind the amendments proposed in the Dangerous Sexual Offenders Legislation Amendment Bill 2015.

That met with the response from, amongst others, the then shadow Attorney General, who, on 28 June, complained about the nature of the review report, and said —

The government has tabled its heavily redacted review of the DSO act. I will hold that up for the cameras in case anyone wants to get a screenshot of it.

He is quite the showman. He continued —

That is the government's report. Mr Acting Speaker can see how this government does not want this Parliament even to see the details of its own review!

Further on, he said —

What will concern —

The community, amongst other things —

if it ever gets reported, is that the minister has come into this chamber —

That is, the Legislative Assembly —

on behalf of the government to surrender the government's authority under section 6 of the legislation —

I have already touched on the way the Labor Party thought that ought to work —

to seek a revocation order of a supervision order. It is surrendering the government's authority to go to the Supreme Court to appeal an order. The government is doing this because it does not want to embarrass the Director of Public Prosecutions. The minister will tell us on how many occasions the DPP has consented to orders.

Perhaps the Leader of the House will be able to tell us what the government has been doing about it, and what the Attorney General has been doing about it, now that he is in a position of authority, and is able to do what he claims should have been done. He complained about the time it took to table the report, and goes on to say —

He —

Meaning me —

would not operate in a bipartisan way.

I do not recall being consulted about any of these amendments either, but leaving that aside, the shadow Attorney General continued —

He would not provide a copy of the review to the opposition. That is a bit how this government operates— how the Minister for Police and the Attorney General operate. Other governments have not operated in that way when it comes to matters of community safety.

A number of matters of community safety have been dealt with by this government, and there has been no cooperation of that character that I can see either, but perhaps the then shadow Attorney General was simply vamping rather than meaning what he said. He complained that the report was redacted, contained insufficient information and the like. The redacted report, some elements of which were confidential because they had been provided on that basis, that informed the recommendations underlying the amendments crafted last year, is now available to the Parliament. The unredacted report is available to the Attorney General. So, if we are wrong about that, I call upon the Leader of the House in due course to table the unredacted version of the report, and see how much of that supports the propositions that have been advanced in this legislation, and whether the report says anything about the concept of the reversal of the onus of proof and whether it would make any material difference to the operation of the legislation, as had been claimed by the Labor Party over the last couple of years and has been asserted in the second reading speech supporting this bill. If it were proper to table the unredacted version of the report, I am sure that that would be remedied by the Leader of the House on behalf of the Attorney General, who now has access to that document.

Otherwise, as was usual, up until that point there had been complaints about whether the bill before the house in the view of the then opposition addressed community concerns that it had helped to generate and fuel. Hon Adele Farina had a bit to say about it when the bill was being considered in this house. At page 1500 of *Hansard* of 22 March 2016, she said —

The bill seeks to strengthen the legislation and the opposition acknowledges that the bill does go some way towards achieving that.

So it is not an absolute fizzer, and only just window dressing, it appears. She continued —

Members will know that the shadow Attorney General, John Quigley, MLA, is on the public record stating that the opposition will support the government's amendments to the Dangerous Sexual Offenders Act, but is of the view that the changes do not go far enough in addressing the community's concerns. WA Labor proposes a number of amendments to strengthen the bill to better address the concerns of the community, and it is my task in this place to advance those proposed amendments on behalf of the shadow Attorney General and WA Labor. I will do my best to adequately acquit this task, in light of a minister who very rarely accepts any amendments from the opposition to his legislation —

I suppose that means me —

and a government that holds the numbers in this house to do as it will, rather than listen to sound argument and consider sound amendments to its legislation.

Among those sound amendments are those that are canvassed at page 1502, where Hon Adele Farina stated —

The opposition is concerned about the ability of the court to amend a supervision order in response to a breach of the order. Most in the community are of the view that courts are too lenient on breaches of supervision order conditions by choosing to consider a number of breaches as only minor or technical breaches. Many in the community are of the view that any breach of a strict supervision order should result in the offender being returned to custody. WA Labor understands community concerns and will propose an amendment to the bill to further strengthen community protection in this area. I foreshadow that we intend to do that at the committee stage and I call on the Attorney General to explain the government's intention with this provision.

She went on to talk about one of those amendments. Again, she states, at page 1503 —

Clause 17 also clarifies that the court that is hearing an application of an offender subject to a supervision order can only make a further supervision order and cannot make a continuing detention order. The opposition does not think these amendments go far enough, and I foreshadow that in committee the opposition will be moving an amendment that puts an explicit onus on the offender to satisfy the court that he will comply with the conditions stated in the order. Our amendment will require that a court will be able to make a supervision order only if it is satisfied that the offender will comply with the conditions, and that the onus to satisfy the court rests with the offender. Anyone who has read any cases in this area of law will know that when offenders who have breached supervision orders come before the courts, the explanation they give is usually that the condition was too ambiguous, they did not understand it or it was just an oversight on this one occasion. I think there is an onus on the court to be satisfied that the offender really does understand the conditions of a supervision order and that the offender will satisfy those conditions.

Further, she states —

The opposition also believes it is necessary to make explicit that when a court is deciding whether to make an order under section 17(1)(b), it must disregard the fact that the person will be subject to electronic monitoring if an order under subsection (1)(b) is made. I have been told that since the introduction of electronic monitoring devices there has been an increase in the release of dangerous sexual offenders on supervision orders.

At page 1504 she states —

The opposition also proposes an amendment to section 21 to effectively delete the option to summons an offender. The opposition is of the view that if an offender on a supervision order breaches an order, they should not be released on bail pending the hearing and they should not be able to be summonsed to appear at a hearing on that breach and in the meantime be left at large in the community; they should be brought back into detention under a warrant until that matter is heard. We believe that would provide greater protection for the community.

All of that was supported by other members of the then opposition, including the now Leader of the House.

Amendments were moved to that effect and to others and defeated on the basis that they did not add materially to the regime then in place and would not achieve the ends that were being sought. Now the government has the opportunity to put those forward, and it has done so to a degree, but nowhere near the robust level that it claimed ought to have been done at the time. What has been formulated in the supplementary notice paper is a series of amendments aimed at doing what the then Labor opposition claimed should have been done and giving the now government the opportunity to fulfil its election commitments in that regard.

Among other things in the course of the debate, then shadow Attorney General Quigley complained about the release of offenders into the community. Again, I say that the matters of alerting the community to the whereabouts of where offenders are to reside and ensuring that the courts do not make orders that protect an offender from having his whereabouts known are not addressed by this legislation. If there is any doubt about the vehemence with which he pursued the question of community safety, one need look only at his submissions in the *Hansard* of the Assembly on 28 June. When people expressed concerns to him, he would direct them to the government. In respect of an offender called Lyddieth, he claimed —

The women asked me, "What can we do? What can you do?" I told them that I am the shadow Attorney General and that I can do nothing, but they can go to the Attorney General and ask him to act under section 6 of the legislation and institute an appeal. If the case is so serious that the honourable Minister for Police thinks that Lyddieth should still be in prison, go to the Attorney General and ask him to institute an appeal under section 6. That horrified the Attorney General and he said that he did not have power to do that, but it states in the act that he does have that power.

Again, I would like to hear the Leader of the House's explanation of why this Attorney General has not exercised that power under section 6 and, if he feels that it is not clear enough now that he has this power, why he has not amended the legislation to give him that opportunity to right these dreadful wrongs and to protect community safety. Why is it that, for all the talk, there is no action in this respect? He then went into his usual personal attack on me and then he started to go into the merits of the amendments proposed by the then Labor opposition to the bill then before the house. At page 4147 of *Hansard* of 28 June 2016, he mentioned the case of Wimbridge, who was remanded in custody for a breach, and he said —

This goes to one of the other amendments. One of Labor's amendments provides that a sexual offender charged with any breach of a supervision order must not be offered bail; he must be held in custody. The Attorney General sought to dismiss this amendment, stating that people could not be kept in custody on the mere suspicion that they have breached an order.

That is not quite what I was saying, but accuracy is never an impediment to Mr Quigley —

The Attorney General is wrong not only in his constitutional approach to reserve powers, but also in relation to this. A person cannot be arrested on mere suspicion. A search warrant can be obtained on the suspicion that something will be detected on premises that offers evidence towards an offence, but someone cannot be arrested on mere suspicion. There must be a reasonable belief that can be objectively tested against known facts that a person has committed an offence before that person can be arrested. The Attorney General was wrong, and we will come to that in consideration of our amendment later.

It is apparent that, as a consequence of that arrest, the proposition was being put that they ought not to be allowed any bail on being arrested and until the breach was determined. We will see how the current amendments match up to that proposition. A couple of other comments about powers and the like that may be of relevance are on page 4176 —

So we come back to the Dangerous Sexual Offenders Legislation Amendment Bill 2015.

He got a little diverted, once again, into simple slander, but at least it kept him off the streets —

The notion that proposed section 7A expresses only a reserve power that has always been with the Attorney General, and that what we are doing by changing the legislation to say that anything the Director of Public Prosecutions does is done in the name of Western Australia merely cleans up that reserve power, is 100 per cent wrong. It is not a reserve power; for the reasons previously given, it is a power conferred upon both the Attorney General and the Director of Public Prosecutions by the legislation to protect us from situations such as what happened on Saturday night, with Wimbridge raping another victim. It is to protect us in situations in which no less than the Minister for Police comes out and says, "I'd throw away the key"—referring to Lyddieth—and then comes into this Parliament and says, "We totally surrender the authority to seek a cancellation of the supervision order or to appeal the supervision order."

She did not say that —

I stress that these are not prosecutions; these are administrative actions undertaken by the DPP. The Director of Public Prosecutions recognised that there was some tension between the Dangerous Sexual Offenders Act and his office, and he said so in his submissions to the review of the DSO legislation. The way that the government has tried to resolve this is to just hop in and surrender all authority to the DPP.

Again, if that is the case and he fears that is what the consequence of any amendments were back in 2016, no doubt the Leader of the House will be able to explain why that is not being remedied to give the Attorney General the clear ability to take a different view from the DPP and to appeal or to overturn the decisions of the DPP and remedy the problems in his desire to achieve community safety.

A couple of other ideas were floated in the other place on the same occasion, one by the now Minister for Police, who commented on the amendments proposed by the government after its review. She asked —

Does this legislation go far enough? I do not think so. Is it strong enough? I do not think so. Does it go anywhere close to what the Minister for Police alleges she supports? No, it does not.

She proposed that rather than have two-year review periods, it should be reviewed every five years. No doubt the Leader of the House can tell us why that is not being fixed up. Why are we not having five-year reviews while fixing the problems with the legislation by this activist Attorney General? She continued —

I certainly think this can be toughened up, because I personally believe that the community has a right to say that those people who pose a serious risk of harming us—me, our children, our wives and our mothers—who are not rehabilitated enough, who have raped and in a degrading way sexually assaulted little children and women, and done it not just once, twice or three times, but many times over in the most obscene way, should be locked up and we should throw away the key. That is my view. To say that we do not have a right as a community to do that is just wrong.

That is what the current Minister for Police said. She continued —

I do not think toughening this up more is prevented by the Constitution. If it were, we should change the Constitution because I think it is wrong.

I look forward to the Leader of the House telling us why that is not being done. Let us change the Constitution and fix it the way that the Minister for Police reckons it ought to be done. She continued —

I think that the victims and potential victims' concerns need to be put first here.

She goes on in that vein for a little longer, and continues —

The balance has to be in favour of the victim. The balance has to be in favour of all the little children going to school in this good state. Why should they be put at risk because it may or may not be in the interests of an offender?

That is not the whole point of the legislation, but leaving the rhetoric aside, it continues —

If we can make a law to have the death penalty for some crimes, certainly we can make a law to impose life imprisonment.

I do not know whether she just does not understand the legislation, which is probably right, or is simply just talking for the sake of it, which is probably right too. But, again, here is the government's opportunity to fix that and present the fully unredacted report, to see what it has to say, and to see what it was the government of the day was allegedly hiding and to craft amendments accordingly.

One Paul Papalia complains about GPS tracking, saying that he thinks it just stands to reason that one of the consequences of introducing GPS trackers is an increased number of dangerous sexual offenders on the streets of Western Australia. That can be fixed, can it not? The government can introduce an amendment to ensure that that is not taken into account, like it did last year, and insist that it was only right and proper. He goes on to state at page 4183 —

... all these years later, all this time later, what we get is not a toughening of legislation, not a tightening of restriction on the release of dangerous sex offenders, but an effort by the Attorney General to avoid responsibility, to move himself out of the frame and to avoid being put in the frame to challenge the release of these dangerous sex offenders. It is clear, as has been outlined by the shadow Attorney General, that currently the Attorney General has that power. He has the authority to intervene.

...

He has the authority under the current legislation.

That means that Attorney General Quigley has the power under the current legislation. If he feels that some change has affected that, let him fix it in the public interest. I will continue to read from page 4206. I do not pretend that this is exhaustive of the various references, but it just got too boring to read the same stuff over and again.

Hon Alannah MacTiernan: That is a very —

Hon MICHAEL MISCHIN: I note that, Hon Alannah MacTiernan. I am sure that it is dull for you.

