Legislative Council

Thursday, 6 May 2010

THE PRESIDENT (Hon Barry House) took the chair at 10.00 am, and read prayers.

STATE SCHOOLS — AIR CONDITIONING

Petition

HON LINDA SAVAGE (East Metropolitan) [10.01 am]: I present a petition containing 138 signatures couched in the following terms —

> **TO THE HONOURABLE THE PRESIDENT AND THE MEMBER OF LEGISLATIVE COUNCIL OF THE PARLIAMENT OF WESTERN AUSTRALIA IN PARLIAMENT ASSEMBLED.**
>
> We, the undersigned, say we believe all State Government schools in Western Australia should be provided with appropriate and adequate air conditioning, to ensure a healthy and comfortable learning environment for all students in Western Australia.
>
> Now we ask the Legislative Council to ensure that all school buildings including those funded through the "Education Revolution" programme built in 2009 and beyond be appropriately and adequately air conditioned.

[See paper 2007.]

SHACK SITE COMMUNITIES

Petition

HON MAX TRENORDEN (Agricultural) [10.02 am]: I present a petition containing 82 signatures couched in the following terms —

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> **Leased Shack Sites Communities, such as Wedge Island, Grey, Donnelly River, Broke Inlet, Dampier Archipelagos, and Israelite Bay have long been the traditional holiday/recreational destination for many thousands of ordinary Western Australians.**
>
> **Most Shack Site Communities sprung up to accommodate the gathering of farming and town based families to enjoy holidays together in remote and idyllic fishing locations right across Western Australia. Some Shack Site communities went onto becoming fully-fledged towns such as, Bremer Bay, Jurien Bay, Dongara and Horrocks, whilst some Shack Site Communities have disappeared.**
>
> **However, some residual communities remain, with a strong sense of community and have become the preferred holiday option for many thousands of Western Australians.**
>
> **These places are tangible examples of sustainable lifestyles, where younger generations can learn responsibility and become creative and family traditions and stories can be passed on. The loss of these communities will seriously diminish the social, economic and health well being of many ordinary Western Australian families.**
>
> Your petitioners therefore respectfully request the Legislative Council to support our campaign for the government to
>
> **Examine how other States of Australia, including South Australia, Tasmania and New South Wales have retained conforming Shack Site Communities in order to preserve these valuable assets for many Western Australians to have affordable coastal holiday destinations and continue to allow human interaction all but lost in today's society.**
>
> And your petitioners as is duty bound, will ever pray.

[See paper 2008.]

ESPERANCE PORT — MINERAL CONCENTRATE INFRASTRUCTURE

Statement by Minister for Transport

HON SIMON O'BRIEN (South Metropolitan — Minister for Transport) [10.04 am]: I would like to update the house on the current status of the upgrade of the mineral concentrate infrastructure at the Esperance port. In May 2009, the cabinet approved an initial expenditure of $38 million for the Esperance Port Authority to undertake the urgent upgrade of existing port facilities for the export of bulk mineral concentrates at Esperance port. This upgrade is now virtually complete. It has enabled repairs and modifications to all galleries, conveyors, transfer points and sheds, installation of new dust collection systems and a boom chute to minimise product emissions during handling and shiploading. A new tipper system has been installed for unloading in-going containers to the port. The transition to a fully enclosed container in-loading system remains to be fully implemented. This upgrade has been achieved under the initial budget estimate.

At the time of the approval by government for stage 1, it was also envisaged that a business case would be brought before government for stage 2, for a new purpose-built, bulk-handling facility at the Esperance port. The timing for that further submission to government was initially set at 30 June 2009. The government has decided to postpone consideration of stage 2 until June 2011. The reasons for that postponement are as follows. Firstly, the performance of stage 1 of the upgraded system is currently being evaluated. Nickel emissions at the port have improved significantly since the upgrade was initiated and further improvements are likely to be achieved with the implementation of the containerised in-loading system. Nickel emissions are consistently below the specified daily target in the Esperance Port Authority's licence. Compliance with the annualised guideline for nickel emissions will not be known for some time as the recommended method for determining the annualised guidelines requires additional monitoring stations to be established and operational in the Esperance community. Secondly, the volume of nickel sulphide concentrate exports in bulk has reduced considerably; on the other hand, the volume of nickel sulphide concentrate exported in containers has increased.

Members will be aware that a requirement for completion of stage 2 of the upgrade was incorporated into the licence of the port authority. The licence specifies that the new purpose-built bulk metal concentrate facility will be installed by 6 January 2011. The decision to postpone stage 2 means that this time line will not be met. I have advised the Minister for Environment accordingly. The Esperance Port Authority will subsequently seek an amendment to this licence provision.

Consideration of the statement made an order of the day for the next sitting, on motion by **Hon Ed Dermer**.

GREATER BUNBURY REGION SCHEME — AMENDMENTS 0004/41 AND 0006/41

Statement by Minister for Energy

HON PETER COLLIER (North Metropolitan — Minister for Energy) [10.07 am]: I read the following ministerial statement on behalf of Hon Robyn McSweeney in her capacity representing the Minister for Planning.

Today I present for tabling "Greater Bunbury Region Scheme Amendment 0004/41" and "Greater Bunbury Region Scheme Amendment 0006/41" which transfer a 186.4 hectare portion of lots 930, 4422, 1, 2563 and 21 Weld Road and Jamieson Road, Capel, and various areas of land identified for future urban development in the "Capel Townsite Strategy" from rural zoning to urban deferred zoning. The South West region, specifically the greater Bunbury area, has been clearly identified as a significant growth area of the state through policies including the "State Planning Strategy", the "South-West Framework" and the "Bunbury–Wellington Region Plan". It is estimated that the population of the greater Bunbury area will exceed 100 000 by 2031 and this increase in population will result in a proportionate increase in the demand for affordable housing. The subject land has been identified for future urban development in the "Capel Townsite Strategy" that has been endorsed by the Western Australian Planning Commission. The proposed amendments will facilitate future urban development of the Capel town site and will contribute towards meeting this demand.

The amendments have been advertised for three months to invite public submissions. In total, 28 submissions were received. Twenty-six submissions either supported or had no comments or objections to the amendments, and two submissions opposed the amendments. The WAPC determined that the comments received during the submission period were concerned with detailed matters, and that there is sufficient opportunity for consideration of such matters at later stages of the planning process, if the proposed amendments are approved. No hearings were requested. The Environmental Protection Authority agreed with the amendment proceeding.

I am now pleased to table the documentation entitled "Greater Bunbury Region Scheme Amendment 0004/41" and "Greater Bunbury Region Scheme Amendment 0006/41" comprising the plans and reports on submissions.

[See papers 2009A, 2009B, 2010A and 2010B.]

Consideration of the statement made an order of the day for the next sitting, on motion by **Hon Ed Dermer**.

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

Special Report —"2010–11 Budget Estimates Hearings" — Tabling

HON GIZ WATSON (North Metropolitan) [10.10 am]: I am directed to report that on 19 April 2010 the Standing Committee on Estimates and Financial Operations resolved to hold the annual budget estimates hearings in relation to the 2010–11 budget on 16 June 2010.

The committee is currently considering its program for the 2010–11 budget estimates and is distributing to members in the house today an agency nomination form for the committee's annual budget estimates hearings, and for the ongoing budget estimates hearings, which the committee intends to hold throughout the year. The committee reminds members that the ongoing hearings provide an opportunity for greater in-depth analysis of any agency's operations as more time is able to be allocated to each hearing. The committee asks member to complete and return the nomination forms to the committee by 20 May 2010. I move —

That the report do lie upon the table and be printed.

Questions put and passed.

[See paper 2012.]

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

Special Report — "Inquiry into the Removal of Years 11 and 12 Courses at 21 District High Schools" — Tabling

HON GIZ WATSON (North Metropolitan) [10.11 am]: I am directed to report that on Wednesday, 5 May 2010 the Standing Committee on Estimates and Financial Operations resolved to commence an inquiry into the removal of year 11 and 12 courses at 21 district high schools. The terms of reference for the inquiry are as follows —

> The Estimates and Financial Operations Committee has resolved to inquire into and report to the Legislative Council on the government decision, announced in March 2010, to cease year 11 and 12 courses at 21 district high schools across Western Australia, with particular reference to —
>
> (a) the decision-making process and rationale behind the decision;
>
> (b) the effect of the decision on the state budget, the affected students and communities;
>
> (c) the adequacy, cost effectiveness and social impact of the educational alternatives proposed; and
>
> (d) any other relevant matters.
>
> The committee intends to report to the Legislative Council in August 2010.

I move —

That the report do lie upon the table and be printed.

Question put and passed.

[See paper 2011.]

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Thirty-ninth Report — "Annual Report 2009" — Tabling

HON ALYSSA HAYDEN (East Metropolitan) [10.12 am]: I am directed to present the thirty-ninth report of the Joint Standing Committee on Delegated Legislation in relation to the Annual Report 2009. I move —

That the report do lie upon the table and be printed.

Question put and passed.

[See paper 2013.]

COMPLIANCE WITH FINANCIAL MANAGEMENT ACT 2006 AND PORT AUTHORITIES ACT 1995

Motion

HON KEN TRAVERS (North Metropolitan) [10.13 am]: — without notice: This motion is listed on the notice paper in the name of Hon Sue Ellery, but I intend to move it. I move —

> That this Council calls on the Barnett government to ensure it complies with the requirements of legislation concerning the financial management of the state and in particular section 82 of the Financial Management Act 2006 and part 5, division 2 of the Port Authorities Act 1999.

The now Barnett government claimed, when it was running for office, that if it was elected to office it would be open and accountable to the people of Western Australia. What we have seen since that election is that the government's rhetoric prior to the election and the reality today are at completely opposite ends of the spectrum.

Section 82 was inserted into the Financial Management Act to provide clarity. A committee, of which I was a member, prepared a report on that. It was part of the original proposal for both a new Financial Management Act and a new Auditor General Act. Section 82 requires governments and ministers, if they do not provide information to the Parliament, to explain why they have not done that. That explanation must be provided to the Auditor General and the Parliament. The Auditor General Act includes a provision for the Auditor General to consider the reasons given by the government or the minister for not providing the information and determine whether the reasons were reasonable. The provision pertaining to the Auditor General Act was included in the legislation as a direct result of a review of that legislation by that committee and this house. In one of the pleasant ironies of life I dissented from voting for that clause to be included in the Auditor General Act. However, I probably accept now that I may have been wrong on that occasion.

We had our first example of the effectiveness of that provision of the Auditor General Act yesterday when a report was tabled by the Auditor General on whether a particular decision by a minister of this house, the Minister for Transport, to refuse to table a particular document was reasonable and appropriate. The Auditor General found that it was not reasonable to deny the information to this house and, therefore, it was inappropriate to deny it. The Auditor General clearly outlined in his report the processes by which he arrived at that decision.

If members look at the audit practice statement on the Office of the Auditor General's website they will find that it gives them a clear understanding of how the Auditor General had always indicated to this house and ministers of the Crown that his office would deal with this matter. The process that office followed on this occasion complies with that audit practice statement, which gives ministers of the Crown a complete explanation about how it would operate.

Interestingly, I recall in November last year that I gave notice of a question, which I asked as a question without notice of which some notice had been given, and subsequently it was put on notice. Ironically, that occurred on the same day that the minister gave notice under section 82 of the Financial Management Act of three questions that he had not provided answers to. My question to the minister was —

> Does your office have any systems in place, to ensure that it has ongoing compliance with the requirements of this Act and if not, why not?

I have referred to section 82 of the Financial Management Act. Section 82 relates also to section 81, which refers to when and where ministers should withhold information from the Parliament. It was clear that the minister understood his obligations; and we received a report yesterday outlining that it was unreasonable and inappropriate for him to have withheld that information. What was the response by the Minister for Transport at the time? The minister refused to accept responsibility and, instead, tried to put the blame on his department. In the report yesterday, the Auditor General made a comment that the advice provided by the department was lacking and of a poor nature. For that, the minister's department stands condemned.

A minister of the Crown has obligations and that is why we have a minister. If it is a simple case of whether the department gets it right, why would we bother to have ministers of the Crown? Ministers of the Crown have an obligation and, in this instance, ultimately, it was the Minister for Transport's decision. If the advice that was provided by the department was inadequate, this minister of the Crown should have said to the department, "Get me better advice. This advice is woefully inadequate. Go back, do it again and give me better advice." That is not what this minister did. If he had been on top of his job, if he had been following the debates in this chamber when he was a member and if he had looked at the audit practice statement, he would have known that the information being provided by those two agencies was inadequate for him to make the decision that he ultimately made. For that this minister stands condemned. To try to hide behind his department rather than accept responsibility for his own decision is appalling. This is a minister who attacked me by claiming that I once called into question the integrity of officers of one of these agencies, yet now, when it suits him, he is prepared to push them out there, hide behind them and refuse to accept responsibility.

The other question we must ask is whether these are the only times that this minister has refused to provide information to the Parliament. Has he, on all occasions when he has done that, provided notification under section 82? The simple answer to that question is no, he has not. Prior to 26 November last year, when I put him on notice with a question, he failed to address that issue. He claims that he had the systems in place, but prior to 26 November, I asked numerous questions of this minister—I will not go through all of them today—detailing those areas in which we are asking for information and he has refused to provide it.

I want to focus a little on one area, because it relates to the information that the minister eventually tabled yesterday. It is the Alexander Drive transit study, or the north-east transit study, because various names have

been applied to the study over the years. It becomes a little confusing because, depending on how and when we talk to people, it seems to be that there are either one or two studies, but the bottom line is that the company doing this study on the north east transit was also contracted to expand it to look at issues with what would appear to be the Ellenbrook railway line. This is why this issue is so important. Members will recall that at the time these questions were being asked the Ellenbrook railway line was one of the hot topics of debate in the community. The government was going back on its word and withdrawing the funding it had promised during the election campaign to get the construction of our railway line underway during this term of government. It was trying to weasel its way out of it.

One of the documents that I was very keen to obtain would appear to have been an addendum to this contract, or it may have been a stand-alone contract—I am not sure which one it is. I asked for very specific documents to be tabled by the minister about that, and the minister refused. To this day he has never put forward a section 82 certificate. Interestingly, one of the questions that the Auditor General made reference to yesterday was question on notice 1200 in this place, in which the minister was asked to provide a copy of the Alexander Drive transit study by the state government and Parsons Brinckerhoff. Yesterday the minister finally tabled that document. Interestingly, the second part of that question was —

> Will the Minister table a copy of the Inception Report and original proposal referred to in the letter signed by Mark Burges to Parsons Brinkerhoff dated 9 February 2009?

The minister replied —

> See paper 1567.

I appreciate the minister tabling a copy of the final report for the central north east corridor public transport strategy, but it is not the document I had asked for. Unless the minister can show me somewhere else where he has tabled that, to this day we still have not received that information from the minister. A number of other questions were leading up to this. Over the foreseeable future I intend to pursue the question of whether he received advice from the company and whether that information was confidential.

The second issue is with the documents that the minister tabled yesterday. Again, I might add that the Auditor General's report very clearly specifies that within these documents there are issues to do with rates of pay and contract amounts. The Auditor General does not anywhere in his report, as far as I can see, say that it is appropriate to delete those rates of pay from the documents. A number of the documents that were tabled yesterday had information deleted from them. Interestingly, in some instances rates of pay are deleted and in other instances rates of pay and costs are not deleted. When I spoke to the Auditor General at the briefing yesterday, he said that there are times when it would be appropriate to delete rates of pay prior to the issuing of contracts. He said that he would need to look at specific cases. I say this with some hesitation, because one of my concerns about inserting a section relating to tabling of documents into the Auditor General Act was that the Auditor General would be brought into political debate. As I say, I do this with some hesitation. I would have thought that, had the Auditor General thought it appropriate to blank out information, he would have included that in his report. Documents were tabled yesterday that have information blanked out. I assume that the department has had a copy of a draft of this for some time. One of the questions that I want specifically answered by the Minister for Transport today is: before he blanked out that information yesterday, did he follow the correct process, as outlined by the Auditor General in his report, to arrive at the decision to blank that information out? Has the minister followed it specifically, and has his department followed it specifically? Was he provided with advice by his department that it had completely followed the exact advice of the Auditor General in respect of these documents before the minister deleted that information in the document provided to the Parliament yesterday? This minister, on numerous occasions prior to 26 November last year, refused to provide information to this house by not answering questions, by not providing the information requested, by blanking information out and by various other ways and means. To this day he has still not issued section 82 certificates to this Parliament and, I suspect, to the Auditor General. The second issue is that even though he has now been told by the Auditor General what he should be doing, did he do it yesterday before he blanked that information out of the reports? Will he now provide information and get his office to go through and review all the information that he has previously denied to this Parliament and provide it to this Parliament?

In the time I have left, the other issue I want to turn to is the statement of corporate intent. I am very pleased that Hon Max Trenorden is in the house for this debate, because I know this is an issue that Hon Max Trenorden has followed with great interest in the past. At the outset I put on record that I do not think the past Labor government's performance on this matter was up to scratch. I knew this would keep the member in the house! For many years the Auditor General has been placing in his reports a requirement that organisations that are required to table statements of corporate intent get them in before the end of the financial year. There was a trend towards getting them in before the end of the financial year during the past Labor government, but I accept that it was still not good enough.

Hon Max Trenorden: May I just say —

Hon KEN TRAVERS: No, the member can say it in his time because I have only five minutes. Hon Max Trenorden will have his time. Mr President, in short debates I do not want to take interjections today.

Several members interjected.

Hon KEN TRAVERS: It is a short debate as I have only five minutes.

Several members interjected.

The PRESIDENT: Order! That is a perfectly reasonable request, which I hope the member himself will abide by.

Hon KEN TRAVERS: Thank you, Mr President. I will certainly seek to abide by your rulings!

I must say that the previous government put in place mechanisms in 2007 to make sure that departments were complying. It brought forward the date. In fact, the minister, in one of the answers to questions on notice that I put to him, made comment that the date for submitting a statement of corporate intent for port authorities is 14 December, to get them through the Parliament and through the processes of government so that they can be out there prior to the commencement of the financial year. What are we now faced with in this state under this government? We have no statements of corporate intent tabled at all for the 2008-09 financial year. I know that the Minister for Transport will try and argue that is the fault of the last Labor government.

Hon Simon O'Brien: And, indeed, it is!

Hon KEN TRAVERS: Up until 6 August 2008, when the writs were issued, the minister is correct, but after 23 September 2008, it was the minister's responsibility and he should have completed that process in accordance with the act. Putting that to one side, let us move on to what happened in 2009-10, which there can be no doubt is the responsibility of the current Minister for Transport and the current Treasurer. Did they get their reports in before the commencement of this financial year? No! Have they got them in yet? For two port authorities, yes; for six port authorities, no. We are now 10 months into the financial year and we still do not have those reports tabled in this Parliament. We do not have them for last year, and 10 months into this financial year, we do not have them. I have acknowledged that the Labor government did not meet the high standards that I would have expected of it when we were in government. But I can tell members opposite that the statements in our time were never, ever as late as they are now.

I will give the Minister for Transport his dues on this matter, because one of the things that he is required to do is to get the concurrence of the Treasurer on these matters. Once the minister has sorted it out with the port authority, he sends it to the Treasurer; he gets the Treasurer's concurrence and then he tables it in the house. When did the Minister for Transport send these documents to the Treasurer to get his concurrence? It was on 21 April for the Albany Port Authority; 7 April for the Bunbury Port Authority, 27 July for Dampier Port Authority; 1 September for the Esperance Port Authority; 16 February for the Geraldton Port Authority; and 8 September for the Port Hedland Port Authority. Members may have noticed, if they were working on 2010 documents, that some of those dates are yet to arrive. Members would be absolutely right assuming this was in 2009. From 16 February 2009 through to today, the Treasurer has been sitting on that statement of corporate intent and has not given his concurrence. What has the former Treasurer been doing? This is a man they tell us was a competent officer and a competent Treasurer. He has held onto the majority of these statements of corporate intent for over 12 months and he has not given his concurrence. I know why he has not given his concurrence on the statement of corporate intent of the Geraldton Port Authority; it is because he would have had to change the budget! One of the things the Geraldton Port Authority does is downgrade its dividend because of the decision that this government took on Oakajee. The government would have had to change its midyear financial review documents if the Treasurer had given his concurrence on that would it not? In fact, on 16 February, it would probably have had to change a whole range of other documentation!

This government stands condemned. What has the former Treasurer been doing with these documents for the past 12 months in most cases? It is not the only area in which the former Treasurer failed to fulfil his responsibilities. I do not know whether one of my other colleagues will raise some of the other areas with respect to financial management of this Treasurer. When I say "Treasurer", I mean, of course, the former Treasurer. It is an absolute disgrace that we are sitting here and we still do not have the those statements of corporate intent 12 months after the former Treasurer received them. The Treasurer has been sitting on them. There are numerous other areas in which this government is failing to meet its obligations under the Financial Management Act and the financial legislation of this state. The opposition has outlined two today: one for which the Minister for Transport stands condemned; and the other for which the Treasurer stands condemned.

HON SIMON O'BRIEN (South Metropolitan — Minister for Transport) [10.33 am]: The motion before the Legislative Council calls on the Barnett government to ensure it complies with the requirements of legislation concerning the financial management of the state, in particular section 82 of the Financial Management Act 2006 and part 5, division 2, of the Port Authorities Act 1999. Despite the claims from the mover of this motion, and

the many claims made in a cavalier fashion by members opposite that the government is failing in this or that way, we find that there is a lack of example or demonstration in support of the claims that are so carelessly made.

It is part of a pattern of behaviour that I think is regrettable. It shows an opposition that simply —

Several members interjected.

The PRESIDENT: Order, members! We heard a request a little while ago from a member on his feet to make his speech without interjections. That is perfectly reasonable. Every member is entitled to that opportunity in this debate.

Hon SIMON O'BRIEN: It is the responsibility of oppositions to oppose, but they should put a bit more effort into their research rather than simply relying on blind attacks and reckless statements. We had a beauty reported in this morning's newspaper and repeated just now by Hon Ken Travers. I will come to that in just a moment. I wish, first of all, that members opposite would address the motion. The mover's arguments quickly subsumed into some sort of desperate personal attack on former Treasurers, and so on. Looking at the actual motion, of which we received very late notice, I assert that the government does comply, first of all, with the requirements of section 82 of the Financial Management Act. Section 82 of the Financial Management Act generally requires that when information is withheld a statement be made by the minister—the member was referring to me, so I will use my example to the house. That was done. The act also requires that when the minister declines to provide information, that is reported in writing to the Office of the Auditor General. We know that there are some arrangements in place for the Office of the Auditor General to consider that matter; in effect, to act as an independent umpire providing advice to the Parliament. That is what happened in the cases that have been referred to. That is in compliance with section 82 of the Financial Management Act. In the cases cited, that is what I did. In due course, the Auditor General released a report, which was produced yesterday, and I responded to that by brief ministerial statement in this house yesterday. I also tabled documents, because the Auditor General found that in the examples that have been quoted tit was not reasonable for all those documents to be withheld. The Auditor General had reviewed it and made some recommendations generally; he made recommendations directed at some of my agencies' and he gave some advice for my benefit and the benefit of other ministers. Those documents have been tabled. Section 82 is observed and complied with by this government. What is more, we see that the system works, and the documents have been tabled. Furthermore, the agencies involved have taken note of the other comments that the Auditor General made as, indeed, have I.

Hon Ken Travers claimed in a newspaper story published this morning, in which he is quoted, and has restated today in moving this motion, that I have tried to hide behind my agencies and deflect blame, if any is to be apportioned in this game, on them. You, Sir, have no basis for making that wild accusation—none whatsoever! It is a big fat lie to say that I have tried to hide behind my agencies. I was invited to do that, I think by persistent questioning by a member of the television media yesterday, where it was repeatedly put to me in terms that invited me to suggest that somehow the agencies were all at fault or had some fault in this matter for misadvising me. I declined to make any such comment. The comment that I did make, which I think was broadcast yesterday, was that, in my view, my agencies, in advising me, had erred on the side of caution and they had done so with the motive of protecting the relationship between government generally and its contractors and past and future tenderers. I think that is a worthy consideration, and the Auditor General would recognise that as well. I certainly have not tried to apportion any blame. Indeed, I have not objected to the Auditor General's report. As I have said, it just shows that the system regarding section 82 of the Financial Management Act actually works.

With regard to the reports that have been tabled, the mover of the motion is desperately trying to indicate that there is some sort of culture of secrecy and some sort of hidden material waiting to be exposed on my part. On the contrary, my only motive in considering whether the document should be tabled is to preserve the commercial confidentiality and sensitivities of the government's contractors and past and future tenderers. That is where the sensitivity is. I have no particular personal interest in these matters. There is no Burke or Grill, or some other Labor hack, trying to get me involved in some shady deal that I am trying to cover up. As far as I am concerned, if it were not for the consideration that I must have for government relationships, these documents could be put up on a public notice board in Forrest Place. It is of no personal concern to me and I have no interest in the secrecy with a capital "S" that this opposition seems to be trying to lay at our feet. Hon Ken Travers is wrong when he accuses me of trying to hide behind my agencies and he should apologise because he made a mischievous and baseless suggestion both yesterday and today.