Hon Sue Ellery: Not just her.

Hon MICHAEL MISCHIN: But I pity those who had to listen to this in the other place.

Hon Alannah MacTiernan: The walking Mogadon!

Hon MICHAEL MISCHIN: You do not have to stay!

Hon Alannah MacTiernan: I just have to see it.

The ACTING PRESIDENT (Hon Robin Chapple): Okay, members.

Hon MICHAEL MISCHIN: The member might learn something.

The ACTING PRESIDENT: Hon Michael Mischin has the call.

Hon MICHAEL MISCHIN: At page 4206 it Mr J.R. Quigley states —

What is wrong with requiring the accused to satisfy the court of his sincerity of resolve to comply with every condition of the order?

I stress "every condition of the order", which is what was being proposed at that time by the Labor opposition. It continues —

Why should an offender not come before the court and express his sincere resolve to comply with all the conditions of a supervision order and express his sincere resolve to the extent of satisfying the judge to a high degree of probability —

I stress “a high degree of possibility”, not just the balance of probabilities —
that he will not offend again? ... That is what the community expects.

He went on —

I challenge members on the government benches: is there anyone who thinks that it is unreasonable to expect an offender before the court for review to provide the court with evidence to satisfy it to a high degree of probability that, if released, they will not commit further offences or break the conditions of their supervision order? Is there anyone on the government side sitting over there who thinks that is unreasonable? They are all silent. No-one is challenging me.

I think Hon Alannah MacTiernan would probably agree that they were probably all asleep at that time —

Does the member for Balcatta want to challenge me on that? Does he think that is reasonable?

Then he challenges the member for Balcatta —

When an offender is coming up for review, is it unreasonable for the offender to be required to convince the court that he will obey the conditions of the supervision order?

It continues —

They should be compelled to try to convince the court that they will comply with all their obligations.

All their obligations, Mr Acting President. It continues —

I cannot believe that the member for Balcatta could not understand that.

Hon Alannah MacTiernan interjected.

Hon MICHAEL MISCHIN: I am sure that I will hear a contribution to the debate from Hon Alannah MacTiernan, who will explain some of the things —

Hon Alannah MacTiernan: I do not object to you making these points, but you are going over and over the same ground.

Hon MICHAEL MISCHIN: I certainly will.

The ACTING PRESIDENT: All right, members. Hon Michael Mischin has the call; I am sure we will progress quickly if there are not too many interjections.

Hon MICHAEL MISCHIN: Thank you; I will take as long as I need. At page 4212, then shadow Attorney General Quigley spoke about the proposed amendments that the Labor Party thought were essential at that stage to meet community safety requirements. He said —

Under this new clause, the person who is the subject of the supervision order can be brought before the court only by way of a warrant for arrest; and, if he is brought before the court on a charge of breaching the supervision order, he will be detained in custody until the matter is determined by the court, and bail will not apply.

At page 4213, he continued —

The government says that to hold these offenders in custody while these allegations of breaching the supervision order are outstanding would be too onerous, —

That is not what the government was saying at all. But, as I say, Mr Quigley and accuracy are not exactly well acquainted with each other —

yet the government is prepared to hold people such as Ms Dhu in prison for an unpaid parking fine, and she died in prison.

Just to show members his level of knowledge, she was not in jail for an unpaid parking fine; she was fined for some assaults, I think, on public officers. I am not sure whether anyone is in prison for a parking fine. Mr Quigley then alleged that the member for Eyre, at that time, was open to criticism. He said —

The member for Eyre is going to support releasing those people on bail. I am surprised that he does not take an independent stand. He is going to line up here, because he has been told to, and say that it is okay by him that serious sex offenders charged with breaching their supervision orders go out on bail. It is outrageous.

Talking again about moving some amendments that were pertinent to the ones on the supplementary notice paper and tied in with what was being proposed by the government in its amendments, on page 4215, Mr Quigley said —

In moving our amendment, we say that if the court is satisfied on the balance of probabilities that the person who is the subject of the supervision order is contravening or has contravened a condition of the supervision order, the court shall make a continuing detention order in relation to that person. This will considerably stiffen up the government’s bill in favour of victims. It provides that if there is a breach of

the conditions of the supervision order, there will be a detention order. It makes it clear to offenders: “If there’s a breach, you will go back inside. There will not be an amendment, an extension or otherwise of the supervision order. A breach of its terms will see you back in jail.”

There “must” be imprisonment. That translated into a document dated January 2017 titled, “WA Labor Law Reform Initiatives: A Fresh Approach for WA”. A passage on page 6 of that edifying document under the heading, “Introduce changes to the dangerous sex offender laws to protect the community” states —

WA Labor will strengthen the Dangerous Sex Offender laws to better protect the community by reversing the onus of proof which will require dangerous sex offenders to satisfy the Court that on the balance of probabilities —

Not to a high degree of probability —

they will comply with each and every condition stipulated by the Supreme Court as part of a community supervision order.

Each and every condition. The document continues —

The problem with the current system is that a dangerous sex offender can seek to avoid conviction by pleading not guilty and never admitting the offence, a constitutional right, however, after conviction the dangerous sex offender is not required to participate in any rehabilitation programs, nor admit the offence as a first step on the path to rehabilitation and a dangerous sex offender can sit and serve a full term of imprisonment.

That is right, but that is what the dangerous sex offender legislation is for: to ensure that if they are a continuing danger one of the factors that would be taken into account would be the level of acknowledgement that their behaviour needs addressing, apart from other things. The document continues —

- **A McGowan Labor Government will introduce changes to the dangerous sex offender’s laws to protect the community.**

At the expiration of the term the Director of Public Prosecutions may seek a Community Supervision Order or continuing detention. If offered a Community Supervision Order a dangerous sex offender is not required to demonstrate any understanding of abhorrent behaviour, nor convince the Court of any resolve to abide by the conditions of any Community Supervision Order.

That is not right. Before a court can release someone under a supervision order, it has to be satisfied, bearing in mind the paramountcy of community safety as a consideration, that they can be controlled in the community by compliance with those orders. Nevertheless, on the WA Labor understanding of the law, it formulated this particular policy to reassure the community that if it got elected, any problems would be fixed. The document continues —

Perpetrators who break the conditions of a supervision order are regularly re-released into the community on bail pending the Court’s investigation of an alleged breach and a further determination by the Supreme Court.

Far be it from me to suggest to lawyers such as Mark McGowan and John Quigley that they may be wrong, but courts do not investigate matters; they deal with evidence before them. In any event, Labor goes on to state —

WA Labor will cease the immediate re-release into the community by providing that there will be no bail applicable to dangerous sex offenders against whom there is a credible allegation they have breached a Community Supervision Order. This means they will remain in custody until the allegation of breach has been dealt with by the Supreme Court.

Tough stuff indeed. What happened? Labor was elected in March this year and since then a number of sex offender matters have come before the Supreme Court and offenders have been released under supervision orders. No action was taken by this government to tighten up the legislation until June, when a media release announced —

Mark McGowan’s cabinet has given the go ahead for legislation to be drafted which will strengthen WA’s dangerous sex offender laws.

As is usual, John Quigley came out and made some large claims about what would happen in that legislation. The media release from 14 June 2017 reports that the spokesperson for Attorney General Quigley stated —

“These changes will address the problems in dangerous sex offender legislation raised by WA Labor in opposition,” —

The release continues —

Measures to be included in the soon-to-be-drafted legislation will mean prisoners will have to “bear the burden” of satisfying the courts they will comply with any supervision order conditions.

Removing the court’s discretion to release an offender on bail during proceedings relating to a supervision order breach, until those proceedings conclude, will also be included.

This is robust stuff and consistent with Labor's policy in January, before the state election. It comes after WA today revealed on Saturday that yet another dangerous sex offender would soon be released back into the community. This one was Macker Joseph Dinah, who had a long history of sexual offending, having been convicted of rape in 1984, indecent assault in 1987 and aggravated sexual assaults in February 1990 and May 1990, and had served lengthy terms of imprisonment. Fifty conditions were attached to his supervision order. Offenders have to satisfy the court that they will comply with any supervision order conditions and, if there is a breach, they stay in jail with no bail until that is resolved.

Then we get to the year before, on 29 June, and back to a character named Wimbridge again. John Quigley was seeking changes that would ensure sex offenders accused of breaching their supervision orders were locked up and did not get bail. The Labor Party planned to put a greater onus on them to prove they were no longer at risk of reoffending. So far, so good.

There is much talk about how this legislation will fix the problem and comply with the Labor Party's commitments before the election. Then a problem arose. Another dangerous sex offender was released and there was still no legislation, until September. I think the week before this announcement, a judge of the Supreme Court had made an order that this offender be released under a strict supervision order with 50-odd conditions. However, the government had to endure the sort of outrage that it was quite happy to direct at the last government. It went into what is commonly called damage control. That was dealt with in the usual fashion by way of a media release. It was said on 5 September 2017 —

The McGowan Labor Government will this week introduce changes to the dangerous sex offender laws to better protect the community.

The Bill amends the Dangerous Sexual Offenders Act 2006 (WA) and the Bail Act 1982 (WA) to fulfil one of the McGowan Labor Government's key law and order election commitments.

Mark McGowan went on to say —

"We made a promise to the people of WA to make it tougher for dangerous sex offenders to be released into the community, which we are honouring.

"The system for dangerous sex offenders as it currently stands is failing the community and it requires reform.

"This was demonstrated time and time again under the former Liberal National government.

"Unlike the previous government, we have moved swiftly to introduce significant reforms to toughen up these laws and to bring them more in line with community expectations."

That move was taken only in June, if we believe the media releases. Why should it have taken that long, given that the legislation had already been drafted last year to fix the problems? After all, the amendments that were introduced last year by the Labor Party and which it insisted should have been passed, were already available. The Labor Party has suddenly been hoist on its own petard. A few dangerous sex offenders have been released and people have noticed and remembered what Labor had to say about it. These comments were attributed to Attorney General, John Quigley —

"These amendments seek to strengthen the overall dangerous sex offender regime in WA.

These are the usual motherhood statements. He continues —

"The amendments include reversing the onus of proof so that prisoners will bear the burden of satisfying the court that they will substantially comply with all the standard conditions of any Community Supervision Order.

What happened to complying with all the conditions? What happens if an offender does not comply with all the conditions? Is it "back in jail, sunshine"? No. The Labor Party is going to toughen up the legislation so that offenders have to satisfy the court that they will substantially comply with all the standard conditions. Given that dangerous sex offenders have already been found to pose a serious danger to the community, it is only right in cases when the court is not satisfied that they will comply with conditions allowing them to be supervised in the community that they should remain in custody. That is no different from what is currently the case. The court has to be satisfied that, having regard to the safety of the community as a paramount consideration, the risk can be managed satisfactorily in the community before an offender can be released. A positive obligation would be satisfied of that but no doubt the Leader of the House will explain how it will make a material difference.

The Attorney General continues —

"We are also introducing a presumption against bail for dangerous sexual offenders who are charged with breaching a dangerous sexual offender supervision order.

That is a change. The way I read it, what ought to have been done, what was most important and what was repeated during debates in the other place, in public rhetoric and in the Labor Party's law reform agenda policy document,

was that there would be no bail at all, not just a presumption against it, and the offender would stay in custody until the case was determined. He continues —

“These individuals will remain in custody until the matter has been dealt with by the court unless there are exceptional reasons why they should be granted bail.

“The third key amendment is to provide for interim supervision orders, which may be required under a range of different scenarios.

That is it. Whatever happened to ensuring that the Attorney General of the day would not be able to hide from his or her responsibilities? Whatever happened to the idea that before someone is released, they need to satisfy the court to a high level of probability that they will comply with each and every condition? Whatever happened to the idea that if they are charged with having breached a supervision order, they will immediately be arrested by warrant and go to jail and stay there until their case is determined? No doubt the Leader of the House will be able to help us out there. It is absolutely, patently clear that the bill before the house falls way short of that very large talk over the last several years. The WA McGowan Labor government has perpetrated a fraud on the public. Once again, as I say, it has created an issue, raised expectations and then snuck away from them.

On 7 September a report appeared on page 9 of *The West Australian* with the headline “City’s fury over release of sex fiend”, about the same offender who prompted action. It states —

The State Government is pondering how communities can be more adequately warned when a dangerous sex offender is released into the neighbourhood after residents in Geraldton were blindsided by news a paedophile with a 40-year offending history is coming to live near their schools.

Community anger and political name-calling increased yesterday as the release of the 67-year-old repeat sex offender sparked an emotional response.

The article goes into some of his offending, and continues —

With the man due to be driven by prison van to his new home next week, Attorney-General John Quigley said he was not satisfied the community was best protected by the decision, as the Opposition demanded the decision be appealed.

The boot is on the other foot, and Mr Quigley now has the opportunity to right this wrong and to interfere, to appeal and to deal with the problem in his robust activist fashion—do what he said I had been neglectful of doing. With a man of action like him, I am sure that he immediately took advice on the subject and lodged an appeal, or, if the Director of Public Prosecutions was not prepared to do it, he overrode the DPP with the reserve powers at his disposal. But look —

Mr Quigley said his legal advice was an appeal was unwinnable.