In many cases, the documents in question date back to the time of the previous government. Again, what do I have to be secretive about? The document on the maintenance of the Northbridge tunnel actually dates back to the Court government. The whole time that the Labor Party was in power, it had access to this document. Hon Ken Travers was a sometime parliamentary secretary to my ministerial predecessor. Access has been there the whole time. I do not know why he ceased to be a parliamentary secretary and I do not care, but the fact of the matter is that that document has been around for a long time. As the Auditor General states in his audit practice

statement, which we have been lectured about attending to, a minister is not required to provide a notice under section 82 of the FM act when the minister has advised that information will be provided at a later date. In the case of that document, that is the advice that Main Roads gave me and that is the advice that I gave to the house—that is, that the document would in fact be tabled in May 2010, which, coincidentally, it now has been.

The several documents that relate to the Alexander Drive matter owe their creation to the previous government. They are that government's documents, not this government's documents; we just inherited them. There is nothing to be secretive about in that case either. I do not know how the Labor Party seems to be able to muster up such an amount of umbrage, but clearly we have been complying with section 82 not only in its letter, but also in its spirit, and we will continue to do so. As I say, the report shows that the system actually works and is evolving over time with the attention of the Auditor General.

In relation to blacking out certain information, that advice has been given to me directly by the Auditor General. Recently, through a formal briefing—it is repeated on page 16 of the report that was tabled—he said that when a document, which might be a large contract document, contains some information that could be sensitive or requires discretion about, for instance, the hourly rates that a tenderer proposes to charge, it would be sufficient for the information that is sensitive to be blacked out, but that the balance of the document, the vast majority of it, could be tabled. That is indeed what happened yesterday. That has been reiterated several times by the Auditor General, and it is advice that no doubt government agencies will further employ in the future.

I have even less time to speak under this temporary order than the mover of the motion has and no opportunity to respond, so I have limited time. In relation to division 2 of part 5 of the Port Authorities Act 1992, which relates to statements of corporate intent, members who are familiar with the legislation will see that a statement of corporate intent is about ensuring that a government has oversight of the corporate direction of ports, but also, more pertinently, the capacity to intervene in the corporate direction of its port authorities. Hon Ken Travers, as the mover of this motion, seems to think that the purpose of this part and division of the Port Authorities Act is just to provide some form of additional bureaucracy and some boxes to be ticked so that inadequate opposition members can turn around and say, "Aha! This box has been ticked outside the boundaries" or something like that. He has made this personal attack on me, but, again, as has been pointed out—if we need to revisit it, we can—the provisions of the Port Authorities Act in relation to a statement of corporate intent have been complied with. It is as simple as that. Were any draft statements of corporate intent not provided by the due date? No. Were there any at all? No, there was not one. Were any draft statements of corporate intent not dealt with as they should have been by the Department of Transport or by my ministerial office—that is, by me? No, there was not one. I might add that it is a colossal amount of work, given the backlog that was left by the previous government. We heard from the member that the statements of corporate intent for the Labor government's last, admittedly interrupted, year had not been attended to at all. That is why there are provisions in the legislation for the minister to vary days fixed for port authorities to comply with, and all the other provisions. The prerogative remains with the government and the minister of the day.

I am quickly running out of time, but quite clearly no case has been advanced, much less demonstrated, to suggest that the Barnett government—or I in particular—is not complying with the provisions that are reported in the motion, and there is room for an apology for misleading the house and for the very misleading statement made by Hon Ken Travers to the newspaper.

HON LJILJANNA RAVLICH (East Metropolitan) [10.50 am]: What I have just heard from the Minister for Transport is absolutely breathtaking! In his response he demonstrated an arrogance of the highest order. He is a minister who clearly believes that he is above the law; that the law should not apply to him. How dare anybody, even the Auditor General, make a finding against him! As far as the minister is concerned, the statements made by the Auditor General are in some way reckless. I have to catch my breath. The minister claimed that people are relying on reckless statements. The Auditor General made statements about the minister's behaviour; about his decision not to table those documents even though there was a requirement to do so. The Auditor General, Colin Murphy, said that the minister's decision to delay tabling or to not table the documents previously was not reasonable and was therefore inappropriate. That is what the Auditor General of this state said. The Auditor General has a very responsible job; namely, to provide advice to this Parliament and to do so independently. He advised Parliament that the minister's decision was not reasonable and that it was inappropriate. I do not know how the minister was able to imply that there are no examples of him being cavalier.

Hon Simon O'Brien: I did no such thing.

Hon LJILJANNA RAVLICH: The minister did; he will have to read his speech tomorrow. I have taken notes.

This minister accepts no responsibility. He has the gall to stand in this place and say the system now works because those documents have been tabled. I wonder whether those documents would have been tabled in the absence of the pressure that came about because of the Auditor General's report. Why were those documents not tabled as per the requirements of section 82 of the Financial Management Act? We have gone through a process.

The minister has egg all over his face. He is not man enough to apologise to those who put their concerns on the public record for the implied criticisms or to the Auditor General, who also demonstrated his concern in his report to this place and to the people of the state.

I will go through a number of things that were reported in an article in this morning's *The West Australian* . I find a number of things in the article, which was written by Natasha Boddy, very interesting. The article reads —

> Mr O'Brien was forced to table the details of contracts for the Northbridge Tunnel maintenance, bus security services and the Alexander Driver transit study in Parliament yesterday after previously failing to do so based on advice from Main Roads and the Public Transport Authority that the information was "commercially sensitive".

The minister should explain his understanding of "commercially sensitive". Did the minister read all those documents and make his own judgement about whether or not they were commercially sensitive? I am disappointed that the minister has already contributed to this debate, because he should explain what he considered commercially sensitive in those documents and whether his department had exactly the same view. That is a very important question that he should answer.

If the minister is going to use the excuses of acting on advice from his department and that some of the reports were commissioned by the previous government for not adhering to section 82 of the Financial Management Act, he has a poor understanding of the requirements and workings of the Westminster system and our system of accountability. I understand that the minister acted under the advice of his department. Did he seek any further advice from, for example, the State Solicitor, or was it a case of his department telling him that the documents were commercially sensitive and the minister accepting that that was the case because his department told him so? There is a requirement under the act and it is an important requirement that the minister must meet. Did the minister seek a second opinion? Did he seek the advice of the State Solicitor or any other colleague about this matter?

I again refer to the article in today's *The West Australian*. It reads —

> Mr Murphy said information about commercial sensitivity and advice given to Mr O'Brien was "flawed", "inadequate and inaccurate".

The minister has a duty of care to the public to check the advice that is given to him by his department to ensure that he is making the right decision for the right reasons. Given the body of evidence, including the findings of the Auditor General, it was most arrogant of the minister to say that he no case to answer.

Point of Order

Hon SIMON O'BRIEN: A number of quite outrageous statements that are blatantly untrue have been attributed to me by the member on her feet. My point of order is this: do I have any recourse to respond to some of the blatant lies and falsehoods that have just been said or have I lost any further opportunity to participate in this debate?

Several members interjected.

The PRESIDENT: Order, members! A point of order has been raised. Any member is entitled to rise at the end of a particular contribution by another member if they feel that they have been misrepresented. They can seek leave to make a personal statement to that effect. That is the process that allows members to address an issue if they feel they have been maligned.

Debate Resumed

Hon LJILJANNA RAVLICH: I will demonstrate how cavalier and arrogant this government has been. I refer to the annual reports for 2008-09 and to the issue of Hon Troy Buswell, who was then Treasurer, and his lack of compliance with tabling annual reports. In accordance with section 65 of the Financial Management Act there is a requirement that this be done in a timely way. When he was Treasurer, Hon Troy Buswell wrote to the Standing Committee on Estimates and Financial Operations on numerous occasions to advise that he could not get his annual reports in on time. I refer to a letter he wrote to the Chair of the Standing Committee on Estimates and Financial Operations, which reads —

> In accordance with section 65 of the Financial Management Act 2006 I would like to advise that the Western Australian Technology and Industry Advisory Council Annual Activity Report 2008/09 will be tabled outside the prescribed timeframe. The reason for the delay for the Reports not being tabled within the prescribed timeframe is due to the Council making final amendments to the reports before they could be tabled.

He then sent in another letter, dated 22 October, to the Chair of the Standing Committee on Estimates and Financial Operations, stating that he could confirm that the annual reports for the Country Housing Authority, the Department of Housing and the Housing Authority were not tabled within the prescribed time frame due to

agencies making final amendments before the reports could be tabled. He then sent in another letter to advise that the Building Management Authority annual report also would not be in on time. He then sent in another letter to advise that the annual reports of the Department of Commerce, the Real Estate and Business Agents Supervisory Board, the Settlement Agents Supervisory Board, the Small Business Development Corporation, the State Supply Commission and WorkCover WA would not be in on time. He then sent in another letter to say that the Plumbers Licensing Board annual report would not be in on time. He then sent in another letter —

Hon Norman Moore: What does that have to do with the motion?

Hon LJILJANNA RAVLICH: I will tell the Leader of the House what that has to do with the motion. What that has to do with the motion is that it shows that this government is very arrogant, and does not think that the law applies to it.

Personal Explanation

HON SIMON O'BRIEN (South Metropolitan — Minister for Transport) [11.02 am] — by leave: Mr President, I thank you for your advice that standing order 87 does indeed apply to this procedure of the house, which is taking place under the sessional order. I would like to take advantage of this opportunity to briefly explain myself with regard to a material part of the proceedings that has been misquoted. I want to make it clear that despite the comments that have just been made, there has been nothing in my remarks about this matter, either in this place today or at any other time, or outside this place, that could be construed in any way as holding the opinion of the Auditor General in disregard, or as disagreeing with the views of the Auditor General or his capacity to make reports to this house. I was offended by the remarks, and I thank the house for indulging me under standing order 87 to make it explicit that I did no such thing.

Debate Resumed

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [11.03 am]: In the past two days we have had two debates in this place that I have to say have been very one-sided. Yesterday's debate was the most one-sided debate that I have ever seen. During that debate, Hon Sally Talbot was completely demolished by the Minister for Environment, to the point where she had to leave the chamber because she could not cope with being told that she was wrong. Today, Hon Ken Travers has somehow or other tried to suggest that the Minister for Transport had not done what he is required to do under law.

Hon Ken Travers: And he hasn't!

Hon NORMAN MOORE: The Minister for Transport has clearly pointed out that he has done exactly what he is required to do; and, indeed, as a consequence of having done that, he has now tabled documents—which he did not actually have to do, as Hon Ken Travers would know if he had had a good look at the law. It is interesting that when members opposite were in government, they did not support this particular provision in the legislation. This provision was actually brought in by Hon George Cash, if my memory serves me correctly, as a requirement from this house that we have this aspect of scrutiny of decisions by ministers not to table particular documents.

This motion moved by Hon Ken Travers calls on the Barnett government to ensure that it complies with the requirements of legislation concerning the financial management of the state and in particular section 82 of the Financial Management Act 2006. Well, that is what we have exactly done. I do not know why the Leader of the Opposition needs to call on us to do something that we have already done. The honourable Minister for Transport made a decision, based on advice from his agency, that some information contained in some documents that relate to contracts may be commercially confidential. As has been the case on many, many occasions since I have been a member of this place—including when the Labor Party was in government—ministers have claimed commercial confidentiality to avoid the need to have documents tabled. In most cases that has been done for very, very good reasons. We can clearly jeopardise contractual arrangements, or future contractual arrangements, by making public information in certain circumstances. I suspect there have been times in the past when governments have tried to use this particular provision to avoid scrutiny by the Parliament.

What section 82 of the Financial Management Act requires now is that if a minister claims that commercially confidential information should not be tabled, the minister's decision must go to the Auditor General, who will give an independent view on whether the minister has taken the right action. That is what has happened on this occasion. What has happened on this occasion has been exactly in accordance with the law. The minister provided the information to the Auditor General. The Auditor General then gave his opinion. If we were to assume that the Auditor General will always rule in favour of the government, why would we need this provision in the first place? There will be times when the Auditor General will have a different view. On this occasion, the Auditor General had a different view. He found that the documents could be made public, with some provisions blacked out.

Hon Ken Travers: No, he never found that, Mr Moore. Show me in his report where he says those documents should be deleted.

Hon NORMAN MOORE: I will tell the member what he said. He said, under the heading "Key Findings" —

> 1. The decisions to not table the three contracts were not reasonable and therefore were inappropriate. Specifically we found that:
>
> - There was no statutory requirement to keep the information private.
> - The contracts included no confidentiality clauses prohibiting making the contents public.
> - There was no clear legal basis to support a case that there was an 'equitable obligation of confidence' preventing the tabling of the contracts.