Instead, he turned the table on the Liberals, claiming their denial of proposed amendments to the law while in office last year had led to the WA Supreme Court decision.

He also confirmed that a review of protocols around how communities could be better informed about such a decision was on the cards.

“On the cards”? Is it going to happen or not? What does “on the cards” mean—thinking about it; tossing a coin? It continues —

The Department of Education said it was not required to be notified about such releases, saying “the WA Police’s responsibility for dealing ... with potential threats to community safety”. I don’t know the detail of why the Geraldton community weren’t informed. I don’t know and I will get to the bottom of that,” Mr Quigley said.

We still have not heard anything more on that. In fact, he was on the radio about a week later, and was asked the simple question of whether this person would be on the community sex offender register, and he could not even answer that question. He said that he would look into it. As usual, we end up with a comment from Gary Adshead that, sadly, is inaccurate but once again affirms that some sort of action by someone ought to be taken on these issues.

The level of handballing of responsibility is interesting. Once again, Attorney General Quigley is incapable of taking responsibility, having been very vocal about how these matters ought to be dealt with by government. What does he say about it? Media comment in *The West Australian* of 6 September, headed “Sex offender will live close to school”, states —

Quizzed on the man’s release, Mr Quigley said it had occurred “because his case was decided under the slack laws of the Liberal Party”.

“The test used to be, could he be managed in the community,” he said. “The new test will be, has he convinced the Supreme Court under his burden, his onus, that he will not commit another sex offence.

“I can’t imagine a person like (him) being able to convince any court that he’ll never commit another sex offence.”

No doubt the Leader of the House will point us to bits in the legislation that make that assurance and how it is different from the current test under which a court has to be satisfied that community safety can be preserved, notwithstanding a release into the community. Indeed, the only reason a court can release someone under a supervision order into the community is if it is satisfied, having regard to the paramountcy of the safety of the community, that he can be adequately managed. Another question I would like the leader's assistance on in due course is the allegation that somehow the "slack laws of the Liberal Party" were the cause of the case being decided the way it was. I presume what is meant by that is that if the amendments proposed by the Labor Party last year had been implemented, this would not have happened. But, then, what we have been presented with this year is nowhere near what the Labor Party proposed last year. Which particular set of laws will ensure that this never happens again and would not have happened in the case under consideration—the one decided by Justice Archer most recently?

When this subject was raised in the other place, the Attorney General refused to explain. I suspect that was because he cannot point to any element of Justice Archer's reasons for decision that in any way depended on a view of the law that would be different under this legislation, if it is passed. Again, he cannot help himself by abrogating responsibility and by blaming someone else for the problems that he is facing. Once this legislation goes through, of course, he will have nowhere to move. I look forward to him trying to explain to the public why any public disquiet has not been remedied by his proposals before us today. Of course, what he is proposing today is different from what he proposed last year, and I will come to that now. His second reading speech, as I have mentioned, falls far short of the Labor Party's rhetoric over the last several years. It tells us that the Dangerous Sexual Offenders Legislation Amendment Bill 2017, and I quote —

... fulfils a major commitment of the McGowan Labor government's law reform initiatives to strengthen the protections afforded to Western Australians in the Dangerous Sexual Offenders Act 2006. ...

Three central amendments are proposed by this bill. The first amendment is that the court is required to be satisfied on the balance of probabilities that the offender will substantially comply with all of section 18(1) standard conditions imposed on them under a community supervision order. Very importantly, the dangerous sexual offender will bear the onus of proving that they will comply with these conditions.

As has been mentioned, this does not match the January 2017 election platform. There is nothing in there about "substantially complying". There is nothing in there about "substantially complying with only the standard conditions". There is compliance with all the conditions of a community supervision order.

His second reading speech continues —

Given that dangerous sexual offenders have already been found to pose a serious danger to the community, it is appropriate that legislation clearly indicate that, if the court is not satisfied that they will comply with the standard conditions relating to their supervision in the community, they should remain in custody.

Again, there is no explanation for why it is only the standard conditions and why they have to satisfy the court of only substantial compliance. There is nothing in there about a high level of probability. It is totally different from the rhetoric we heard from the shadow Attorney General over the last several years that unless an offender can satisfy a court to a high level of probability that they will comply with every condition, which are all treated as being of equal weight, they will remain in custody. It is not the fulfilment of a major commitment of the McGowan government and no amount of talk about how these are the toughest laws in Australia can remedy that this is not what was promised. The second reading speech continues —

The second principal amendment is to introduce a presumption against bail for dangerous sexual offenders who are charged under section 40A of the DSO act with breaching a supervision order. When a dangerous sexual offender is brought before the court on such an allegation, they will be detained in custody until the matter is determined —

So far so good. But then comes the kicker —

unless the court decides that there are exceptional reasons why they should be granted bail.

Again, there was nothing about that in the platform or in the rhetoric over the past few years. On the contrary, what was being put last year in the amendments proposed in this place and by the opposition in the other place was that if there was a breach, an offender would be held in custody until the case was determined. As Liam Bartlett put it —

Mr Quigley is demanding that every single condition listed on these orders is treated with equal importance. One sniff of a breach of any of them and the DSO goes directly to jail until it can be tested. His changes to this madness are the only thing that makes sense.

He is not changing it. He is doing a half-change. Then we get on to interim orders. The second reading speech also covers another matter —

... when a person is suspected of actual or likely contravention of a supervision order, that person is brought to court by a warrant of arrest and not a summons.

That is supposed to be a protection of the community. In that sense, a breach no matter how trivial is treated equally to any other breach. The second reading speech continues —

This bill implements a major law and order reform commitment of the McGowan Labor government to protect Western Australians from dangerous sexual offenders.

That is a half-truth at best.

The Liberal opposition proposes to help the government meet its election commitments. There is no need for the Leader of the House to thank us. All she needs to do is agree to the amendments. The amendments will achieve the three commitments that the Labor Party promised. They will remove the ability for a dangerous sex offender to be released on bail if he is arrested for a breach until such time as the case is determined by a court. It will require an offender to prove that he or she will comply with all conditions of an order, not only sort of comply or substantially comply or mostly comply with some of the conditions. On a review, the offender has to again satisfy the court that he or she will comply with all conditions of an order. In light of the submissions made by Hon Adele Farina and the Leader of the House last year, I hope that they will support the Liberal Party's proposed amendments. I understand that the Leader of the House may be in a difficult position, but I am interested in her explanation of why her position may have changed on the matter.

Among other things that I would like to know in due course—she may be able to address these in the course of her reply to the second reading debate or at any rate in the course of the Committee of the Whole—are the extent of the consultation that has been conducted on those proposed amendments. As I mentioned, an extensive review of the act was conducted and a report tabled in this place that drew on the experience of the prosecuting agencies, those responsible for monitoring these offenders in the community—the courts and others. The government has no doubt also consulted on these essential changes that the government says will fix the problem for all time. I am interested to learn the extent of any consultation and with whom and the recommendations that emerged out of that consultation.

As I have mentioned, the Attorney General has claimed that the lax laws we passed last year and, I assume, not accepting his proposed amendments, which he has now qualified to a large extent, were responsible for the release of the offender by Justice Archer. He certainly went out and told the public that and blamed us for it. No doubt he has a basis for that and I look forward to the Leader of the House explaining to us where Justice Archer would have gone differently had these proposed amendments been at her disposal so that we could be satisfied that they will achieve the end that is being put forward for them.

If she cannot put her fingers on the relevant passages, I am quite happy to assist in that exercise and explain them. I am happy to go through that judgement paragraph by paragraph. She might also be able to answer whether the release would have been affected or some other mechanism in the course of that decision. I would like some statistics on the manner in which these cases have been dealt with since Labor got into office and the activist Attorney General took responsibility for administering this area of the law. How often does he consult with the Office of the Director of Public Prosecutions? Does the DPP see him regularly and say, "Hey, a dangerous sex offender application has been brought. Can I get your views on it? What do you think? This is what's happening." How often has that happened? How many dangerous sexual offenders have been released on supervision orders since March this year? How would these amendments have made a difference? How many have been appealed? Why has he not appealed them or does he agree with them? If he feels he cannot appeal or cannot exercise independent judgement, as he said should have been done over the last several years, why not? How can we help him out to give him those sorts of powers?

On that note, I look forward to hearing more about the manner in which this legislation is meant to operate and, hopefully, the Labor Party will accept that the amendments proposed by the Liberal Party will be the sorts of improvements it was striving to achieve last year. We thought they were unnecessary or might cause problems. We were assured to the contrary and now the government with its overwhelming majority in the Assembly, with our support —

Hon Simon O'Brien: A mandate.

Hon MICHAEL MISCHIN: Yes, a mandate. With our support, it can achieve those ends and fulfil the policy that it put in its January manifesto for how this law should be shaped and crafted and operate. I know that there may be some opposition from other members in this place for a variety of reasons and I respect that, but with our support, the Labor Party can do what it promised the people of Western Australia it would do.

HON CHARLES SMITH (East Metropolitan) [8.49 pm]: First of all, it is my duty to advise the house that the crossbench will, reluctantly, support the passage of the Dangerous Sexual Offenders Legislation Amendment Bill 2017. I have spoken in this house before about the Attorney General's crime bills. My assessment is that his endeavours to appear tough on crime are still firmly fixed in the frayed ends of sanity. I have previously described them as wishy-washy and namby-pamby and this bill has not changed my views. I will quickly recap. The meth bill was pointless and deceptive. The no body, no parole bill was pointless and deceptive. And yes, the dangerous sexual

offender bill, is pointless and deceptive. I am seriously concerned that the Attorney General has little grasp of the nature of crime in our community or of how little effect his bills will have. Is he cynically introducing crime bills that will have no tangible or measurable effect on society? I guess the next two years will confirm whether that is the case.

On this occasion, Hon Michael Mischin has hit the proverbial nail on the head. I will not tire the house by reiterating some of the issues that he has covered very well and very concisely. However, I will make a few comments on this half-baked bill and its foundations. This bill was declared an urgent bill. What absolute rubbish! I think the Attorney General urgently wanted to make some headlines. I believe that there is already adequate provision in legislation to detain dangerous sexual offenders; it is called a permanent detention order. Supreme Court judges can refuse to release offenders who they deem are too dangerous to be released into the community. Therefore, this bill was not urgent. What is urgent is the spin the Attorney General tried to put on it and the need for our judges to plug into community expectations about releasing people who have been classified as dangerous sexual offenders.

The primary provision of this bill appears to be the reversal of the onus of proof. As we have heard, the burden will shift to the detained prisoner to demonstrate to the court's satisfaction, on the balance of probabilities, that he will not reoffend and commit a further sex offence. This sounds great, but in all practicality this fancy primary provision is next to pointless. No doubt, it sounds impressive to the layman but, again, this crime legislation is all sound and fury, in the end, signifying nothing of consequence. Another provision is that if a dangerous sexual offender who has been released from custody under a supervision order breaches that supervision order, the bill proposes to proceed by way of a warrant rather than by summons. This legislation allows the issue of an arrest warrant that may be in existence for days, weeks, months or even years. Again, there is no real advantage in this legislation; it just sounds good. In all practicality it is essentially pointless and as my honourable colleague Hon Rick Mazza is prone to tell me, it is just retail cynical politics, which is something that this government excels at.

HON ALISON XAMON (North Metropolitan) [8.54 pm]: I rise as the lead speaker on behalf of the Greens on the Dangerous Sexual Offenders Legislation Amendment Bill 2017. This bill seeks to amend the Dangerous Sexual Offenders Act and the Bail Act. We know that the Dangerous Sexual Offenders Act applies to people who are 16 years old or over, so it also applies to people who are classified as children. The Director of Public Prosecutions or the Attorney General can make the applications to the court, which makes it very different from a lot of other legislation. If the court finds that the person has served time in prison for a serious sexual offence and is still a serious danger to the community, it can order that the person continue to be detained for control, care or treatment, or be under the supervision of a community corrections officer after leaving custody.

At the outset, I have to note that the Greens have been consistently concerned about the constitutional implications in particular and the concerns about indefinite detention around this legislation. Nevertheless, a serious danger to the community, as defined within the act, is an unacceptable risk that, if neither order is made as described in the legislation, there is the concern that the person would commit a serious sexual offence. The standard and optional conditions of supervision orders are in section 18 of the act. I want to make some comments about the standard conditions because they are pertinent to some of the concerns that the Greens hold about what is expected to occur with this piece of legislation. The standard conditions are to report to the community corrections officer at a place and time specified in the order and to advise the officer of current name and address; to report to, and receive visits from, a community corrections officer as directed by the court; to notify a community corrections officer of every change of name, residence and employment at least two days in advance; to be under the supervision of a community corrections officer and comply with their reasonable directions; to stay in or out of WA unless the community corrections officer gives permission otherwise; and, reasonably, not to commit a further sexual offence during the term of the order. They may also be potentially subject to electronic monitoring.

In addition to these standard conditions, the court can also add further conditions that it thinks are appropriate in order to ensure the protection of the community, to facilitate the offender's rehabilitation, and, importantly, to protect the victim. Those conditions might be, for example, limitations on curfews. If an offender breaches a supervision order, there are two options. Section 40A makes a breach without reasonable excuse an offence so that criminal law proceedings can be brought. Being criminal law proceedings, the question of granting or refusing bail arises. Division 4 outlines contravention proceedings such as an application for the order to be changed. If there is an unacceptable risk that the person would commit a serious sexual offence, the supervision could be replaced with a continuing detention order. Those are not criminal law proceedings, so bail does not come into play. The standard of proof is the balance of probabilities.

Part 2 of the bill amends the Bail Act. If breach proceedings are brought under section 40A of the Dangerous Sexual Offenders Act, the offender will be detained in custody and bail will not be granted unless the judiciary or the authorised officer is satisfied that there are exceptional reasons for bail to be granted. Once bail is refused, it will not be considered at a later court date unless the accused satisfies the court either that new facts have been discovered, new circumstances have arisen, or circumstances have changed, or the accused failed to adequately present the case for bail at the time.

Part 3 of the bill will amend the Dangerous Sexual Offenders Act. The court can make or amend a supervision order only if it is satisfied, on the balance of probabilities, that the offender will substantially comply with all the standard conditions. The onus will be put on the offender to prove that that will be the case. If police or a community corrections officer reasonably suspect that a person on a supervision order is likely to contravene, is contravening or has contravened the order, there will be no summons. Instead, the person has to be arrested and detained in custody without bail, unless a court decides that there are exceptional reasons for granting bail, and the court is satisfied, on the balance of probabilities, that the offender will substantially comply with all the standard conditions. Again, the onus of proving this is on the offender. The court may make an interim supervision order if an application is pending, if the person is not in custody and if the court is satisfied that the interim order is appropriate.

I understand that this legislation provokes some very different responses within this chamber, which is unsurprising, considering that this chamber is made up of a wide variety of parties that have very different approaches to issues of offending and the best way to respond to it. I note there are a number of amendments to this legislation on the supplementary notice paper, which were also debated in the other place. Rightfully, they are also able to be debated in this place, as the house of review. I note that the general thrust of the amendments responds to concerns raised by the opposition that the bill does not go far enough. I understand that those concerns have also been expressed by some other opposition parties, and that the amendments seek to make the bill even more onerous. The Greens have a different position on this approach, and we will undoubtedly have an opportunity to debate those different approaches as the amendments are moved. I need to note from the outset that there are very different opinions about the best way of dealing with dangerous sex offenders, and it is a very difficult balancing act from a law and order perspective. I need to be very clear that the Greens have historically opposed post-sentence detention orders, but we have supported post-sentence supervision orders and also, more significantly, original sentences. We continue to advocate strongly for the greater provision of rehabilitation services, ensuring that people are given whatever tools they need to help them stop offending in the first place.

I note that a review of the Dangerous Sexual Offenders Act 2006, which has been referred to already, was announced in 2014 and tabled on 28 June 2016. The review was conducted by the Department of the Attorney General, in consultation with the Director of Public Prosecutions, the Department of Corrective Services, WA Police and the Commissioner for Victims of Crime, with input from stakeholder written submissions. It would probably have been useful to hear also from the Commissioner for Children and Young People, considering that this legislation can potentially apply to children who have offended. It would have been useful to have heard from that perspective. I note that the review was undertaken in the first place as a result of an outcry over TJD, a dangerous sex offender who was put on a post-sentence detention order in 2011. He was then put on a supervision order in 2012, after the annual review of that order. He contravened that supervision order and was put back on a detention order in 2013, and then was again put on a supervision order in 2014, after an annual review. Within days he had contravened that order. He was fined \$300 for that contravention. The review covered various matters but, relevant to this bill, the review concluded that the existing process for contraventions works well and that stakeholders did not identify concerns about the consequences of contravention, penalties or bail. It raises the question about why much of this bill is even being considered right now. I am aware that it is part of an election commitment, but it raises a very real issue for people who are beholden to this place to craft good legislation.

The Greens continue to have a number of issues about facilities for managing complex offending, and we asked a series of questions at the briefing about current services, particularly what facilities and services are available for dangerous sex offenders on supervision orders and continuing detention orders, whether it is working and, importantly, how we assess whether it is working. We received a comprehensive answer, and I appreciate that, but I note that there is still no reply to our questions about the efficacy of these programs and how these programs are being assessed. We have been told only that evaluation is an offender management strategy and development function. I want to express from the outset that that is a concern, because when we are looking at the implementation of these programs and services, we need to know what is working and what is not, and how effective they are.

Part of the reply that I received stated that psychological services provides a range of services in the assessment and management of people subject to DSO orders. Psychologists provide three main types of services: assessments, consultations and psychological interventions. However, we are told that the funding cannot easily be broken down, as they provide services to various cohorts of offenders at different times, depending on the demand and the need. Assessment services include risk assessment reports on prisoners being considered for DSO applications; treatment and management plan reports to assist the court with the identification of relevant supervision, management and intervention strategies for people subject to DSO proceedings; treatment update reports used to provide the court with information about a DSO's treatment progress; and other assessments as requested by the court, such as contravention hearings. Consultation services involve participation in regular risk management meetings with community justice services and WA Police; the provision of advice and support to community justice staff, police or prison staff as required to assist with the management of risk issues or offender behaviour; psychological case management of prisoners or offenders when they are engaged in interventions; and delivery of

training on managing high-risk, high-need sex offenders. Psychological intervention services involve individual psychological counselling to address criminogenic needs, and contribution to the development and implementation of systemic interventions for DSOs when necessary.

There are also some contracted services, particularly for DSO supported accommodation, and that is a particularly important area that needs to be looked at, because we know that there has been an ongoing problem for people who are trying to receive appropriate rehabilitation and get on with their lives in the community, and how that has been generally responded to in the community. There is what is called a first service contract, and the program supports DSOs who have accommodation placements only, either through private accommodation or through three accommodation units provided by the Department of Communities and head-leased to a service provider. The service provider supports up to six clients at any one time for a minimum of six months pre-release, and for a post-release period determined between the department and the service provider, based on the client's needs.

I note that referral to the DSO program is made by adult community corrections in the department, and upon referral the service provider initiates contact with the DSO client, and interagency support stakeholders to accommodate and support the client to meet their release order requirements and all other mandated or lawful orders and requirements. The service provider ensures that collaborative working relationships are developed and maintained with key internal and external agencies and that these relationships are given the highest priority to optimise public safety. It sounds good. Of course, I do not know whether it is meeting the need, whether it is sufficient or whether, with the introduction of this legislation, it will be able to deal with any increased demand that might eventuate. I note also that there is a second service contract and, through the DSO program, supported accommodation. The service provider supports up to eight DSO clients in the metropolitan area at any one time through both supplied housing and private rental arrangements, and referral to the DSO program is exactly the same as for the previous contract.

There is also a specialist re-entry link program that provides pre and post-release support to prisoners with life and indeterminate sentences and sex offenders, and that is to enhance the ability of offenders to assist with their reintegration into the community. Through the program, the service provider provides pre-release and transitional planning and support, facilitation of group-based life skills programs, financial counselling, support with short and medium-term to permanent accommodation, assistance with seeking and maintaining employment or training and education, assistance with reconnecting with community and family, assistance and advice on health matters and medication. A range of issues relating to assistance have been identified. Once again, the degree to which this is meeting the current demand is not clear. It is good to be made aware that these types of programs are available, but it is very unclear to me whether this even comes close to meeting the demand, and this is something that I will certainly pursue beyond the scope of this legislation.

I also need to make some comment about the overlap between people who are identified as dangerous sex offenders and the Criminal Law (Mentally Impaired Accused) Act and, generally, people with mental impairment. We know that a number of people who will be identified as dangerous sex offenders may also live with various types of cognitive impairment, including impairments that have been caused by foetal alcohol spectrum disorder, and issues of impulsivity. That is a very big issue, as are issues around mental illness. We need to recognise that we are talking about people who, by their very behaviour, have demonstrated that they are dangerous, which is why they are classified as dangerous sex offenders. But if we are looking at issues of indefinite detention, we need to ensure that there are appropriate facilities for people who may potentially be caught up under regimes around, for example, custody orders. I have spoken before about justice centres and the need for long-term appropriate facilities for people who may not be able to be released into the community safely. I note it is a very complex area and one that we will have to get a lot better at dealing with. It will be interesting to see whether, with the review of CLMIAA and without the threat of indefinite detention, more people are picked up who otherwise might have been caught under the dangerous sex offender legislation.

One of the questions that this legislation raises is: what is the nature of the problem that we are trying to resolve, considering the outcome of the review that was undertaken; what mischief is the bill trying to address, apart from the issue of public fear? I understand from the briefing that I received, and I thank the government for being quite generous with its briefings —

The ACTING PRESIDENT: Member, some members in the house are struggling to hear you, so perhaps you could speak up.

Hon ALISON XAMON: I will do my best. I do not have a big booming voice. I apologise for that; I get told that a lot.

One of the questions that this bill raises is: bearing in mind the outcome of the review, which did not identify that huge systemic problems needed to be resolved, what is the nature of the problem that we are trying to resolve; what are the concerns that we are trying to resolve? I am concerned that we are trying to address issues that are based simply on public fear rather than a genuine concern about existing legislation. I understand from the briefing

that as at 4 September 2017, there were 45 registered dangerous sex offenders, 19 of whom were on supervision orders and 26 in custody. There were 20 on detention orders and six were related to other offences. No particulars were available about whether these were offences under the act or whether they were other offences. There were no bail figures. There had been 28 section 40A offences since 1 January 2017. I note that that is not 28 people, because one person may have multiple offences. Four of those people were dismissed or acquitted, one received no punishment, 12 were fined, four received suspended prison sentences and seven resulted in subsequent imprisonment. In 2016, there was a total of 29 section 40A offences—again, that is the number of offences, not people. Since the regime began, one DSO has committed a serious sexual offence. That was in 2017 and of course the name of the offender is subject to a suppression order.

The additional information I have received since the briefing indicates that as of 26 October this year, there were no juvenile DSOs, but there were 46 adult DSOs, 27 of whom were on supervision orders, five in custody and 19 on detention orders. There have been a wide range of charges under section 40A, including failing to attend supervision, psychological or police appointments or urinalysis testing as directed; returning a positive urinalysis, including a breathalyser test, to illicit substances or alcohol; GPS noncompliance, including breach of curfew, breach of exclusion zone, failing to charge devices, failing to carry handheld units or respond to the phone in relation to violations; possession of prohibited materials, including child images and pornography, and I think we all agree that that is a pretty serious breach; attending prohibited locations or events; and a breach of order conditions or written lawful instructions, such as changing address without prior approval or noncompliance with anti-libidinal medication.

Astoundingly, the Greens' question asking for the number of cases in which a continuing detention order had been sought but not granted by the court was not able to be answered. The relevant database indicates only whether a continuing detention order was made, not whether one was sought. There does not appear to be any evidence that the court is failing to make continuing detention orders when such an order is considered appropriate by the Director of Public Prosecutions. We cannot see the evidence that there is a problem. Apart from the proposed introduction of interim orders, which seems sensible, it is difficult to see what existing problem will be addressed by this bill.

Again, the review by the former Department of the Attorney General that was tabled in 2016 concluded that the existing process for contraventions works well and that stakeholders did not identify concerns about the consequences of contravention, penalties or bail. As already stated, this review was undertaken by DOTAG in consultation with the DPP, the former Department of Corrective Services, the police, the Commissioner for Victims of Crime and stakeholders. This group is not known to be soft on dangerous sexual offenders. We could in no way say that this was any sort of biased report, yet they did not see a problem that needed to be resolved in this manner.

I am going to come back to the bill and to the presumption against bail, which is part 2 of the bill. Part 2 of the bill comes very close to being mandatory detention for adults and children aged 16 years and over. The only thing that stops it from becoming mandatory is the exceptional reasons provision. The Greens' opposition to mandatory detention and the ousting of judicial discretion, particularly for children when detention for children is supposed to be a last resort and for the shortest possible time, has been discussed at length previously in this Parliament, in the previous Parliament and in Parliaments before, and it looks as though I will have to continue talking about it. I want to say that it should not need to be repeated, but I feel as though it still needs to be. Removal of judicial discretion is never good law and does not result in just outcomes. The wording in proposed clause 3D of schedule 1 part C is similar to that of bail for an accused who has been charged with murder. In this case the Greens agreed to that provision after being satisfied during debate that exceptional circumstances would in an appropriate case include a victim of family violence, for example, who murdered the perpetrator of the violence and when that person posed no risk to any other person. However, the relevant charge here is the contravention of section 40A relating to a supervision order. We are concerned that the range of seriousness is very great. Obviously, the most extreme is of the utmost seriousness. In that case we are talking about committing a further sexual assault; there is no question at all that that is profoundly serious. But the other extreme is an act that would not be an offence if it was committed by any other person or in any other circumstances. The sort of thing we are thinking about, for example, is if someone is late attending a meeting with a community corrections officer, which is in no way akin to murder, obviously; but, if convicted, the penalty may not be imprisonment at all or at least not imprisonment for as long as the person spent in custody without bail, pending trial. The bill is proposing that a person on a supervision order may be charged with a breach, be detained without bail and then be returned to a supervision order, which we are concerned may severely disrupt the supervision and the person's control, care or treatment. I note that the review itself said that this was neither logical nor fair. The review went into the history of the relationship between the act and bail. Originally there was no bail under the act because there was no offence of contravention. If a person breached a supervision order, the consequence was that proceedings could be brought under division 4 for a change of the order. This process still exists and is used in situations when the nature of the breach indicates an increased risk to the community.