He then he goes on in finding 2 to advise that one of his findings was that —

> - Neither Main Roads not PTA considered the possibility of tabling the contracts with any commercial-in-confidence sections 'blacked out'. The practice of 'blacking out' is common and accepted as it enables the disclosure of information that is not confidential.

That is what he said in his findings. The Minister for Transport quite rightly, having received this report, has had those parts that are believed to be commercially-in-confidence blacked out, and the report has then been tabled.

Hon Ken Travers: How do you know that? I asked that question of the minister, and he did not answer! Did he go through a process?

Hon NORMAN MOORE: Under the rules that relate to this debate, Hon Ken Travers gets 20 minutes; the minister gets 15 minutes, and I get 10 minutes. Hon Ken Travers then gets another 15 minutes at the finish, I think, or 10 minutes, or something. So Hon Ken Travers should just keep his mouth shut for five seconds and let someone else have a say. He is as bad as Hon Ljiljanna Ravlich, whose mouth is constantly open, and regrettably does not say much of any consequence. The bottom line is simply this. The minister does not have to table a document even if the Auditor General says that it should have been tabled. The minister does not have to do that. But what did the minister do? He tabled the documents.

Several members interjected.

Hon NORMAN MOORE: I guess if there is one downside to having these types of seats, it is that!

Hon Sue Ellery: What? The seats can go back, but we should not make them go back! Is that what we are arguing about now? Let us focus on the real issue. Is it how we sit, or is it how we manage the finances of the state? Let us talk about the real issue!

Hon Ken Travers: Just remember how tall I am! Then you might understand why I am sitting in this way!

The PRESIDENT: Order! I am seeking some relevance. We have made some comments about the departure from the tradition of bench seating and how we use the individual seats. I am sure that members would not like to place to become untidy.

Hon NORMAN MOORE: I have just gone through the circumstances surrounding this matter. Basically, and fundamentally, the Minister for Transport has done exactly what the law required. He has referred the matter to the Auditor General. The Auditor General has found that it was inappropriate and has made recommendations as to what should happen. He has suggested that the minister black out the parts that are commercial-in-confidence. That is what the minister has done. The minister did not have to table the documents, but he has done that. As he clearly asked the house: why would he want to keep them secret anyway because they are documents that fundamentally related to the previous government? For the second time in two days we have heard a completely one-sided debate in this house where the arguments of the opposition have been demolished when the facts of the matter have been disclosed.

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [11.09 am]: I want to make a couple of comments, particularly on the issuing of the statements of corporate intent. We have just heard from the Leader of the House, who said that this has been a one-sided debate, but I have heard no satisfactory response to the request for statements of corporate intent. The proposition was put that there have been two rounds of statements of corporate intent. The first related to the period within which we were in government. My colleague Hon Ken Travers made the point that in fact, come 23 September 2008, the obligation then moved to the new government. The Leader of the House can sustain the argument that this is all about what we did in government, notwithstanding, of course what happened in the second round of statements of corporate intent for the full period that members opposite have been in government. That argument can be sustained for the first round but not when the government looks at its own practice on the second round.

Statements of corporate intent are statements that are required to be prepared each year by agencies which are trading enterprises and which are at arm's length from government in the exercise of some of their core functions. Statements of corporate intent are required to be tabled so that there is a degree of public accountability of how those agencies conduct their business on behalf of the government of the day. They are a key measure by which the Auditor General and the rest of Western Australia can determine whether those agencies, and therefore the government, are held to proper account.

There are a couple of steps within the process by which statements of corporate intent are signed off. The first step requires the relevant minister to sign off on them. It appears there have been some delays in that. The second step requires the Treasurer to sign off on them. Hon Ken Travers indicated by identifying a series of dates that, in some cases, there has been almost a year and, I think for at least one case, more than a year when that information, once transferred from the relevant minister's office, appears to have become stuck somewhere in the Treasurer's office.

The Minister for Transport used the word "cavalier" in his comments. He was referring to the debate from this side of the house when he said—I am paraphrasing—"You shouldn't be so cavalier about throwing accusations around the place." But with respect to the statements of corporate intent, it is clear where the cavalier behaviour sits. It is not on this side; it is between the minister's office and the Treasurer's office, and inside the Treasurer's office, where obligations to meet those dates have not been met.

Hon Simon O'Brien: On the matter of concurrence of the Treasurer, I believe the act is silent and does not prescribe any date by which the Treasurer must concur. If you can tell me something different, please do so.

Hon SUE ELLERY: If that is what is holding up the statements and causing them to be tabled in this house so late, that is what needs to be fixed. That is the point I am making.

Hon Simon O'Brien: You acknowledged also that the act provides for what happens if an updated statement of corporate intent is not tabled; the previous one simply endures.

Hon SUE ELLERY: That is correct. But how are we to know whether there is something that should have been made perfectly clear to the citizens of Western Australia or to the Auditor General in particular? How are we to know that if the statement is not lodged in a timely fashion? That is my point.

I want to juxtapose what I think is cavalier behaviour and the lack of financial accountability on what the Western Australian government is doing to the people of Western Australia, who do not get the same choice of how they account for their financial affairs and the increases, for example, in household fees and charges that they are required to meet. They do not have the choice the government has in determining whether it will meet its obligations to make financial information available to the public in a timely fashion. They do not get to choose what constitutes timely when it comes to paying the increased fees and charges that the government has imposed on them. That is the reason Western Australians will be concerned about time lines—not because they feel some great groundswell of anger about whether a financial report or statement of corporate intent from Verve or the Water Corporation is tabled by date X or date X plus 12 months. The issue that will be of concern to the people of Western Australia is the signal the government is sending to them about what government can do with its financial management: it is not obligated and feels under no pressure to meet the requirements to make information publicly available so that it can be scrutinised by the Auditor General and others. The signal it is sending Western Australians is: "You must pay the extra $150 on your water bill or the extra on top of your electricity bill on time. You must pay all the additional fees and charges. You do not get a choice whether you meet your obligations. That is the cost of it and you have to pay that." It is no small amount of money. Now Western Australian families with two kids are being asked to pay around $1 100 a year in additional fees and charges. That is the issue here. To use the expression of the former Prime Minister, it is not a barbecue stopper whether the Water Corporation's statement of corporate intent was tabled on date X or 12 months after it should have been tabled. The issue which is stopping barbecues, and about which I think Western Australians will be concerned, is the additional costs they are being asked to pay in big chunks—not small incremental changes over time, which people expect to pay. That is why houses cost hundreds of thousands of dollars more now than they cost when my parents bought their first house. Western Australians see that they are being held to a different standard from what the government is adhering to. That is the issue and why Western Australians are concerned about this kind of issue.

The other thing that is causing, particularly seniors in Western Australia, some considerable concern is the government's decision to push past 1 July the payment of the cost-of-living rebate for 2010. We can add the additional fees and charges and the cost it takes to live everyday in Western Australia to the fact that seniors genuinely believed the government would provide that rebate. That was not because of anything the Labor Party said but because of the language the new government used to describe how it would implement its policy. It was a very good policy, which was welcomed by seniors in Western Australia and which I am happy to support. A number of seniors either have come into my electorate office or are increasingly—this surprised me given the

demographic—emailing me about how they feel ripped off and that it was a bit tricky to first tell them they would get a payment every year with the first payment between March and May 2009 and then tell them that, "By the way, in 2010 we will not make the payment until after July and that will save us $26 million." That is tricky. The reason I link these two thing is, as I said before, because Western Australians say that it is not reasonable that the government appears to be reckless and cavalier on how it is held to account on managing the state's finances at the same time as it is imposing additional costs on them, pushing out the payment time for the cost-of-living rebate and expecting them to meet their obligations on time.

HON KEN TRAVERS (North Metropolitan) [11.19 am] — in reply: I want to commence with the port authorities and then I will move back to section 82 of the Financial Management Act.

A number of comments were made by the Minister for Transport suggesting that I regarded the need to have these statements of corporate intent tabled as only a process-driven outcome. That is not the case at all. I actually acknowledged that these statements are an important part of the internal operations of government, that they are an important accountability mechanism, that they are an important mechanism for ensuring that this Parliament is informed about what is going on in port authorities, and that it is even more important that the public of Western Australia is able to know what is going on in port authorities. That is why we have statements of corporate intent. They are the equivalent of the budget in many respects for these organisations. That is the accountability mechanism to the Parliament and to the people. That is why it is important.

Hon Simon O'Brien: That's why they are tabled.

Hon KEN TRAVERS: But we have not had them tabled; that is the problem. The financial year is almost over, minister, and we have not got them.

The other comment in the debate that we have just had that I thought was enlightening was when the Minister for Transport said by interjection that there is no time limit on the Treasurer to reach concurrence. One of the things we all know in this place is that we need to read an act in its entirety and to understand it. That comment by the Minister for Transport showed to me the ignorance of this minister about how this act is written. The first thing that section 61 of the Port Authorities Act states is —

> A board and the Minister must try to reach agreement on a statement of corporate intent as soon as possible and, in any event not later than the start of the next financial year.

Therefore, this year's statement of corporate intent should have been agreed to by 30 June last year. Section 64 of the act refers to the process by which the minister is to reach agreement on the draft statement of corporate content and to table it in this house. Then section 66 states —

> The Minister is not to —
>
> (a) agree to a draft statement of corporate intent under section 64; or
>
> (b) agree to or direct any modification of a statement of corporate intent under section 65,
>
> except with the Treasurer's concurrence.

By any reading of that, it puts an obligation on the Treasurer to reach concurrence with the minister before that date, for the minister to reach agreement and for that document to be tabled. The Treasurer and minister are in the same cabinet. If the minister was a National Party member we might understand why they could not get agreement, but they are in the same party and in the same government. The minister's obligation and the Treasurer's obligation under the same act are clearly to have it done before the start of the financial year.

Hon Simon O'Brien: Before the start of the financial year?

Hon KEN TRAVERS: To suggest anything else just shows the ignorance and contempt of this government, and particularly the former Treasurer. I actually acknowledge that the Minister for Transport was not the primary culprit in this matter and that it was the Treasurer who had been slack on this matter. The Treasurer has had one of these statements of corporate intent since 16 February 2009 and he did not give the Minister for Transport his concurrence until the day he was relieved of his duties. Now it will be up to the new Treasurer to do that.

Hon Simon O'Brien: Just to clarify a point, because you might have said something you didn't intend to say, you said that the statement of corporate intent has to be finalised, put away and agreed to before the start of the financial year. I think you meant to say before the end of the financial year.

Hon KEN TRAVERS: No, the start of the next financial year. That is how it is written in the act.

Hon Simon O'Brien: That's right, but you said before the start of the next financial year.

Hon KEN TRAVERS: I said that it needed to be done before the start of the next financial year. Another way of describing it is that it needed to be completed before the end of last financial year. We can split hairs about whether that is one minute to midnight on the 30 June or one minute past midnight on 1 July, but in effect it is about getting it done before the end of one year and the start of the next year.

Hon Simon O'Brien: I know what you meant to say but it didn't come out that way. I'm just here to help.

Hon KEN TRAVERS: The minister can pick up that as a minor point, but the bottom line is —

Hon Simon O'Brien: You are talking about timing being critical and you are out by one year; it is a point.

Hon KEN TRAVERS: The bottom line is that the minister did not understand his act because he has an obligation to get it done before the start of the next financial year.

Hon Simon O'Brien: Not the end of the previous financial year.

Hon KEN TRAVERS: The minister cannot do it without the concurrence of the Treasurer; ipso facto that means the Treasurer needs to give his concurrence before the end of the financial year for the government to be able to comply with the act—unless the Treasurer is sitting there trying to hang the Minister for Transport out to dry.

Now I want to move to section 82 of the Financial Management Act. Again, the Leader of the House suggested that there was a lack of demonstration or clear examples. I gave a clear example. I said that there were many more, but in the time limit for the debate I could not go through all of them. However, if the Leader of the House wants to bring on this matter at another time, I will be happy to go through and detail all those instances when this minister has deleted information and has not provided information to the Parliament and a certificate under section 82 has not been given.

The example I gave related to question on notice 1200, which was one of the questions reported on by the Auditor General yesterday. Two documents were asked for in that question, which reads —

> Will the Minister table a copy of the Inception Report and original proposal referred to in the letter signed by Mark Burges to Parsons Brinkerhoff dated 9 February 2009?

I can go back to the other questions in which I asked for the letter of 9 February to be tabled, and I invite the minister and the Leader of the House to show me in *Hansard* where they have been tabled.

Hon Simon O'Brien: You bring on questions with no notice.

Hon KEN TRAVERS: The Minister for Transport and the Leader of the House say there is a lack of clear examples. There is an example straight away.

Hon Simon O'Brien: I do not think it is a clear example.

Hon KEN TRAVERS: I am more than happy to go through the other examples at a later stage, but I do not have time today, unfortunately.

Hon Simon O'Brien: Well, why didn't you refer to them?

Hon KEN TRAVERS: If the minister is so confident, he should guarantee to this house that there is no item that he has failed to provide to this Parliament, when requested, for which he has not issued a certification under section 82 of the Financial Management Act. I invite the minister to give me that interjection that he is absolutely confident that I will not be able to find any document, material or information that he has not provided to the Parliament and for which he has not provided a section 82 certificate. Can the minister give that commitment now? Can the minister guarantee it?

Hon Simon O'Brien: You are asking me to say whether I have failed to provide a section 82 notice when required to do so.

Hon KEN TRAVERS: Yes, when you have not provided any information to the Parliament.

Hon Simon O'Brien: In a situation where we are required to do so?

Hon KEN TRAVERS: Yes.

Hon Simon O'Brien: Yes, I do give that undertaking.

Hon KEN TRAVERS: Will you absolutely guarantee it? Will you resign if I can find an example?

Hon Simon O'Brien: Don't be absurd!

Hon KEN TRAVERS: No, of course the minister will not resign. He has told me in an answer to this place that he has systems in place in his office to ensure that he is complying with section 82. The minister has systems in place.

Hon Simon O'Brien: Indeed I do.

Hon KEN TRAVERS: I tell the minister that I will find the examples. I have given one today. I will get the others and I will bring them into the Parliament on a regular basis and we will humiliate this minister.

Hon Simon O'Brien: You are embarrassing your colleagues.

Hon KEN TRAVERS: There are a number of other ministers on the other side who are probably smiling at the moment, but they too will be humiliated because they have not provided their section 82 certificates.

Hon Simon O'Brien interjected.

Hon KEN TRAVERS: Another issue needs to be taken on board here. I accept that information can be blacked out. Any reading of this report yesterday says that information can be blacked out. But what the report also says is that before it is blacked out the minister has to go through a process to determine whether it is commercial-in-confidence information. Just because someone says it is commercial-in-confidence does not make it commercial-in-confidence information. Information that might be commercial-in-confidence today might not be commercial-in-confidence tomorrow, depending upon the timing of that information. Again the Auditor General makes that very clear in his report. One of the questions that I specifically put to the minister today and asked him to give us an answer on was whether, before blacking out that information yesterday, he went through a process to determine whether it was commercial-in-confidence. The minister did not answer that. Does he want to answer it now?

Hon Simon O'Brien: That process was gone through. I am satisfied that that went through. The specific documents, I think, all related to the second incident on the schedule of three in relation to the security contract for —

Hon KEN TRAVERS: The minister actually blacked out information in a number of documents that were tabled yesterday. I thought the minister might have been aware of that.

Hon Simon O'Brien: I am well aware of it.

Hon KEN TRAVERS: Nonetheless, there is a process and I invited the minister to indicate whether he had gone back through that process.

Hon Simon O'Brien interjected.

Hon KEN TRAVERS: It is not simply a matter of —

Hon Simon O'Brien: Trying to hang me by selective interjection, are you?

Hon KEN TRAVERS: No, I am not hanging the minister by selective interjection, but there is a process.

Hon Simon O'Brien: You give no notice of these questions.

Hon KEN TRAVERS: I look forward when the minister tables the section 82 certificate in relationship to the information he blocked out yesterday. We will wait and see whether the Auditor General finds that it was reasonable and appropriate for the minister to have blacked out that information yesterday. Here is a little clue for the minister. He needs to do another section 82 certificate as a result of deleting that information from those documents that he tabled yesterday, because he still has not tabled the full set of documents in this house, and he still has not tabled all the documents that I have asked for in this house. On that basis, he still has an obligation under section 82 of the Financial Management Act to put that before this house again.

I think the opposition has clearly demonstrated that this government does not even understand the act, let alone comply with it, so we win on points.

Motion lapsed, pursuant to temporary orders.

APPROVALS AND RELATED REFORMS (NO. 3) (CROWN LAND) BILL 2009

Third Reading

Bill read a third time, on motion by **Hon Wendy Duncan (Parliamentary Secretary)**, and returned to the Assembly with amendments.

ABORIGINAL HOUSING LEGISLATION AMENDMENT BILL 2009

Committee

Resumed from 5 May. The Deputy Chairman of Committees (Hon Max Trenorden) in the chair; Hon Helen Morton (Parliamentary Secretary) in charge of the bill.

Clause 9: Part VIIA inserted —

Progress was reported after the following amendment had been moved by Hon Lynn MacLaren —

Page 8, line 13 — To delete "and are practicable".

Hon LYNN MacLAREN: I think we were at the point of discussing the deletion of the words "and are practicable", and I believe the parliamentary secretary was advising us of the government's response to that amendment. I am keen to hear more of the parliamentary secretary's response to this proposed amendment.

Hon HELEN MORTON: Yesterday I was talking about why the words "and are practicable" need to stay in the bill. I am really interested in whether the member is satisfied with the explanation that I have already given on that.

Hon Lynn MacLaren: Where were you up to, parliamentary secretary?

Hon HELEN MORTON: I had been saying that those words need to be included in the bill because there are times when an Aboriginal entity, for example, might be attempting to have the housing authority engage in some arrangement that is not practicable, is not viable and is not achievable. The housing authority needs to have the option to not be obligated to undertake that work. The reason that the words "and are practicable" are in the bill is to address the requirement for the housing authority to not be positively obligated to undertake a particular range of actions. Another good example would be to, say, refurbish a house that is now not capable of being refurbished. I think one of the examples that I read about was some facilities on some lands which people are currently living in and which are like bow sheds or sheds of some sort. The ability to try to make them into the sorts of dwellings that we are now talking about is just not practicable. Therefore, the reason that the phrase "and are practicable" needs to be in the bill is to ensure that the housing authority does not have a positive obligation to enter into those kinds of arrangements.

Hon LYNN MacLAREN: That does address some concerns that we had. Clearly, the government has to have some leeway in what it does in relation to Aboriginal housing that we are going to be investing in. I think I can accept that explanation at this point. I seek to withdraw that amendment.

Amendment, by leave, withdrawn.

Hon LYNN MacLAREN: Amendment 2/9 really relates to the issues that are raised in my second reading contribution and at the beginning of the amendments as I put them. We have heard the rationale several times, and I am anxious to hear the response of the various parties in the chamber. Therefore, I move —

Page 8, after line 13 — To insert —

(2) In order to determine the wishes of the Aboriginal inhabitants under subsection (1) the Authority will work closely with the Aboriginal Housing Corporations, the Aboriginal Lands Trust and other Aboriginal Housing stakeholders to negotiate and establish clear guidelines on governance, advocacy, and consultation processes, including measurable benchmarks.

(3) When ascertaining the wishes of the Aboriginal inhabitants under subsection (1), the Authority will —

(a) propose the provision of culturally appropriate housing that takes into account the cultural perceptions of the use of living space, the design and location of houses, and the provision of appropriate architectural and town planning advice to the local community; and

(b) propose climate-appropriate housing that takes into account the cultural perceptions of the unique climatic conditions in the regions serviced.

(4) In the case that the wishes of Aboriginal people under subsection (1) cannot be ascertained, or can be ascertained but not met, the housing agreement is to provide for housing to meet culturally appropriate and environmentally sustainable design standards.

Hon HELEN MORTON: The government will not support this amendment to the bill, but it supports the intent of what the member is seeking to ensure, which is the matters that the housing authority is involved in. The way I would describe that is that the department has met with, and is continuing to meet with, the Aboriginal Lands Trust and the Aboriginal Legal Service to develop the protocols for ascertaining the wishes of Aboriginal people. It is expected that those protocols will be completed before the end of May, with both the Aboriginal Lands Trust and the Aboriginal Legal Service, that the department will formalise those protocols as policy and that the policy document will be a public document. The government would prefer to see that process in a policy and guideline, rather than inserted as an amendment to the bill.

Hon SALLY TALBOT: I rise to indicate that Labor will support the amendment moved by Hon Lynn MacLaren. I urge the parliamentary secretary to pay attention to the number of times during the course of the debate on this bill that we have attempted to either move amendments or suggest that there be a safety net in the act itself to specify some of these basic provisions. We are accepting at face value the parliamentary secretary's assurance on behalf of the government that programs, regulations and practices will be put in place to bring about the effects that we have identified in the debate. However, I put it to her that putting these things into the acts themselves would be an additional safeguard, and that is something to which we will be holding the government to account when this bill becomes an act. We indicate our support for the Greens' amendment.

Hon HELEN MORTON: I would just remind the member that the part of the act that contains the ability for these protocols to be incorporated relates to housing management agreements. That is already part of the act. The requirements that are being referred to can be built in as part of a housing management agreement. As I have indicated, the department takes these principles on board very conscientiously and is working with the Aboriginal Lands Trust and the Aboriginal Legal Service to ensure that protocols are developed into a policy, which will be made public. Those policies and protocols can be embedded into a housing management agreement, which is already included as part of the act.

Hon LYNN MacLAREN: I welcome the support of the Labor Party for this amendment. I very much appreciate the comments that the parliamentary secretary has made on the interpretation of how this bill will be implemented. I think it goes some way to addressing at least the general concerns that constituents have. However, in pointing to the housing agreements as being the solution to this problem, I remind the parliamentary secretary of the advice of the Aboriginal Legal Service. Its concerns are fundamentally that housing agreements place an unfair negotiating power in the hands of the government. We are acknowledging that assessment on behalf of the Aboriginal Legal Service. I feel that our duty as legislators is to legislate on behalf of all Western Australians. These Western Australians are saying that the system that will be put in place, as they see it, is weighted unfairly on the government's side. The nature of this amendment is to try to address some of those concerns, which may well be addressed in the way housing agreements are negotiated. As Hon Sally Talbot has said, the proof will be in the pudding. We will be watching this government to ensure that these goals are achieved.

Hon HELEN MORTON: The government welcomes that level of scrutiny.

Amendment put and negatived.

Clause put and passed.

Hon HELEN MORTON: Before we get to the final clause, I would like to table the document that I undertook to provide to Hon Sally Talbot. I have numerous copies of this document so that it need not be photocopied. The document indicates the number of houses that are being provided to the different communities within the program.

Leave granted. [See paper 2014.]

Clauses 10 and 11 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

PAY-ROLL TAX REBATE BILL 2010

Second Reading

Resumed from 21 April.

HON KEN TRAVERS (North Metropolitan) [11.48 am]: The Pay-roll Tax Rebate Bill 2010 seeks to implement a rebate arrangement in certain circumstances for people who have paid payroll tax in Western Australia. Those who pay over the $750 000 threshold up to an amount of $1.6 million will be given a full rebate on the payroll tax that they are owing, and then from $1.6 million to $3.2 million that amount will taper. There is a cap on the rebate that can be paid, and I think it is $46 750 or thereabouts. I understand, depending on the arrangements, that somebody could be entitled to a slightly higher rebate than that, but effectively the cap is set at what it would be for a normal, simple payroll tax liability of $1.6 million over the year. Very few people will get that full amount and most will get some of it. If they pay a dollar less or a dollar more than $1.6 million, they will either have what they paid rebated or what they owe will start to taper.

I am sure that this is an initiative that will be welcomed to some degree by small business in Western Australia. The issue that has been raised with me, and I am well aware that the businesses in the Joondalup area have raised it at their local association meetings, is that it would have been nice to have had this money upfront so that businesses did not have to pay it, rather than receiving it as a rebate. All these companies will have to pay their payroll tax and then they will get a rebate. My recollection is that when this was introduced in September last year, at the time of the global financial crisis, one of the justifications was that the government was seeking to provide a bit of a stimulus to the economy. I am not sure that it provides a stimulus if the money has to be paid on a monthly basis and then is rebated in September of this year. I think all members would accept that the economy is picking up now and the need for the stimulation of the economy and for assistance to small business passed some time ago. I must say it reminds me a bit of the announcement in February 2009, which was also claimed to be a stimulus, in which the government was bringing forward expenditure on housing to stimulate the economy. During the estimates hearings I questioned some of the officers from the housing authority about how

that was possible. They assured me that they would have these houses built, but the record shows those 1 006 houses have not been built as part of the stimulus package.