The 2011 amendments to the act introduced an alternative—that is, charging a person with a breach offence under section 40A. This provides a management tool and a consequence for breaches that do not increase risk to the community or require changes to the supervision order. Both section 40A proceedings and division 4 proceedings can be brought simultaneously, in which case, after the person is brought before the court, bail is not available. I note the review says that the DPP considers that this works well. The Greens agree. We also note there are dangerous sex offenders. It is appropriate for Parliament to require courts considering bail for those people to give the most weight to the safety of the community and to victims. The reasons for granting bail to a dangerous sexual offender should be very, very clear. However, the Greens cannot agree to oust judicial discretion as it is proposed, particularly given that it was not supported by the review. We cannot support this part of the bill.

I refer now to clause 13, which is replacing section 4A, “References to commissioner of a serious sexual offence”. It involves a rewording to make it extra clear that the provision relates to a future, not historical, commission of an offence. In the briefing it was indicated that no other court case has held otherwise, that the government is just being careful by wanting to change this.

Clause 14, which amends section 8, and clause 15 and part of clause 16 consequentially deal with reapplication upon expiry of a current supervision order. Section 8 of the act currently allows for consecutive supervision orders so that as one order approaches its final year the DPP can apply to the Supreme Court for a further supervision order to take effect when the current one expires. The bill is proposing that the DPP has the option of applying for a continuing detention order instead. The Greens cannot support this particular provision. That the person is on the supervision order at all suggests that there has been no successful division for proceedings to change it. In other words, the court, and indeed the DPP, if no application has been brought, consider that this is the most appropriate order. The Greens oppose continuing detention orders on principle and, so, cannot support this part of the bill, the potential effect of which is to increase the number of people who will be subject to them. As I have already said, an increased number of people are going to be subject to this, and it is very unclear whether any additional funds will be made available in the future for the very services and programs that I outlined earlier were needed to assist people to address their offending behaviours so that they can eventually live safely within the community and so that the community can also be safe.

Clause 16, which amends section 17, and clause 17, which amends section 20, deals with the onus of proof on the offender to prove that they will substantially comply with the standard conditions of a supervision order. Clause 16 proposes that a court no longer make a supervision order unless satisfied on the balance of probabilities that the offenders substantially comply with the standard conditions of the order, and the onus of proving this is reversed and lies with the offender. This means that unless the evidence provided by the DPP is sufficient to satisfy the court, the offender will have to adduce the necessary evidence. If the offender fails to do so, the court may in some circumstances infer that the evidence would not have helped them. Similarly, clause 17 proposes that before an offender can apply for a supervision order to be amended, the court must be satisfied that the person will substantially comply with the standard conditions of the amended order. I cannot help but feel as though this is all very *Minority Report*. How are people supposed to demonstrate that they are never going to offend in the future unless they can somehow produce a crystal ball to demonstrate to a court’s satisfaction what the future definitely holds?

The offender must already comply with the supervision order conditions or risk facing breach proceedings. The changes are about the duty of the court to predict the likelihood and degree of the offender’s compliance with standard conditions before making a supervision order and is not about the offender’s duty to comply with all conditions of the order. Sections 17(2) and 22 already require the court to have as its paramount consideration the need to ensure adequate protection of the community. At the briefing it was indicated that the substantial compliance provision follows from reversing the onus; in other words, it shows how to discharge the onus. It was also suggested in the briefing that the court will most likely consider the level of compliance anyway, but the bill will be enshrining that. The bill also ensures that the court considers not only risk-related conditions, but also rehabilitation related conditions. However, one would argue that there is a strong link between rehabilitation and risk. There is no evidence that the court is not already doing this anyway. Clause 17 is perhaps less problematic because in this clause the onus will in any case be on the offender as the applicant. One issue is how an offender who is in prison will obtain the evidence to discharge the onus. A prisoner can say that they will substantially, even strictly, comply, but what other evidence can they get, especially if they have not been on a supervision order before and have not had the opportunity to demonstrate a history of compliance? The Greens asked at the briefing whether any legal aid organisations, especially Legal Aid WA or the Aboriginal Legal Service, have agreed to represent dangerous sex offenders, including arranging and paying for expert reports when appropriate. We did not receive an answer to that question and I would like to know for the record whether any legal aid organisations agreed to represent dangerous sex offenders, including arranging and paying for the expert reports when appropriate. It would appear that if we are going to change the onus of proof, we need to know whether people are able to get some sort of assistance.

Clause 18 amends section 21—that is, mandatory detention likely or actual contravention of conditions of supervision orders under division 4 proceedings. Currently, if police or a community corrections officer reasonably suspects that a person subject to a supervision order is likely to contravene it, is again doing so, or has, then they

apply to a magistrate for a summons or a warrant. If the magistrate is satisfied that there are reasonable grounds for the suspicion, in this instance they must—there is no judicial discretion—issue one or the other. Clause 18 changes this so that summons is not an option, only a warrant. This is mandatory detention, which the Greens oppose on principle, as I have said already. It is mandatory detention before a breach has even been established. There is a real risk that it could unhelpfully and inappropriately interrupt careful arrangements that have been set up under a supervision order. For example, the offender could breach standing condition 1(a), which is to report to a community corrections officer at the place and within the time stated in the order and also to advise the corrections officer of the person's current name and address, by attending half an hour late because of an unanticipated transport difficulty. We have to acknowledge that a lot of the people who are going to be on these orders may not have transport and may be reliant on our public transport system. As lucky as we are to have our public transport system, it is not infallible and it is certainly the case that people can very often be late due to our public transport system. The offender could breach standing condition 1(c), for example, which is to notify a community corrections officer of every change of the person's name, place of residence and place of employment at least two days before the change happens, simply by accepting a job to start the next day. They could breach the standing condition even if they notify the community corrections officer immediately once the job is accepted and they have started work. These are the sorts of breaches that we are talking about and I do not think that these are the sorts of breaches that we are realistically trying to capture, yet this is what the legislation potentially does.

Clause 20, which is amending section 23, deals with orders made in the event of actual or likely contravention of conditions of a supervision order, which placed the onus on the offender to prove that they will substantially comply with standard conditions of the supervision order, under division 4 proceedings. Currently, if the court is satisfied on the balance of probabilities whether the offender is likely to, is or has contravened a condition of the supervision order, it can amend or lengthen the supervision order and make it a continuing detention order if it is satisfied that there is going to be an unacceptable risk that the person would, if possible, commit a serious sexual offence or make no order. In deciding whether to make an order, the court's paramount consideration is the need to ensure adequate protection of the community. The bill is changing this for likely contraventions so that the court cannot leave the supervision order as is. The court must replace that order with a continuing detention order or amend the supervision order and if amending the order, it may also lengthen it. The briefing indicated that there are no cases in which a court has maintained a supervision order as it is while knowing it is likely to be breached. In the briefing it was indicated that the reason for the change is to make sense of the following change: that a court cannot make or affirm a supervision order unless it is satisfied on the balance of probabilities that the person will substantially comply with the standing conditions of the order as amended and the onus is on the offender to prove this compliance. Again, the paramount consideration of community protection will remain. The net effect means that it seems it will no longer be the court on application by the Director of Public Prosecutions to find that a contravention has occurred or is likely to occur and then decide on the most appropriate order that will ensure adequate protection of the community. The bill proposes an added step, in which the court has to consider whether the offender, having been found to have contravened or likely to contravene, has proved or not proved that they will substantially comply in the future. It seems a very convoluted *Yes Minister*-ish way of trying to fix a problem that does not actually exist. It also means that unless the evidence provided by the DPP is sufficient to satisfy the court, the offender will have to adduce the necessary evidence. If the offender fails to do so, the court may, in some circumstances, again infer that the evidence would not have helped them. This raises the question of how the offender can obtain expert or other evidence with which to discharge the onus. The recent review considered the question of reversing the onus in contravention proceedings, and the Office of the Director of Public Prosecutions was the only stakeholder to comment. It advised that the reverse onus would not advantage the prosecution and that if charges were laid, for example under section 40A, that the prosecution would still have to prove the contravention beyond reasonable doubt. For division 4 proceedings, the prosecution would still have to prove via evidence that the community is at increased risk. As already indicated, the review found that the current contravention process works well.

Clause 21 amends section 24A. Pending a hearing, a person can be released from custody only via onus on an offender to prove they will substantially comply with standard conditions of a supervision order. Clause 21 provides for the mandatory detention, pending hearing of the contravention proceedings. The court cannot order the person to be released unless it is both satisfied that this is justified by exceptional circumstances and the offender has proved that they will substantially comply with the standing conditions of the supervision order. The bill is removing the existing provision that allows the court to release the person in circumstances that are not exceptional, but when the DPP consents and the court has already given paramount consideration to the need to ensure adequate protection of the community. Once again, judicial discretion is being removed even when the DPP is already in agreement and the consideration of safety to the community has already been considered.

Clause 22 changes section 27A and deals with interim supervision orders. Pending proceedings for supervision or continuing detention orders, or for an amendment of a supervision order, or for contravention of a supervision order, this clause provides for interim supervision orders to be made by the court against a person who is not in custody and the court is satisfied of the desirability of such an order to ensure adequate protection of the community. This includes when an existing supervision order has or may end before the substantive proceedings are included, a situation that has, in fact, arisen in the past, as has been described. This clause appears to be reasonable.

Clause 23, is section 33 amended, which deals with a review of continuing detention orders and deals with the onus on the offender to prove that they will substantially comply with the standing conditions of a supervision order. Currently, if a person's continuing detention order is being reviewed, the court must rescind the order if it does not find that the person remains a serious danger to the community. Alternatively, if the court finds that the person remains a serious danger to the community, it must either affirm the continuing detention order or replace it with a supervision order. Again, the paramount consideration is ensuring adequate protection of the community. The bill is adding an extra requirement that the court cannot make such a supervision order unless it is satisfied, on the balance of probabilities, that the person will substantially comply with the standard conditions of the order, the onus of proof once again being on the offender. Again, it is questioned how an offender in custody will be able to obtain any evidence beyond their own undertaking in order to comply.

This legislation is a bit of a mixed bag. As the Greens have indicated, some provisions seem to be fairly innocuous, none of which seem to be a substantive improvement to the current situation and many of which the review has already determined were not necessary and are trying to resolve problems that have not been demonstrated to exist. A number of provisions reverse the rule of law, most known to be judicial discretion, by introducing elements of mandatory sentencing, and they are, and also by reversing the onus of proof without any indication that any additional supports will be made available to allow justice to occur within our courts.

As I have stated previously, the Greens recognise that there are dangerous sex offenders and that we need some very serious solutions, particularly around the intersection with mental impairment, to ensure that the community and victims are kept safe and that people are given every bit of support in order to try to address the offending behaviours. However, we are not convinced that this bill will go any practicable way towards ensuring that the community is safer or ensuring that justice will be served. As such, the Greens will be opposing this legislation. We have considered it very hard and we believe that it is not capable of amendment, except by excising most of it. With the exception of the sensible provision for interim orders, it does not seem to address any problems with the existing processes and it flies in the face of the recent review that considered this very issue. On that note, we have further questions when we go into Committee of the Whole. I look forward to being able to hopefully get some further information around this whole area when we go into committee.

Debate adjourned, on motion by **Hon Sue Ellery (Leader of the House)**.

PAPER TABLED

A paper was tabled and ordered to lie upon the table of the house.

PAY-ROLL TAX AMENDMENT (DEBT AND DEFICIT REMEDIATION) BILL 2017

Receipt and First Reading

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

Second Reading

HON SUE ELLERY (South Metropolitan — Leader of the House) [9.43 pm]: I move —

That the bill be now read a second time.

This bill seeks to amend the Pay-roll Tax Act 2002 to temporarily introduce a progressive payroll tax scale in Western Australia for five years from 1 July 2018. In response to downward revisions of general government revenue in Western Australia of \$5 billion since the March state election, the state government has had to introduce several fiscal repair measures in the 2017–18 budget to return the state's finances to a more sustainable footing. One of those measures is the temporary introduction of a progressive payroll tax scale from 1 July 2018 to 30 June 2023. Under this scale, rather than paying a rate of 5.5 per cent, Western Australian employers with an Australia-wide payroll exceeding \$100 million will pay an effective marginal tax rate of six per cent on the part of their Western Australian payroll exceeding \$100 million relative to their Australia-wide payroll and an effective marginal tax rate of 6.5 per cent on the part of their payroll exceeding \$1.5 billion.

To give effect to the new progressive scale, formulas have been devised that take into account all relevant factors to arrive at a single rate to apply to an employer's total Western Australian wages. Employers that operate in Western Australia and elsewhere in Australia will pay the same effective rate of tax on their Western Australian wages as employers with the same wages that operate solely in Western Australia.