Whilst the intent of the state government is good, and I have no doubt that small business will welcome this money as a rebate, it will not serve the purpose of providing stimulus, just as the other measures that this government sought to implement did not provide assistance. Thankfully the federal government put in place stimulus measures that helped get the economy up, and we maintained an unemployment rate in Western Australia far lower than anywhere else, not only in Australia but also around the world. As a result of the actions of the federal government, we can all be thankful that we did not suffer the sort of pain experienced by most other countries in the world—in fact, we probably suffered the least pain of any country in the world—during the global financial crisis. On that basis, the opposition will not oppose a measure that hands money back to small businesses. In contrast, however, it should be noted that we are aware of many other decisions that resulted in the government taking money back off small businesses despite its election commitments to the contrary.

With those words, the opposition will be supporting this bill. However, I urge the government—hopefully we will never face this situation—to find a better mechanism, albeit complex. One mechanism that is worth looking at, which is possible under the legislation, is to apply a new scale for this year alone that would allow small business to have the benefit of a reduction in its payroll tax obligations at the time that it needs to pay it, rather than it having to pay the tax and get it back in September. I am sure that anyone on the government side who has run a small business will understand the importance of cash flow and the impact of having to pay money to the government and not getting it back for up to 12 or 18 months. I note that some members on the other side who have run businesses are nodding about the importance of cash flow to small business. The measure would have been even more gratefully received by small business if it had been done in a way that allowed it to get the rebate without having to find the money and pay it. When we get on to some of the other revenue bills, members will see that we will be making arrangements to allow people to pay tax on credit cards. If they pay it with their credit card and they have not paid their credit card off, they will be paying interest on that tax until the time they get the rebate in September. There is a better mechanism for the future—if these measures are going to be applied again—and that is to set up and adjust the scale. I know it takes a bit of extra work, but that is the way that the government could provide an even more direct benefit, particularly if its intention is to try to stimulate the economy.

HON HELEN MORTON (East Metropolitan — Parliamentary Secretary) [11.55 am]: I welcome the support of the opposition for the Pay-roll Tax Rebate Bill 2010. I reiterate that, at the time this initiative came about in the 2009–10 budget, we were facing quite challenging circumstances, reflecting the impact of the global economic downturn on the national and state economies. This was one of the major initiatives of the government to protect jobs and support the Western Australian economy in the short term. It was at a cost of around about $100 million on a one-off payroll tax rebate to small employers. The initiative was to last for just one year. I might add that we were the only state government in Australia that gave a major tax concession during the financial crisis, and it allowed thousands of small businesses to have the benefit of not paying that payroll tax for that 12-month period. It obviously played a very important role in not only keeping these businesses viable, but also making sure that they maintained employment, particularly of apprentices, trainee staff and staff on traineeship programs et cetera. I do not propose to go through all the elements of the bill, which we have already considered. In response to Hon Ken Travers' question about why we did not just limit the payment of tax for that particular year, many aspects of this needed to be considered and weighed up. For example, the government needed to weigh up factors such as the legislative requirement; the system changes, which I understand are quite substantial; and the timeliness. I think that an important element is community understanding and awareness of the government's motives. There are difficulties in reducing the rate and then raising it again, and when all those factors were weighed up, the government made a call that it was better to have a rebate.

Hon Ken Travers: It would have been of greater assistance to small business in terms of cash flow.

Hon HELEN MORTON: Hon Ken Travers knows that small businesses will not have to put in an application for this; it will happen automatically on the basis of those businesses being registered through the year as payers of payroll tax. This will minimise the work, the complexity and mechanisms by which small business undertakes that. I know that Hon Ken Travers is not suggesting it would be done on a monthly basis, but the systems that needed to be put in place for that to occur outweighed the benefit in view of the complexity of the work that was going to have to be undertaken for that to happen. When one weighs up the simplicity, community awareness and understanding that this was a one-off measure with the fact that the rate would otherwise have to be raised again at the end of the year, the government considered this to be the better way to undertake that process.

Hon Ken Travers: Can you explain the formulas?

Hon HELEN MORTON: I did practise those formulas. I was anticipating that the member might ask me what WAA stands for, and luckily during committee I was going to have an adviser with me.

Hon Ken Travers: I probably will ask what WAA stands for. I know what WAWW and WA is but not WAA!

Hon HELEN MORTON: I would have had an adviser sitting beside me to help answer the member's question about formulas if it had been necessary. Now, I am not going to explain the formulas.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Hon Helen Morton (Parliamentary Secretary)**, and passed.

ROAD TRAFFIC AMENDMENT BILL 2010

Second Reading

Resumed from 23 March.

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [12.02 pm]: The Road Traffic Amendment Bill 2010 seeks to amend the amendments that were made last year to the Road Traffic Act 1974. The government was advised by the opposition and other parties last year that there were deficiencies in its legislation, commonly known as the hoon legislation. In the past few months those deficiencies have been well and truly publicly demonstrated. The bill we are considering today is the result of the public criticism that has arisen because the government failed to address those deficiencies last year when it had an opportunity to do so. I will go through some of the key points of this bill. I hope the Minister for Energy will be able to answer the questions I ask during my speech and provide additional information.

The legislation makes a couple of key changes to the amendments that we dealt with last year. Those changes will tidy up some of the grey areas, or loopholes, that exist. I will go through some examples to remind the minister why we are again making amendments to the Road Traffic Act. The bill will allegedly provide assistance to the police when they deal with those grey areas. The second reading speech outlines three key areas that will enable police to release impounded vehicles early. The first is —

> …when the vehicle was in the possession of a vehicle service provider for the purpose of being serviced and at the time of the alleged offence the vehicle was being driven by the vehicle service provider or an employee …

The best example of why that change is coming into place is the Lamborghini incident that occurred earlier this year. The Minister for Police put on a wonderful display of his best buffoonery in his handling of that incident. He did not handle the situation well at all. He was quite callous and unfair to the owner of the Lamborghini. He was quite dismissive of the owner's need to have his car back on the road, despite the fact that the hoon incident occurred through no fault of the Lamborghini owner. The lambasting of the minister on various talkback shows was quite amazing. That lambasting would have been a shock to the minister and the government as it demonstrated how the public viewed the minister's handling of that owner–driver's situation. The explanatory memorandum reads —

> The amendments contained in this bill are intended to address a recently identified market failure relating to the inability to release an impounded vehicle where it is considered that there existed sound public policy reasons for releasing it.

That is an interesting way of describing the government's stuff-up, which was to race the hoon legislation through Parliament without being prepared to consider the matters raised by the opposition and other parties about its deficiencies. The Minister for Police had not been prepared to countenance any amendment that would have tightened the loopholes. Referring to a "recently identified market failure" is an interesting spin on the deficiencies of the legislation.

Hon Ljiljanna Ravlich: The minister is good at that.

Hon KATE DOUST: Yes, he is good at that.

It would have been interesting to see whether the government would have introduced this legislation to remedy the problems had it not been for the community's sharp and violent response to the way the minister handled the situation via both the written media and radio talkback shows. There was not only the Lamborghini incident; unfortunately, within the space of a couple of weeks there were three or four specific examples of cars that were removed from their owners and impounded because of a hoon incident that was no fault of the car owners. The impounding of those vehicles had serious implications for some of the owners. I will deal with those particular examples in a moment.

The second reading speech outlines the other key changes to this legislation and states that the bill broadens the ability of the police to release impounded vehicles early when —

> …the vehicle service provider provided a loan vehicle to the offender while the vehicle service provider was servicing the offender's vehicle; or, the vehicle was for sale and was being test-driven by the offender for the purpose of a road test.

I refer to the example of the Mini Cooper that was loaned by Auto Classic, which is in my electorate in Victoria Park, to a person for a test drive. The owner of the car, Auto Classic, suffered financial discomfort when the car was impounded. I am not sure whether that matter has been finalised in court, but I think penalties have been imposed. Those are the three key areas that have been identified in this legislation that will assist the police in their decision to release impounded vehicles early. The second reading speech also refers to the Governor being able to make regulations to prescribe other circumstances for early release if and when those circumstances are identified. I want the minister responsible for the bill in this chamber to outline what those circumstances will be and what the regulations will provide for. Given the passage of time from the passing of this legislation in the other chamber to now—a period of six weeks or, perhaps, two months—I expect that the government has considered the types of circumstances that it will include in the regulations. I would appreciate it if the minister could provide that information.

The bill also provides that, rather than the particular car in question being surrendered, a surrender substitute vehicle notice will be given to the driver within 28 days. During my briefing on the bill, the advisers said that if the police did not issue that notice within the 28-day period, the window of opportunity would close. I ask the minister to confirm whether that will be the case. That is a very interesting situation. I am interested in knowing what resources will be provided to the police to enable them to obtain a substitute vehicle from a person who has offended. I am interested also in knowing what additional costs are being incurred by the police because of these constant changes to this legislation. I believe that the police are incurring substantial costs because of these impounding provisions. I will come back to that a bit later.

We have flagged three key concerns in the Road Traffic Amendment Bill 2010. Even though we regard this as catch-up legislation to deal with some incidents that occurred in the early part of this year, it is interesting that even after this legislation was introduced into this chamber, a supplementary notice paper was provided by the government that proposed further amendments to this bill. I look forward to the minister taking us through those amendments and explaining why these changes were not included in the bill when it was second-read in this chamber. I am interested to know why the government waited for the second reading debate before it proposed these additional changes to this legislation. I note that the additional amendments that have been placed on the supplementary notice paper are not dissimilar in flavour to the amendments that were proposed in the Legislative Assembly by the opposition spokesperson for police, Margaret Quirk, the member for Girrawheen. Those amendments were quite brusquely dismissed by the Minister for Police in that chamber. He did not seem at all keen to take on board those proposed changes. Those proposed changes would have tightened this legislation even more and provided greater clarity for everyone involved. The Minister for Police, Hon Rob Johnson, said last year when he introduced the first piece of hoon legislation—the first amendments to the Road Traffic Act—that he wanted to simplify the legislation and make it easier for people to understand. However, as we have seen demonstrated in the past few months, all he has done is create even more confusion. He has not simplified the legislation. He has only exacerbated the confusion about whether or not a person's car can be impounded.

My colleague in the other chamber began her speech by referring to a quote from *The Mikado*. I do not have old-fashioned musical tastes as she does. But I was thinking this morning that the best song that we could pick for this legislation is a song that Hon Sue Ellery tells me was originally a Beatles song —

Hon Giz Watson: "Baby you can drive my car"!

Hon KATE DOUST: Yes, "Baby you can drive my car"! That was actually a song by Fine Young Cannibals. It was a great song. What this legislation says is, "No, baby, you can't drive my car; it's going to be impounded"!

Hon Giz Watson: Or, "You can drive my car slowly"!

Hon KATE DOUST: Yes—slowly and carefully, I think.

I was trying to think of the right song, and that was the first one that came to mind—not the Beatles' version but the Fine Young Cannibals' version.

We are dealing with catch-up legislation. The minister has done a backflip on this legislation. He has finally turned around and said, "Well, maybe the amendments that have been proposed by the opposition are not all that silly, and maybe we should pick up on them." When I raised this with the advisers from the department, they said that the minister had looked at trying to deal with these proposals in regulations, but he could not so, so he has come up with these amendments. We will be supporting the amendments that the government has put forward, because we think they will go some way towards resolving some of the issues of confusion, and provide greater clarity. They are not the be-all and end-all, but they will go some way. It might have made the life of the minister representing the Minister for Police a bit easier if the minister responsible had been prepared to pick up on those proposed changes in the other place—those well thought out and well drafted changes—because we

might then have had a better piece of legislation come to this chamber. We all complain about how the Assembly just whacks legislation through without paying attention to the detail. However, just for once, we have had some sensible amendments proposed in the Assembly. I do not know whether Minister Johnson simply wrote those amendments off because of the person who had proposed them; because he did not understand them; or because he has an intransigent position on these matters and thinks that the legislation that he has proposed will be a quick fix.

I do not know how this legislation will make people feel safer on the roads. I will be interested in the minister's explanation about how this bill will achieve the goal that is set out in the second reading speech. This piece of legislation has arisen in response to the negative feedback from the public about the poorly drafted legislation that we had to deal with last year. I would put it that this bill is just another example of this Liberal–National government's approach to legislation. We dealt with the previous hoon bill just before Christmas 2009. We have now found in a very short space of time that we need to have a second go at this hoon legislation. This is an example of what we will see in the future. I believe there will be other pieces of legislation that will come back to us to be patched up and have bandaids applied to them, all because the government did not spend the time to do the research that is necessary to draft legislation that will actually work, not only for people in the community, but also for the people who will have to implement that legislation.

It is not just members of the public who are highly critical of the way in which the government has handled the particular examples that have arisen under this legislation. The first example was the impounding of the Lamborghini in January of this year. That matter received a fair amount of media at the time, because it happened fairly quickly after the legislation had been proclaimed. That was a fantastic example of how this legislation can go wrong. Another interesting example was referred to in an article in "Inside Cover"—not a section of *The West Australian* that we normally like to quote from—on 8 March of this year. That was about a woman who was working as a cleaner and linen room attendant at Princess Margaret Hospital. This women had had her car impounded, not because she had been driving recklessly, not because she had been speeding, and not because of any difficulties with her licence, but because she had loaned her car to her son. Her son had been picked up by the police while he had been driving that vehicle, I think because there had been a problem with the tail light of the vehicle. However, when the police checked his licence, they found that he was driving while under suspension, because he had run out of demerit points. That was something that his mother had not known about when she had loaned him her car. So, she lost her car, and she had no way of getting from her home in the hills to her work in Subiaco. She had made an application to get her car back on hardship grounds, but she had been knocked back. Therefore, the only way she could resolve her private situation was to take annual leave. I think she ended up taking all her annual leave, plus a week off work without pay. This poor woman was substantially penalised because of her son's behaviour. These are examples that have been raised in both this and the other place about what could happen "if". The legislation that we are dealing with today will purportedly resolve these types of issues. However, that poor woman certainly paid the penalty.

An article in *The West Australian* of 11 March reported that the driver of a Mini Cooper had been fined $1 500 for speeding while driving the vehicle. His employer, Auto Classic, had unsuccessfully appealed the confiscation and had had to sit out the confiscation period before it could get the vehicle back. I imagine that that would have caused Auto Classic some distress if it was trying to move that car off the lot and receive payment for it. In another example, a multipurpose taxi had been impounded, causing difficulties for not only the owner of the taxi—not necessarily the driver—but also people who might need to access that disability taxi service.

I think there was a fourth example that received quite a bit of publicity. The minister responsible for this legislation initially seemed to brush off these things. It came down to public opinion putting the pressure on him to introduce this legislation to tighten up these grey areas. Perhaps if the government had spent more time doing the background work and looking at the drafting of the legislation before it introduced it in knee-jerk legislation in the name of "law and order" we would not have had to come back and apply bandaids to this type of legislation.

It was also interesting that, aside from the public commentary, in an interview on *Stateline* on Friday, 26 March, former District Court Chief Judge Kennedy made some very interesting comments about the government and Minister Johnson, in particular, and how he had handled the Lamborghini incident. The Chief Justice obviously had a number of comments to make about a series of situations in the state. I will read her comments from a transcript from that *Stateline* program —

> JOANNA MENAGH: Her scathing criticism extends to the case of Patrick Nugawela —

Members can correct me; I am not sure of the pronunciation of the doctor's surname.

> who had his Lamborghini seized after his mechanic was allegedly caught speeding in it.
>
> ANTOINETTE KENNEDY: When the doctor had his Lamborghini seized, the relevant minister seemed to think that he could brush that aside by the politics of envy, that we would all simply envy the

> doctor that he had a Lamborghini and we didn't and so who cares about him? And it turned out the community did care. They did see that as being unfair and they did care about that act of unfairness to that person, even though most of us couldn't afford a Lamborghini, and so I don't know who they're listening to, but I simply don't agree with them.

That is an interesting point. Although the incident involved that doctor and his Lamborghini, it could have been anyone who had his car seized. We must apply a fairness principle across the board. It was interesting that Chief Judge Kennedy picked that incident and made the comments about how the minister had handled it. Based on the commentary in the media, perhaps a bit of politics of envy was involved in the way the minister handled that situation. Perhaps he can receive counsel from wiser heads in his cabinet about how to engage in these issues and apply a fairness principle.

It is interesting that, in the period since that legislation was introduced last year, I have received some statistics, which I will share with the chamber so that members have a fairly clear idea of the number of cars that have been impounded, the number of hardship applications made and granted and a couple of other details. I will read from an email I received from one of the advisers. The total number of vehicles impounded for hoon offences since July 2009 is 1 483; for unauthorised driving offences since July 2009, 7 269; vehicles crushed or confiscated, two; and hardship applications, 506. I dare say the lady from Kalamunda was one of those. The total number of hardship applications granted is 109. That is quite a big difference. The total number of surrender notices issued for hoon offences is 56, and surrender notices issued for unauthorised driving offences, 150. Those are the current figures as at 20 April that were provided to me. They are very interesting figures.

On 6 April, an article in *The West Australian* was headed "117 unlicensed drivers lose cars" with reference to the Easter break, and 21 vehicles had been taken for hooning. Given all this media hype and criticism of the way the government handled those various issues and how that legislation was impacting on people who owned the cars, not necessarily driving them at the time they were caught, the government decided to change the legislation. An article in *The West Australian* of 21 April refers to how the government had decided to relax the impounding rules for business owners, contractors of a business owner, taxis driven by shift drivers and buses driven by employees or contractors of a bus licence holder. These are all the issues that were canvassed in the other place and the government was asked to tighten them further. I am keen to hear why we are dealing with not only this bill, but also further amendments that could have been dealt with in the other place to make this legislation workable.

I referred earlier to the cost to the police of managing the hoon legislation and the impounding of cars. Given the increase in the number of vehicles that the police have had to seize and impound, I refer to a article in *The Sunday Times* of 2 May, just last Sunday, headed "Car seizures deliver cops $1.4m debt". The minister may have seen this article. I am sure everyone reads *The Sunday Times* here on PerthNow! The article reads —

> Police have been lumbered with hundreds of unclaimed cars—and a $1.4 million debt—because one in five vehicles seized from unlicensed drivers is not collected by their owner.

Hon Norman Moore interjected.

Hon KATE DOUST: I am sorry; I missed that interjection. I am sure it was humorous.

Hon Norman Moore: I just said that I read the comics, which is the most serious part of the newspaper!

Hon KATE DOUST: Yes, the comics and the fashion pages.

Hon Norman Moore: I don't read them.

Hon KATE DOUST: Perhaps you should.

Hon Norman Moore interjected.

Hon KATE DOUST: Perhaps I should too. I am always looking at those things.

That is the first part of the article. It then goes on to state —

> ... WA Police has forked out more than $4.17 million in impounding costs and managed to recoup just $2.76 million after auctioning unclaimed cars.

If my memory serves me correctly, we talked about this type of issue when we dealt with the legislation at the end of last year. We asked what would happen if people did not claim their cars because some of the cars would not have been worth the value of the fine or the cost of getting the car out of a compound. Obviously people are saying, "I will not pay the cost of getting it out; it is not of that much value to me", so they leave their car there and give the police a dilemma. WA Police has to find the extra money out of its budget, which, as we know, has been slashed due to the three per cent efficiency cuts and other issues. My question is: what will happen about that shortfall? Is the government going to provide that additional money to the police so the police can manage their books? I understand from this article also that Commissioner Karl O'Callaghan will consider approaching the state government for extra funding.

Apparently some analysis is being done of the impacts of the legislation after the first year of operation. That will probably not happen. I imagine that is the first year of operation of the legislation we dealt with last year, not the bill we are currently dealing with. By the end of this year I imagine the commissioner will go cap in hand to the government saying that the police budget has a shortfall, and that it will probably grow by the end of this year. I will be interested to know how the government will deal with that. Will it allocate additional funding to WA Police to manage these additional costs of impounded cars not being collected? Further in the article, interestingly, it states —

> ... the entire car park of the Karratha police station was recently crammed with seized cars.

WA Police are faced with the problem not only of people not picking up their cars, but also of what to do with them all. Only two cars have been crushed because of the penalty that was required to be carried out. What are the police going to do with all these surplus cars that are just lying around in car yards? Will the police sell them off or crush them? How will they manage them? What sort of thought has been given or what sort of discussions have been held —

Hon Peter Collier: Give them to the TAFEs.

Hon KATE DOUST: That might not be as silly as the minister said.

Hon Peter Collier: I have suggested that.

Hon KATE DOUST: I fully support creative options for dealing with this issue. However, I would like to know from the minister, rather than just that throwaway line, what discussions have been held between the —

Hon Peter Collier: I have had a discussion with the minister with regard to this issue.

Hon KATE DOUST: Has the minister had that discussion in his portfolio of training?

Hon Peter Collier: I think it is a really good idea with these cars, if possible, to actually use them for practical purposes by our state training providers.

Hon KATE DOUST: Okay.

Hon Giz Watson: A practical example of how to get your car to go really fast!

Hon KATE DOUST: But not to get busted while they are doing it!

It is very good that the minister has done that and it is very interesting. I would be keen to know how the government has engaged more broadly with the police on this issue. We certainly do not want to see police yards around the state getting filled up with cars that have been impounded and owners not prepared to pay for them or to collect them. I think that is an interesting point that has arisen out this legislation.

I note that in response to a question asked in the other place on 22 April about the additional costs that the police have incurred and how they would be managed, Minister Johnson said that the government was currently looking at a new system that would be put in place. Some new tender had been asked for to try to ensure that the police would not have to pay those costs. I would be interested if the minister could provide to this chamber some information about which new arrangements will be put in place so that the police will not have to pay the costs that they are currently incurring with impounded cars.

Those are just some issues that have arisen. As I said earlier, this legislation is an example of having to patch up earlier legislation that probably did not have enough thought given to it. It was certainly a good example of when government was not prepared to listen to alternative proposals that probably would have resolved some of the problems that have arisen, certainly in the public's mind. Some of the proposals that came from Labor in the other place would have provided probably more clarity about when and where cars could be seized and from whom. If they had been implemented, we may not have seen some of those situations that the government had to deal with in the earlier months of this year.

Another aspect I would like to know from the minister is what research the government has engaged in about the impacts of this legislation on how the community deals with road safety. Has any work been done about whether seizing people's cars and having them pay penalties actually makes people think more carefully about what they do when they get in their car and turn on their motor and how they conduct themselves on the roads? I would be interested to know whether the government has done any research on that or whether it is planning to do any research; and what having the public images of those cars being seized and in some cases crushed does to individuals' thinking about how they conduct themselves on our roads. The second reading speech made a reference to this legislation that —

> … it upholds the fundamental right of the community to feel safe while on the roads, …

I want to know how this legislation actually delivers on that. What research has been done by the government to clarify that statement? How will it make people feel safe on the roads?

Those are some of the concerns. As I said, it is a bandaid approach. It is fixing deficient legislation. We told the government it was deficient legislation. We told the government there would be problems. Those problems did occur. The public has given the government a fair belting because of the way it managed those grey areas. The government has responded to the public criticism, as I imagine it will respond in due course to public criticism on other legislation that we will deal with in future. It is just a real shame that Minister Johnson, in his great rush to get legislation through the Parliament swiftly, did not put some real work into it to make sure it was good and workable legislation that provides for fairness and equity for everybody in the community and does not need to be changed within a couple of months.

I hope also that the minister is able to provide some information on the couple of questions I have asked. I look forward to the minister's explanation of why the additional quite substantial amendments on the supplementary notice paper were added to this bill for consideration after the bill was read in and why the government could not have dealt with the proposed changes in the other place, given that they are very similar to the principles raised by the opposition and the areas of concern that we wanted amended.

I look forward to the minister's response. The opposition will be supporting this legislation and the amendments that the bill is proposing, as we believe that they go some way to addressing the loopholes and grey areas that have been shown to have arisen in the poorly constructed bill that the government previously introduced. It is interesting that the minister responsible, not Minister Collier, is showing a pattern of behaviour—which I think are words we might use frequently in future—about his ad hoc approach to putting forward good, workable legislation. In conclusion, with those few brief words about this bill, we will support it and we look forward to the minister's explanation of those matters that we have raised.

HON GIZ WATSON (North Metropolitan) [12.36 pm]: I have been looking forward to speaking on this bill; one in which I have taken a fair degree of interest. I must give full credit to my research officer, Irma Lachmund, who has had her eye on this particular bill ever since the introduction of its predecessor, which was the fundamentally flawed legislation that the government put through earlier. We are now dealing with the catch-up legislation, which is the Road Traffic Amendment Bill 2010 that we have before us this afternoon. This Road Traffic Amendment Bill is the government's next attempt to fix up fundamental flaws in the so-called implementation of hoon offences that members will recall, of course, was rushed through the Parliament in September 2009. This bill attempts to do two things. It allows the police to order the offender to substitute another vehicle in a case in which the vehicle used at the time of the offence is not licensed to the offender; and it recognises the interests of hire service companies and car sales businesses.