It is estimated that around 1 300 employers will be affected by these amendments. This represents around eight per cent of all employers that pay payroll tax in Western Australia or less than one per cent of all employers in the state. Importantly, employer groups with annual Australia-wide payrolls of less than \$100 million, which comprise the vast majority of employers that pay payroll tax in Western Australia, will not be affected by these amendments.

Given the temporary nature of the payroll tax increase and its application to only a small number of the largest businesses in this state, the state government does not expect this proposal to have a significant impact on employment

in Western Australia. This measure is estimated to raise around \$435 million over the period 2018–19 to 2020–21. Other amendments necessary for the implementation of the temporary progressive payroll tax scale are contained in the Pay-roll Tax Assessment Amendment (Debt and Deficit Remediation) Bill 2017.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to a bilateral or multilateral intergovernmental agreement to which the government of the state is a party. Nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

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

[See paper 852.]

Debate adjourned, pursuant to standing orders.

MINISTERIAL CODE OF CONDUCT — CONFLICTS OF INTEREST

Statement

HON PETER COLLIER (North Metropolitan — Leader of the Opposition) [9.46 pm]: I would like to make some comments about a response I received to a question today relating to the ministerial code of conduct, which dealt directly with the non-government business item from last week. I will remind members of that item. It stated —

That this house expresses its concern at the lack of openness and transparency in the decision-making process of the McGowan Labor government.

I moved that motion intentionally as a very generic motion, not to deal with one specific issue but a multitude of issues. No fewer than 15 members on this side stood to speak, which shows the concerns that members on this side have with the lack of openness and transparency of this government at this stage of the parliamentary cycle. My issue dealt with the ministerial code of conduct, in particular, in relation to Hon Alannah MacTiernan, which I have raised on a number of occasions. Hon Sue Ellery thought that I was using this motion as an opportunity to bring down the government, which of course was never going to happen. The issue that I raised was to identify yet again the contempt that the mob opposite shows that the parliamentary procedures of this chamber in the Legislative Council are beneath contempt. The fact that members opposite have basically given a two-finger salute to this place with regard to the ministerial code of conduct is abhorrent. Once again, the reason I raised this issue was because the Premier's ministerial code of conduct quite specifically states —

Any conflict between a Minister's private interest and their public duty which arises must be resolved promptly in favour of the public interest. The same is as true for a perceived conflict of interest as an actual conflict.

That is the important point. A perceived conflict of interest is the same as an actual conflict of interest.

As I said, the contempt that is shown by members opposite and, in particular, the Premier, the leader of this chamber and Hon Alannah MacTiernan, about the Carnegie Clean Energy contract is extraordinary. I make one thing perfectly clear about this. As I said, I am a supporter of Carnegie; I have no problems with it whatsoever. There was no conflict of interest but there was most definitely a perceived conflict of interest. Hon Alannah MacTiernan had shares in that company up to 15 March this year. She was a former director of that company. She was shown in a photograph on an Australian Securities Exchange announcement from that company after the election. If that is not a perceived conflict of interest, what is? What is a perceived conflict of interest? That is why I went down the path I did today to ask that question. I asked the question because it is quite evident that the Premier does not think there was a conflict of interest in any shape or form. The Leader of the House thinks there is no conflict of interest. Hon Alannah MacTiernan thinks there is no conflict of interest because she made no declaration whatsoever, as the Premier stated, and she has not refuted that, so she has not identified any conflict of interest. Quite legitimately, today I asked the Premier —

- (1) What is the distinction between actual and perceived conflict of interest?

That is what is stated in the Ministerial Code of Conduct. I also asked —

- (2) Is minister a required to declare any conflict of interest in relation to agenda items prior to every cabinet meeting; and, if not, why not?

The answer to (2) was yes. So if there was a conflict of interest Hon Alannah MacTiernan would have declared it before the cabinet meeting. Before every cabinet, we always declared if there was a conflict of interest. The response to (1) part, "What is the distinction between 'actual' and 'perceived' conflict of interest?" was —

I refer the honourable member to the Integrity Coordinating Group paper in relation to conflicts of interest, a copy of which I now table. Further to that the Integrity Coordinating Group website elaborates as follows —

I want members to listen to this. It states —

An **actual** conflict of interest may arise when an employee is asked to make a decision as a public officer that directly affects or impacts their personal or private interests.

Importantly, some conflicts may only be **perceived**—an employee’s decision could be questioned based on a personal or private interest that may not actually have impacted any decision.”

Members opposite have dug a deeper hole for themselves with this. How can they possibly say that and look at Mother Teresa over there who has shares in this company and is a director of this company but does not have a perceived conflict of interest?

The PRESIDENT: Member! I might just remind you to refer to members by their correct title. I have not noticed Mother Teresa in here!

Hon PETER COLLIER: Okay, Hon Alannah MacTiernan. With all of that, I direct members to this document, which was tabled today by the Premier, and this is where the conflict of interest comes from. I challenge members to read this document “Conflicts of Interests: Guidelines for the Western Australia Public Sector” and say, based upon on the information we have on this issue, there is no perceived conflict of interest. The front page of the document states —

“It isn’t wrong or unethical to have a conflict of interest, what is important is that it is identified and appropriately managed.”

Go through this, members. It is about five pages but it is worth a read, I can tell members.

Hon Alison Xamon: Table it.

Hon PETER COLLIER: It has already been tabled. The document states —

Who is responsible for identifying and managing conflicts of interest?

Although CEOs and senior managers have a particularly important role in ensuring conflict of interest situations are managed appropriately within an organisation, identifying a conflict of interest is an individual responsibility.

It is called individual ministerial responsibility. Hon Alannah MacTiernan has not identified a perceived conflict of interest. Had she done that, I would not be standing here now. I would not have mentioned it in non-government business last Thursday; there would be no issue. Come that cabinet meeting when it was decided to sign-off on \$15 million for Carnegie Clean Energy Ltd, she should have said, “I have a perceived conflict of interest here; I’m a former director of this company.” There would be no issue if she had got up and left the cabinet room for 15 minutes while it was discussed and then came back in, but she did not. She sat in on that cabinet meeting. If she opened her mouth on that issue it was bad enough. If she sat there by herself it was bad enough; if she opened her mouth, it was even worse.

Let us look at this document on conflicts of interest. It refers to the six Ps: perception, proportionality, presence of mind are three of them. Let us look at perception, and I quote —

Remember, perception is important. How will my involvement in the decision/action be viewed by others?

I will tell members, there is a perceived conflict of interest. That is how it is viewed by others.

Proportionality—Does my involvement in the decision appear fair and reasonable in all circumstances?

Absolutely not.

Presence of mind—What are the consequences if I ignore a conflict of interest? What if my involvement was questioned publicly?

Hon Alannah MacTiernan should know about that. Back in 2005 she almost lost her job because her husband had shares in Alinta. Hon Bob Kucera lost his job because his wife had shares in Alinta. Hon Alannah MacTiernan almost got the sack, so she knew. She came in with her eyes wide open. If we think that things have not changed, this mob over here changed the Code of Conduct and then when Hon Norman Moore was sworn in and his wife, dare I say, had a superannuation fund with some shares in it, this mob was calling for his sacking. His wife had a superannuation fund with some shares when he was Minister for Mines. This minister here not only had shares, but also she was a former director of a company. Let us look at the six Rs on the next page: record, register, restrict, remove, relinquish are five of them. It states —

Remove—Removal from involvement in the matter altogether is the best option when ad hoc or recruitment strategies are not feasible or appropriate.

It is easy. You do not need a PhD for this. If members do not have a PhD in politics, read this document. I assume the ministers over there have read it because they signed up to it. As I said, when they went down and saw the Governor, they signed up for it. They know this stuff. To have those guys over there—the Premier, the Leader of the House and Hon Alannah MacTiernan—give the two-fingered salute to parliamentary integrity is beneath contempt. They knew. Hon Alannah MacTiernan knows she has a perceived conflict of interest. We are not going

to let this go, I can tell members right now. This has got further to go. It could all have been avoided if that member had done one very legitimate and evident thing—that is, declare a perceived conflict of interest. The problem is Hon Alannah MacTiernan thinks she is completely above accountability; she has an insatiable commitment to self-promotion. She thinks that it does not matter what she says in this chamber; it means nothing. It does not matter what she thinks regarding perceived conflict of interest; it means nothing. She is above all that. She has been at every level of government in the nation. She is above everything. That is absolute garbage. We on this side of the chamber will not allow this to end. We have an evident ministerial conflict of interest. Members opposite can carry on about it and scoff and roll their eyes and say it is a nonsense, which they continue to do. But, quite frankly, guys, you might have a massive majority down there, but you do not in here. There is one thing that is above the Labor Party; it is called the Parliament. You are not above the Parliament.

PINJIN STATION — TISALA PTY LTD

Statement

HON ROBIN SCOTT (Mining and Pastoral) [9.57 pm]: I would like to bring to the attention of the chamber a situation that is taking place in my electorate of Mining and Pastoral Region at the moment. Pinjin station, situated 140 kilometres north east of Kalgoorlie, is owned and managed by an Indigenous company called Tisala Pty Ltd. It is under siege at the moment from a Victorian mining company called Hawthorn Resources Ltd. On 5 October, I received a phone call late in the afternoon from one of the directors of Tisala, whose name is Mr Leo Thomas. He was very distressed and panicking. He is a highly respected Aboriginal gentleman from Kalgoorlie and he told me that some heavy earthmoving equipment had arrived at the station, right next to the homestead. The heavy earthmoving equipment was immediately used to start pushing earth very close to the homestead. When he approached the Hawthorn Resources workers, they told him, using the most foul language, that it was none of his business and he should not be there. They said, “We will ruin you and your family so get off this station.”

Due to the time of day, it was too late for anyone to go out to the station, so I asked my electorate officer to go out there first thing in the morning. He went out there and as he arrived he was met by the project manager from Hawthorn Resources. Again, the project manager, using foul language and very aggressively, asked who he was, what he wanted and what he was doing there. My electorate officer explained that he was out there representing me to get the information required to find out what was taking place there. When he was departing, he was accused of being a “gin jockey” by this representative of Hawthorn Resources. This remark was made in front of many witnesses.

Hon Sue Ellery: Can I make a suggestion? That expression is quite offensive. Perhaps you might describe it as —

The PRESIDENT: A quote from that individual.

Hon ROBIN SCOTT: Sorry, and I will quote. The Department of Planning, Lands and Heritage has instructed Tisala to make improvements to the homestead, the infrastructure and the other dwellings, including water tanks, water lines and pumps. However, recently, more damage has been done to water tanks, fences and pumps. We ask that the Department of Mines, Industry Regulation and Safety apply section 20(5) of the Mining Act at the station. Section 20(5) states that no mining shall take place near lands —

- (ii) used as a yard, stockyard, garden, cultivated field, orchard, vineyard, plantation, airstrip or airfield;

This matter is in the Warden’s Court in Perth and will be heard on 22 November. Tisala does not have the funds for proper legal representation. We arranged a meeting for today at nine o’clock with senior staff from the office of the Minister for Mines and Petroleum, the Department of Lands and the Department of Mines, Industry Regulation and Safety. We asked that a senior person from the Department of Mines, Industry Regulation and Safety and a senior person from the Department of Lands go the station as soon as possible to find out exactly what is taking place there. We were told that this may happen next week. Today at 12.51 pm, I received a phone call from the station, again from Mr Leo Thomas. He was again distressed and panicking. The project manager from Hawthorn Resources had arrived back at the station and Mr Thomas was told to get off the station along with all the other workers. They were there to destroy what was left of the station. I have not heard any more information since that phone call, but be assured that I will keep the chamber informed of the situation that is taking place there.

INDEPENDENT SCIENTIFIC PANEL INQUIRY INTO HYDRAULIC FRACTURING STIMULATION IN WESTERN AUSTRALIA

Statement

HON ROBIN CHAPPLE (Mining and Pastoral) [10.02 pm]: A lot of people want to talk tonight so I will try to keep my contribution brief. The other day I asked the Minister for Environment a question in reference to the Independent Scientific Panel Inquiry into Hydraulic Fracturing Stimulation in Western Australia. I asked how many community consultations will be done, and the answer was that there would be one in Perth, one in the midwest and one in the Kimberley. I am sure that the honourable minister, being a member for that area, would

understand the distances involved. In essence, to have one meeting somewhere in the Kimberley—one would presume it will be in Broome—is basically precluding the people from Halls Creek, Fitzroy, Kununurra, Wyndham and other places getting to that meeting. We know that there are also fracking proposals around the Carnarvon area, so one assumes that the people of Carnarvon who have a concern will have to travel either up to Broome or down to Geraldton. I am very concerned that the scope of consultation needs to be drastically increased. Farmers, pastoralists, Indigenous communities, traditional owners, towns and other stakeholders definitely have an interest in this issue.

Another part of the question was about whether individual communities that have declared themselves to be gas-free or equivalent will be met with independently. The answer is no. The very constituents who are concerned about fracking will not be part of the process. I am very concerned that an inquiry that the community and the Greens considered would be very inclusive will be fairly limited to only the period of Christmas and New Year. If members know the regional areas, they will know that most people go elsewhere for Christmas. I am deeply concerned that this inquiry will most probably be, as determined by the terms of reference, a technical panel. I imagine that quite clearly we are going to see all the proponents, whether that be Norwest Energy, AWE, Buru Energy and Mitsubishi, get access to this inquiry. I really encourage the minister to go a step beyond what the government is proposing and meet with the very people who are concerned about fracking in their community.

POLICE — FIREARMS AMENDMENT REGULATIONS

Statement

HON AARON STONEHOUSE (South Metropolitan) [10.05 pm]: I rise to take issue, as at least one of my colleagues has in recent days, with the draconian policies being implemented by the Western Australia Police Force in relation to the transportation of firearms in Western Australia. It is no exaggeration to say that, right now, those transportation changes are causing massive loss and financial hardship. If we do not act, and act swiftly, we will preside over the death of one of our country industries.

In case any members are unaware of the changes, they are quite onerous. Australia Post, our national carrier, is unable to comply with the strict new transport requirements. The new requirements are so onerous that there are only 11 approved carriers across the entire state. As was pointed out by another member of this place, these 11 carriers do not provide coverage across the whole state.

The following information has been provided to me: one of these carriers operates only by rail, not by road; one will carry only explosives; three will undertake only point-to-point work, meaning that they are extremely limited in commercial transactions; two will transport firearms only on behalf of government departments; one is limited to only cash transactions; one is dedicated entirely to wholesalers; one can transport guns from east to west by rail, but has no approved carriers able to connect to and from rail depots; and one operates only in specific parts of the Pilbara. I am sorry, but that is a pretty damning list of caveats. As a direct result of WA Police Force's policy, small businesses in this state have zero workable freight options.

The minister recently said that the WA Police Force is continuing to work to resolve these issues. I am sorry, but WA Police Force has caused these issues in the first place, and I mean that very literally. Not only did it issue the fiat to gun owners and dealers, but it literally caused the problem. Some of us in this place have long memories. We have not forgotten the private contractors who lost three firearms near Mt Magnet back in 2013, nor have we forgotten whom they were working for—WA Police. My recollection is that the subsequent police investigation failed to turn up any sign of the firearms, and no-one was charged in connection with the loss. I may have to ask a question of the Minister for Police in the near future to ascertain whether any of those guns were ever found or have been used in a crime. We remember who effectively lost those weapons—the very same police force that is now trying to regulate the local firearms industry out of business.

But it gets worse than that. The police, in their new policy for firearm transport, have ensured that they are exempt from the strict new transport requirements. The same police force that lost three firearms in 2013, spurring the review that led to this onerous policy, is exempt from it. Let us take a moment to remind ourselves of the policy on firearm storage as it relates to those working in the industry. We all agree that firearms need to be securely stored. Members will get no argument from me on that score. But the requirements that are now being put in place by WA Police Force are draconian. WA Police Force is now demanding that gun repairers and dealers install seismic sensors, and maintain 24/7 surveillance with a connection to designated police stations. That may be fine for dealers based in Perth, but small repairers and dealers based in country WA will find it much more difficult to comply. I do not want to go into my thoughts on the NBN, but suffice to say we get patchy speeds in the CBD at best; those in country areas sometimes struggle to get a connection at all.

These new requirements equate to an additional impost on people working within the firearms industry, and people who are going about their legal business only to be told that the police will impose more expensive compliance measures on them. It will be more difficult and they will probably be forced out of business. I received an email this morning from a gentleman who has reached that point, not because he does not want to keep working, but

because he can no longer afford to. He is a small dealer and repairer and he normally has one to five firearms on his premises, which is no more than what a sporting shooter may have at any one time, yet because he is a dealer he has to adhere to standards of storage. The cost of compliance has proved too much for him and he is now in the process of handing back his dealer's licence. Last week, a similar email arrived from a pest controller who warned that the transport requirements would put him out of business too. There goes another small business. There goes another pay cheque. There goes another meal off the table of a Western Australian family. This is all from a government that claims it wants to create jobs. I implore those members who represent country regions to have a long, hard think about how they treat firearm owners in their electorates. Law-abiding firearm owners are a motivated group, who are politically active and have long memories.

**LOCAL GOVERNMENT ELECTIONS — GIFT DISCLOSURE
MINISTER FOR REGIONAL DEVELOPMENT'S COMMENTS —
LEADER OF THE HOUSE — SUPPLEMENTARY INFORMATION**

Statement

HON MARTIN ALDRIDGE (Agricultural) [10.10 pm]: I rise to continue some remarks from my member's statement on Thursday, unsurprisingly to the Leader of the House I am sure. To recap: on Tuesday I asked question without notice 721. Part of the question was about what appeared to be apparent breaches of the local government regulations in Western Australia. As part of this question, I asked —

How many complaints have been received by the Department of Communities about potential breaches of these regulations at the most recent local government elections?

The answer was one complaint. This was on Tuesday. On Thursday, I asked question without notice 770 to the Leader of the House representing the Minister for Local Government. My question was —

I refer to question without notice 751 answered on 1 November 2017.

- (1) What actions has the minister or the Department of Local Government, Sport and Cultural Industries taken to investigate the multiple donations made by Hon Darren West in breach of Local Government (Elections) Regulations 1997?
- (2) How does the minister reconcile the government's position that the Lord Mayor of Perth should no longer hold her elected office when Hon Darren West has committed similar offences of non-disclosure?
- (3) Does the minister support this unprecedented and overt influence in local government elections by a parliamentary secretary of the McGowan government?

As is usually the case, I did not get an answer to any of those questions. Instead, the Leader of the House stated —

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

- (1)–(3) The Department of Local Government, Sport and Cultural Industries has received one complaint. As the department is currently reviewing the complaint, it would not be appropriate to comment further on this matter.

It is interesting that earlier in the week the government was quite happy to make commentary, but as the week wore on, and even in question time today, the standard line was that the matter was under investigation so it would not be appropriate to make comment. That is despite the fact that I asked whether it was appropriate for a sworn member of the executive of the government to continue in that role whilst an active investigation was in place by the public service.

For all the failings of the Minister for Regional Development, the minister stood during formal business this afternoon and made what I thought was a sincere apology and correction to the house on two counts about statements she had made during non-government business on Thursday, which I raised during members' statements on Thursday night. She rose and corrected the record on those two counts and I thank her for doing so. I was eager to hear whether the Leader of the House was going to address some of the concerns that I raised in response to the answer to question without notice 770 that she had provided to this house on Thursday. Hansard has been quite generous in its uncorrected draft because it has put "Correction of Answer" at the top of the uncorrected *Hansard* of today. Nothing about Hon Sue Ellery's statement about that question without notice mentions any such correction. The statement made to the house after question time today about my question on Thursday sought to point out the reasons the answer provided by the Leader of the House was not correct. I appreciate those facts, but that is not a correction. The answer to the question provided, which was one complaint, is factually incorrect. I am not sure whether it is two, three or 10 complaints, but I know that it is not one complaint. The clarification that the house received today after question time tried to establish the facts around why the house was provided with that answer. It would appear that one of the reasons the information provided was not factually

correct is that a public servant in that very large department was sick on Thursday and Friday of last week and was not checking the emails. The emails for the Department of Local Government, Sport and Cultural Industries is obviously a generic incoming email address for the department. It is a catch-all that receives all the department's email correspondence. Because a public servant was on sick leave on Thursday and Friday, the correct procedures of the department did not kick in. According to the 2017–18 budget papers, that department has 1 037 full-time equivalent employees. That was all part of the machinery-of-government reforms—get bigger and get more efficient. The only comparison I could make is with the department of Hon Martin Aldridge, MLC, which I can reliably inform the house has two FTEs. Members will not find that in the budget papers, but it is a very efficient department. Despite the immense amount of traffic it receives on a daily basis, we manage to be able to receive, track and prioritise urgent correspondence that comes in. In this department of 1 037 FTEs, which I am sure deals with some very serious matters relating to the public service in Western Australia, because one public servant—heaven forbid—takes sick leave, no-one checks the email system for the Department of Local Government, Sport and Cultural Industries.

Hon Sue Ellery: You don't believe that?

Hon MARTIN ALDRIDGE: I do believe it. It is the Leader of the House's statement to the house.

I am saying that it is rather preposterous that a department of 1 037 people can no longer check a generic incoming email to the department because one single public servant is sick. That is ridiculous. The Leader of the House went on —

I am advised that the department is updating the management of its generic email addresses and will be improving the information available on its website to ensure that members of the public are aware of the department's complaints email address.

I wonder how many people check the complaints that come into that email address. What happens if the public servant is sick? Somebody will not be able to receive the complaint email and then Parliament might be given the wrong information. The minister might do the right thing and turn up and say, "I apologise to the house. The information that I gave to the house was incorrect. It was based on information that was provided to me that was incorrect. These are the reasons it was incorrect and I wish to correct the record." That would have been the right thing for the Leader of the House to do when she turned up today. I thought she would have taken a leaf out of the Minister for Regional Development's book. It is not her fault and I do not blame the Leader of the House, but she has to take responsibility for the statement that she made after question time today, which blamed a poor public servant who probably took sick leave because they were most upset about the \$1 000 salary cap that the government has put on them. That is not to mention all the redeployment that is happening. The parliamentary secretary should talk to the WA Country Health Service about the uncertainty that is currently within its ranks. They are not a very happy bunch. The Leader of the House came to this house and did not even make an apology. She blamed a single public servant in a department of more than 1 000 public servants. She did not even say sorry. She said, "I wish to clarify that the answer that I was provided was based on the information at the time and it was because somebody was sick and they did not realise that they had received an email." That is just a joke! If this is the outcome of the machinery-of-government reforms, I think we are heading down another path of the Office of Shared Services, which was another raging success by Labor when it was in government! As I said, Hansard is being very generous to say that this is a correction of an answer. There was no correction. The Leader of the House made some clarifying remarks. The Leader of the House should have stood and said, "The answer I provided was one complaint. In fact, the answer is two complaints."

**METROPOLITAN REGION SCHEME AMENDMENT 1271/41 —
LOT 59 WILKINS ROAD, KALAMUNDA**

Statement

HON DONNA FARAGHER (East Metropolitan) [10.19 pm]: Last week I tabled a petition signed by 1 124 Western Australians, principally from in and around Kalamunda and the surrounding communities, concerned about the Minister for Planning's recent decision to revoke planning approval for the metropolitan region scheme amendment relating to Wilkins Road, Kalamunda. The decision by the minister to revoke the valid planning approval has been met with considerable concern and unhappiness by many members of the Kalamunda and surrounding communities. By way of background, the amendment was initiated by the Shire of Kalamunda and its purpose was to transfer approximately 10 hectares of land from the parks and recreation reservation to the urban zone in the metropolitan region scheme. It was understood that the request for the zoning change—this was documented in public submission documents—was to allow for accommodation for aged persons and that a local scheme amendment, detailed structure planning and, ultimately, subdivision approval would follow.

Public consultation was undertaken on this major MRS amendment in 2014. Following an exhaustive examination of the issues, the Western Australian Planning Commission made its recommendation to the former government. In January this year, I, as the then planning minister, approved the amendment going forward. As the minister has

said in the other place, it obviously went to cabinet and ultimately to the Governor for approval. I said at the time that all public submissions had been very carefully considered, because I recognised that there were some concerns, particularly environmental concerns and bushfire concerns, but that approval had been given on the recommendation of the WA Planning Commission. Importantly, it was also recognised as part of the public consultation process with regard to the concerns about bushfire management and, in particular, the environmental concerns that had been raised that the Department of Fire and Emergency Services had approved a fire management plan. The Environmental Protection Authority had also considered the amendment and had decided not to assess it. It did, however, indicate quite appropriately—I recognised this at the time that approval was given—that any development approval would have to go through the commonwealth under the auspices of the Environment Protection and Biodiversity Conservation Act, and that is quite appropriate for any development approval and something that I, as a former environment minister, would support. So it came as some surprise to me when we came back to this place after the election and the MRS amendment was not tabled in this house. I asked the minister representing the Minister for Planning effectively where it was and I was informed that the minister was reconsidering the amendment. It is particularly troubling given the fact that the now Premier reaffirmed in a letter to a constituent that the amendment was supported by the WAPC, the land had been identified as an urban expansion area in the draft north-east subregional planning framework, and it was also in the Shire of Kalamunda's local planning strategy as a potential development site for aged-care accommodation.

So why has the amendment been revoked? To my mind, adequate reasons for the revocation have certainly not been given by the Minister for Planning. Indeed, despite repeated questions in this place to the minister representing the Minister for Planning, I have received nothing short of glib responses, non-answers and general disdain. I will quote from a couple of responses to the quite specific questions I asked. On 16 August, I stated —

I refer to the Minister for Planning's statement in the other place ... concerning the metropolitan region scheme amendment relating to Wilkins Road, Kalamunda, in particular that "This site comes with a number of outstanding issues, for example, native title issues that are still unresolved and other new constraints due to bushfire management".

I then asked the minister to provide more detail, who had advised her of these outstanding issues, what new constraints had been identified relating to bushfire management, and who had advised her of those new constraints. The answer stated —

The Minister for Planning has considered the issues raised during the amendment process and is not satisfied that the site is suitable for aged care for the reasons provided in her statement made on 15 June 2017.

It is great that we know about her statement. Her statement just indicated that there were a number of outstanding issues. I asked what they were and she could not tell me and refused to do so. A similar question was put in this house about her statement in the other place, "It is unlikely that such a facility would be constructed." I asked what information or advice the minister relied upon to determine that it was unlikely that an aged-care facility would be constructed, who provided the advice and whether the minister would table the advice. Again, the answer stated —

As advised in the answer to question without notice 388, —

That is the one I have just referred to —

the Minister for Planning is not satisfied that the site is suitable for aged care. The Planning and Development Act 2005 provides the minister with the power to recommend that the Governor revoke her approval of the amendment, which the minister believes is warranted in this case.

Again, that is great. I know that answer, but why is it unlikely that it will be constructed? No answer was given. I appreciate that the minister does not need to provide a reason for her decision. However, revoking a valid planning approval is no small thing, and it is certainly no small thing to the 1 124 community members who signed the petition and those others who have an interest in the issue. I indicate that it still retains the full support of the City of Kalamunda, including the former mayor and the former member for Forrestfield, Andrew Waddell. The minister has repeatedly refused to give full details of the reasons or advice, if any, she has received that would have validated the revocation.

I indicate that the petition has now been referred to the Legislative Council Standing Committee on Environment and Public Affairs. I ask the committee to seriously consider the petition. The petition was, as I say, signed by over 1 000 people in a very short time. I think that very much shows the very strong concerns within the community about the minister's decision. I have other documents that, unfortunately due to the time, I cannot read out today, but they are certainly documents that have been laid out through the council process, whereby the council officers have indicated very strongly that the council supports it and has gone through an exhaustive process. It is an important issue to the community and it is truly disappointing that the minister has repeatedly refused to give

reasons why a valid planning approval that was given by the former government and had been approved by the Governor has now been revoked with no reasons given.

PAY-ROLL TAX ASSESSMENT AMENDMENT (DEBT AND DEFICIT REMEDIATION) BILL 2017

Receipt and First Reading

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

Second Reading

HON SUE ELLERY (South Metropolitan — Leader of the House) [10.27 pm]: I move —

That the bill be now read a second time.

This bill seeks to amend the Pay-roll Tax Assessment Act 2002 to complement the amendments to the Pay-roll Tax Act 2002 that are contained in the Pay-roll Tax Amendment (Debt and Deficit Remediation) Bill 2017. That bill temporarily introduces a progressive payroll tax scale from 1 July 2018 to 30 June 2023. Under the Constitution Acts Amendment Act 1899, bills imposing taxation must deal only with the imposition of the tax, which means that administrative matters relating to the introduction of the progressive payroll tax scale must be contained in a different bill from one that imposes the progressive scale. This bill provides the supporting administrative provisions for the imposition of the progressive scale. The associated explanatory memorandum contains further details on the amendments

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to a bilateral or multilateral intergovernmental agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter introduce a uniform scheme or uniform laws throughout the commonwealth.

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

[See paper 853.]

Debate adjourned, pursuant to standing orders.

House adjourned at 10.29 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

FOREST PRODUCTS COMMISSION — JARRAH SAWLOGS**372. Hon Diane Evers to the minister representing the Minister for Forestry:**

- (1) In the last five financial years, if figures are available, how many jarrah saw logs, by year, were adjudicated as rejects because the logs were of poor quality?
- (2) Has the average diameter of jarrah saw logs sold by the Forest Product Commission diminished over time due to younger trees being logged?
- (3) What is the usual recovery rate for sawn timber for structural, furniture or decorative purposes from jarrah saw logs?
- (4) With reference to question without notice No. 417 asked on 17 August 2017, when does the Minister expect the independent assessment of employment in the forestry industry commissioned by the Forest Products Commission on 20 February 2016 to be completed, and will the Minister make it publicly available on its completion?

Hon Alannah MacTiernan replied:

Log deliveries are made based on tonnes rather than by individual number. Reject logs are weighed as a batch over a weighbridge. The following weights are provided:

- | | | |
|-----|---------|--------------|
| (1) | 2012–13 | 1 371 tonnes |
| | 2013–14 | 1 094 tonnes |
| | 2014–15 | 1 848 tonnes |
| | 2015–16 | 1 192 tonnes |
| | 2016–17 | 1 140 tonnes |

- (2)–(4) Refer to question without notice 560 from 7 September 2017.

PLANNING — SHENTON PARK REHABILITATION HOSPITAL — BUSHLAND**373. Hon Alison Xamon to the minister representing the Minister for Planning:**

I refer to the design of the proposed development on the site of the former Perth Rehabilitation Hospital in Shenton Park and the overwhelming community support for the retention of 100 per cent of that bushland, and I ask:

- (a) were any designs considered that involved no clearing of this bushland;
- (b) if yes to (a), will the Minister please table those designs; and
- (c) if no to (a), why not?

Hon Stephen Dawson replied:

- (a) No.
- (b) Not applicable.
- (c) Preliminary designs considered a number of development options which had to balance a number of competing objectives across the site, including development over the existing carpark, access ways and drainage sump in the bushland. More recent iterations of the planning required consideration of the newly introduced State Planning Policy 3.7 – Planning in Bushfire Prone Areas. To manage the bushfire risk, on this site and for the surrounding vulnerable users, clearing is required.

PLANNING — SHENTON PARK REHABILITATION HOSPITAL — BUSHLAND**374. Hon Alison Xamon to the minister representing the Minister for Planning:**

I refer to the proposed clearing of 50 per cent of the bushland remaining on the Shenton Park Rehabilitation Hospital site, and I ask:

- (a) were any expert reports obtained regarding the impact of this design on the bushland's value as an ecological linkage between the Underwood Avenue Bushland and Shenton Park Bushland Bush Forever sites;
- (b) were any environmental or ecological experts consulted while designing the development of the area containing the bushland;
- (c) if yes to (a) or (b), will the Minister please table any such advice or reports produced by said consultants; and
- (d) if no to (a) or (b), how can the Government be confident that the ecological values of this bushland will remain intact?

Hon Stephen Dawson replied:

- (a)–(b) Yes.
- (c) [See tabled paper no 850.]
- (d) Not applicable.

WATER CORPORATION — POTABLE WATER SUPPLY AND TESTING

375. Hon Robin Chapple to the minister representing the Minister for Water:

- (1) I refer to water supplied to towns and remote communities in Western Australia (WA), and ask:
 - (a) how is water supplied;
 - (b) does the department have a water source monitoring program;
 - (c) if yes to (b), what is the water level data used for;
 - (d) if no to (b), why not;
 - (e) does the department have a ‘multiple barrier’ approach to drinking water delivery, whereby multiple barriers are in place so that if one fails, other systems still prevent or reduce potentially harmful contaminants from reaching consumers;
 - (f) if no to (e), why not;
 - (g) are water supplies continuously disinfected, which is essential to reducing consumers’ exposure to disease-causing micro-organisms;
 - (h) if yes to (g), how and when;
 - (i) if no to (g), why not;
 - (j) are the physical and chemical characteristics of the water analysed to ensure safe levels as recommended in the Australian Drinking Water Guidelines (ADWG);
 - (k) if yes to (j), how and when;
 - (l) if no to (j), why not;
 - (m) does the department have online monitoring at critical water supply points, allowing signals to be sent to operators immediately when problems occur;
 - (n) if no to (m), does the department intend installing this online system; and
 - (o) if yes to (n), to where and when?
- (2) I refer to testing of water supplied to towns and remote communities in WA, and ask:
 - (a) how are water samples collected;
 - (b) where are the water samples collected from;
 - (c) are samples collected for each town and remote community;
 - (d) how are samples delivered to testing laboratories;
 - (e) where are the testing laboratories located;
 - (f) how many analyses are carried out for each town and remote community each year to determine microbiological, physio-chemical, trace metal and radiological characteristics of the water to confirm it is safe to drink; and
 - (g) will the Minister please identify which towns and remote communities are at risk for:
 - (i) microbiological indicators that pose an immediate risk; and
 - (ii) physical and chemical water quality characteristics that may present a risk if the consumer was exposed to concentrations above ADWG levels over a lifetime?
- (3) For all towns and remote communities in WA, will the Minister please table a list of the following in the water and the levels or range (not the averages) for all years available: Aluminium, Alkalinity, Antimony, Arsenic, Boron, Barium, Beryllium, Bromide, Carbonate, Calcium, Cadmium, Chloride, Cobalt, Chromium, Copper, Conductivity, Fluoride, Iron, Bicarbonate, Hardness, Mercury, Potassium, Magnesium, Manganese, Molybdenum, Nitrate, Sodium, Nickel, Lead, Silver, Sulphate, Selenium, Silica, Total Soluble salts, Vanadium, Zinc, pH, Nitrates, and Uranium?

Hon Alannah MacTiernan replied:

This response refers only to potable water supply services and does not include non-potable water supply services and irrigation. The Economic Regulation Authority has issued water service licences to the following entities supplying potable water services: Water Corporation, Bunbury Water Corporation (trading as Aqwest), Busselton Water Corporation, Hamersley Iron Pty Ltd, Lancelin South Pty Ltd, Peel Water Pty Ltd, Robe River Mining Co Pty Ltd, and Rottnest Island Authority. Additionally, the Remote Area Essential Service Program provides potable water supply services in Aboriginal communities in remote areas of the Kimberley, Pilbara, Murchison, Goldfields and Central Desert. Of these entities, the Minister for Water is responsible for the Water Corporation, Aqwest and Busselton Water. The information in the response relates only to Water Corporation given the extent of its services statewide. Information can be provided for Aqwest and Busselton Water if required.

- (1)
 - (a) The Water Corporation supplies drinking water to over 250 localities in Western Australia. Outside of the Perth metropolitan area, drinking water is delivered through regional schemes such as the Goldfields and Agricultural Water Supply System, the Great and Lower Great Southern Towns Water Supply Systems or the West Pilbara Water Supply System. Other localities have local sources that the Water Corporation use to supply direct to that town or community and some small communities have water carted by the Water Corporation as their supply.
 - (b) The Water Corporation has an extensive water quality monitoring program that assesses water quality across all parts of the water supply system covering the water source, treatment, storage and reticulation.
 - (c) Water quality performance information is used to provide assurance of the safety of water supplied to customers.
 - (d) Not applicable.
 - (e) The Water Corporation implements a multiple-barrier system across all drinking water systems. This preventative approach to protect drinking water quality is recommended by the Australian Drinking Water Guidelines (ADWG). It represents world's best practice in managing safe drinking water by utilising barriers across the water supply system including source protection, water treatment, disinfection management, water storage and reticulation management that continuously operate in a preventative manner to protect water quality. The performance of these barriers is assessed to verify they are operating correctly, and collectively they ensure the continuous supply of safe drinking water.
 - (f) Not applicable.
 - (g) Yes, the Water Corporation utilises continuous disinfection as a key barrier in the multiple barrier approach.
 - (h) Disinfection is utilised in the form of chlorination for all water supply schemes, besides the Goldfields & Agricultural Water Supply System which utilises chloramination to maintain disinfection residual across such an extensive pipe network. Additional disinfection barriers such as ultraviolet radiation (UV) are also used for some supplies which require more complex treatment.
 - (i) Not applicable.
 - (j) The Water Corporation has a comprehensive water quality sampling program that takes over 66,000 water samples every year to ensure the water supplied to customers is safe. This program meets the ADWG, as agreed to by the Department of Health.
 - (k) The Water Corporation's standards define the required sampling frequency, location and sampling technique for water quality parameters across different parts of the water supply system.
 - (l) Not applicable.
 - (m) The Water Corporation utilises remote operations technology to monitor critical control points across the water supply system. This technology oversees performance and triggers responses to the central Operations Centre whereby immediate action can occur to rectify an issue.
 - (n) Not applicable.
 - (o) Not applicable.
- (2)
 - (a) Water samples are taken across the State by trained Water Corporation operators in accordance with corporate sampling standards that meet the requirements of the Department of Health.
 - (b) Water samples are collected from dedicated sample points across the water supply system from the source, pre and post treatment and disinfection, within water storage and reticulation.
 - (c) The Water Corporation samples all of the localities it services.

- (d) Water samples are delivered to contracted analytical laboratories by vehicle or commercial flight depending on location or sampling parameter.
 - (e) The analytical laboratories that provide contracted services to the Corporation's drinking water process are based in Perth.
 - (f) Water quality sampling programs for a water supply scheme meet the requirements of the ADWG as agreed by the Department of Health. Customised programs cater for scheme-specific components such as water sources and treatment.
 - (g) (i)–(ii) The Water Corporation meets all health-related requirements of the ADWG as agreed by DoH.
- (3) The effort required to provide water quality data for all towns and remote communities in WA for all years available is unreasonably large.

For the last 14 years, the Water Corporation has published annually a detailed overview of its water quality performance, specifically designed to provide the Western Australian public with information on the quality of their drinking water (online at www.watercorporation.com.au/about-us/our-performance/drinking-water-quality). These reports provide the data that has been requested, excluding vanadium sampling which is not required under the ADWG, for over 220 towns and communities.

If the Member has a specific parameter or town that further information is required for please could he outline this in more detail.