It is an extraordinary set of circumstances that has led us to debate this bill in the Legislative Council today. Members may recall in the history of this legislation that when the Labor Party was in government, it introduced the basic framework for confiscation of vehicles that were used in so-called hoon offences. We had some reservations about that legislation at the time, but I do not believe we actually voted against it. That original legislation had a very short period of impoundment. I suggest to members that this bill came about after a very short, sharp election campaign during which the Liberal Party proposed a number of law and order initiatives—I am pretty sure this was one of them—to be tough on crime. One of the initiatives was to extend, or crank up, the provisions to impound vehicles. Let me be very clear: the Greens have absolutely no problem with measures to prevent people engaging in dangerous driving. The trouble is that when we go down that track, we run into some problems regarding people's private property, which is exactly what we are trying to fix up now, again, because there are some conflicting rights and principles. Therefore, it is not an easy area in which to legislate. That is why we are wasting a hell of a lot of the Parliament's time in apparently trying to get this right. I suggest that we need to be looking at other ways of preventing particularly young men from wanting to behave stupidly on the roads. Legislative instruments are often really problematic, because there are conflicting rights and obligations, and it is very hard to achieve some of these things in legislation. I think that is what we are dealing with.

I reiterate what Hon Kate Doust has said. Not only do we have another bill, but also we now have placed, at reasonably recent notice, on supplementary notice paper 2A, 17 more government amendments to what is in fact a very small bill. This supplementary notice paper contains nine A4 pages of further amendments, which I am delighted to see we will have the opportunity to debate as well, on top of the three amendments that I had placed on the supplementary notice paper on behalf of the Greens. We are really dealing with a dog's breakfast. There is no polite way to put it. What that says to me is that there is a huge danger in any major political party making an election promise and not really thinking through how it will do it. Perhaps it would have been a good idea to have thought a bit more about the original piece of legislation rather than rushing it through in September. We have heard about the consequences. We have heard that it has had unintended consequences by impinging on the fundamental property rights of innocent third parties. In a nutshell, that is the problem. It has received a lot of public debate, and people are rightly angry and confused and cannot quite understand how they ended up with legislation that looks as bad as this.

It is very easy to say, "Well, it was all the police minister's idea", and perhaps it primarily was. I guess he probably has to carry the brunt of the criticism for introducing ill-considered legislation. However, we must

remember that the process, I assume, is that cabinet signs off on legislation, and I assume our colleagues, the enablers over there in the National Party, also sign off on this sort of legislation. I want to make the point that it is not just the police minister who put up a bill like this; it is the government, and the government includes all those guys over there, and the occasional woman. Therefore, I am just making that point. Members opposite might like to suggest that perhaps it is the police minister who is lacking in capacity, but I suggest that it is something that needs to be carried by all those opposite. They might like to think a bit more carefully about what they introduce before they do so again.

Secondly, I reiterate the point that Hon Kate Doust made. Here we have a bill in our place, which we are about to debate in detail, with a further nine pages of amendments, 17 of which belong to the government, and we do not even have the minister in this place. No offence to Hon Peter Collier, because I am sure he will do as best as he can, but it seems extraordinary that we are now going to deal with a further 17 amendments without the minister in our place to explain what they are trying to do. My temptation would be to say, "Take them back to the Assembly and ask the minister to explain to the Assembly what these amendments do." I have some very simple amendments, which we will get to, no doubt, in due course, that would have resolved this issue with some simple elegance. But perhaps that is not the way that this government likes to do things.

This bill makes very specific rules for the case of contractual use of cars owned by third parties, such as hire cars, and the use of cars during service test drives or for sale purposes. We have no problem with the attempts to adjust that particular component. These provisions claim to address the special needs of businesses and individuals who use service providers and who risk the commission of a hoon offence or driving without a licence during the process of a car sale or during a service check. We do not have a problem with that. This is a good start, but it does not go far enough. It has been the result of significant injustices that have come up during the first eight months of the implementation of this increased impounding period. Fundamentally, as I said, we are dealing with legislation that I am sure has been very difficult to draft. I am sure that the people who were tasked with drafting this legislation must have had some headaches to try to work out how they could actually do it, because it does not matter which way we look at it, it is very tricky. That is the fundamental problem that we have had, and we have said that all along. I must say that I have to make a little comment that it is the first time that I have seen a senior journalist suggest in our esteemed daily newspaper that the Greens got it right on something such as property rights and driving offences and that perhaps I needed to be elevated to the position of police minister. I do not have that ambition, so members can all relax. I am not putting my hand up.

Whereas this is the next attempt, we would argue that a good bill should have acknowledged the significant injustice in the impounding of a vehicle that is owned by an innocent third party, and that the bill should provide options for immediate release of that third party vehicle in those circumstances. The bill should also have given back the discretion to police officers regarding the need to impound any specific vehicle. That is actually where the law was before; the discretion was substantially with the police officer. Various changes that have taken place have resulted in that discretion being removed. The bill should have reflected the interests of business owners who are unable to use their vehicle because one of their employees has driven it illegally. They can get rid of the employee, but they cannot get their vehicle back, and it is for a considerable time, especially if it is a second offence for the offender.

The bill could also have increased discretion regarding the recognition of hardship in unusual cases, and I will deal with that in more detail when we go into committee. Hon Kate Doust raised the case of the hospital worker from Forrestfield. That is clearly an unjust outcome that needs to be fixed. Cases of hardship need to be recognised, and there was an elegantly simple way of doing that, which I will get to in a minute.

I would particularly like to thank the Department of Planning for the excellent briefing and advice and additional information that has been provided in the past few weeks, because the department is certainly doing everything it can to keep members of Parliament abreast of this evolving matter—almost on an hourly basis.

Basically, impounding a vehicle that belongs to an innocent third party is fundamentally unjust. We find that the provisions in this bill are both cumbersome and difficult for the average person to even comprehend. The bill does not provide the discretion that a police officer needs to address cases. In our view, it is not in the public interest to remove that discretion from a police officer.

The impounding of a vehicle has a significant impact on the offender and on the family social network of the offender that relies on the use of the vehicle. Of course, this is even more so when the impounding bears on an innocent third party. We believe that direct penalties for the offending driver should be sufficient to motivate him or her to improve his or her driving to make it legal. We have seen no evidence from WA that demonstrates that impounding vehicles has been an efficient measure to improve road safety. However, perhaps the minister may be able to indicate whether there are any signs that things have improved in this regard. For the Parliament to continue cranking these offences up higher, when we had not even had time to assess the effectiveness of the measures that were put in place, for example, by the previous government, which had a more modest

impounding period, was ill-advised at the very least. Rushing into these things leads to the sorts of problems that we have now.

Impounding a vehicle, in addition to a penalty payable for the offence, appears to breach the principle of double jeopardy, whereby an offender should not be punished twice for the same offence. I might just remind members what that principle is. The New South Wales Council for Civil Liberties states that it is as follows —

> The rule against double jeopardy states that no one should be tried or punished twice for the same offence. This rule protects citizens from oppression by ensuring that the State cannot keep prosecuting a citizen until they are finally convicted. It is a fundamental …

It goes back a long way in law. One could argue that impounding a vehicle on the day of the offence, average fees of around $900 for the return of the vehicle after 28 days for a first offence and a penalty set by the court sometime later for driving without a licence or hooning are three different penalties. Although they are linked, they have very different impacts on the driver and his or her family or an innocent third party, such as significant personal inconvenience and severe financial impact.

I want now to alert members to some of the concerns that other organisations have raised with regard to this particular area of law. I want to provide members with the opinion of the Law Society of Western Australia. It raised these concerns with the Minister for Police in a submission dated March 2010, entitled "Submission: ROAD TRAFFIC AMENDMENT BILL 2010 ("HOON LEGISLATION")". The Law Society has kindly provided me with a copy of its submission. I am saying not to take anything from us, but some serious legal minds have also considered the implications of this type of legislation. The submission states —

> The Law Society of Western Australia is opposed to the amending legislation because it does not go far enough in protecting the rights of innocent vehicle owners.

This is the bill that we are dealing with today. It continues —

> Recent well publicised cases have highlighted the Society's concerns with the police powers set out in Division 4 of the *Road Traffic Act 1974* … *The Road Traffic Amendment Bill 2010* … does not address these concerns.
>
> The police power to impound vehicles in Division 4 of the Act is totally inconsistent with the presumption of innocence. Further, in those cases where an offending driver is guilty, inconsistencies in effective penalty will arise where those offenders who own motor vehicles may be punished more than those who do not.
>
> The various amendments to the Act, which have increased the length of impounding periods and the categories of impounding offences, have increased the potential unfairness of the impounding regime. Recent cases have highlighted the Society's concerns that the test of "exceptional hardship" which applies under Section 79D(2)(c) of the Act is too strict to assist innocent third parties who own impounding motor vehicles. The Bill does not adequately amend this section. At minimum the word "exceptional" should be deleted —

That is the simple, elegant solution to the unfairness that resides in the existing legislation and that is not addressed by this bill. It continues —

> which would then allow police a wider discretion to release impounded vehicles.
>
> The Bill provides new statutory criteria affording innocent vehicle owners some protection where offending drivers are given notice by police to surrender a "substitute vehicle".
>
> The Society's concerns with the substitute vehicle process are as follows:
>
> (i) Whether such application is made is totally at the discretion of the police and not the innocent vehicle owner;
>
> (ii) The provisions will only benefit the innocent vehicle owner of an impounded vehicle if the alleged offender meets the criteria of owning a "substitute vehicle";
>
> (iii) The police have absolute discretion as to which vehicle must be surrendered as a substitute vehicle if the alleged offender owns two or more motor vehicles; and
>
> (iv) Nothing in the Bill indicates what the police position will be if an alleged offender does not have a substitute vehicle available for impounding and an innocent third party's vehicle is impounded by police.

It seems that that is a very unjust way to deal with it. A person who has only one vehicle will be in one position, but with a person who has three vehicles—they might be three cheap ones or three expensive ones—the police can say that they will have one but not the other. It is a dog's breakfast, to be quite frank. It continues —

> In the Society's view, impoundment of vehicles owned by innocent third parties is wrong in principle and the Act should be amended to remove such vehicles from the scheme. Further, impoundment of offender owned vehicles should never be for more than 48 hours without an application by police to the court for an order.

There has been this creeping effect with a piece of legislation that was structured in a certain way to have a short, sharp penalty, which was I think what the previous government had in mind. I think the public can generally agree with the overnight or two-day impounding penalty, which is the short, sharp shock principle. However, when a vehicle is impounded for longer than that, I think that it is a substantially bigger penalty, and we are also of the view that a court order should be applied for; it should not be at the discretion of the police. We will get on to the detail of proposed amendments a bit later. The submission continues —

> In the Society's view, the confiscation of vehicles owned by innocent third parties is wrong in principle. The Act should be amended to remove the potential for such vehicles to be confiscated. At the very least the legislation should provide to innocent third parties a simple and immediate mechanism to review the refusal of the police to release a vehicle by application to a Magistrate for an order for the release of their vehicle.

That means that a court can make an assessment of the hardship. This is the sort of thing we do in other cases. It is a significant penalty, and it should be reviewed by, at the very least, a Magistrates Court to be able to assess all sides of the argument. The submission continues —

> Further, confiscation of offender owned vehicles should never be for more than 48 hours without an application by the Commissioner of Police to a Magistrate for an order extending that time. The Society notes that by s80FA and s80G the Act already permits court orders for confiscation on an application by the Commissioner. Expanding that mechanism in appropriate circumstances would be a more proportionate response than simply extending confiscation periods. At the time of the application to extend the period of the confiscation or after 48 hours there should be a simple and immediate mechanism to review the refusal of the police to release a vehicle by application to a Magistrate for an order releasing the vehicle with or without a condition as to the payment of a fine (if the offence is admitted) or a bond for the period while the offence is investigated and prosecuted where the vehicle is required for employment or business activities of the alleged offender.

That is signed by the President of the Law Society, Mr Hylton Quail. The government has been offered some assistance on how to draft some solutions to this legislation, but I am not convinced that what we have in front of us by way of this bill and the further proposed amendments actually achieve what could have been done with a fairly elegant bit of drafting.

I will not go into detail, because it is probably just to alert members to the fact that there is a substantial amount of information on the Legal Aid Western Australia website, which deals with the complexities around fees that are due to the impounding of vehicles, especially when additional costs occur through the impounding of a substitute vehicle compared with the severity of the penalty for the offence. It goes into this in some detail. It is interesting to note that an offender is not only hit twice for this offence, but also hit twice very hard. Section 78A of the act particularly mentions that penalties for an offence are not affected by the impounding of the vehicle, so I guess there is no reducing of one penalty because the offender will also have his or her vehicle impounded.

The Greens (WA) have always been cool towards any legislation that has mandatory provisions. They really do need to be used in very limited circumstances. Again, it is the fact that the impounding of vehicles is mandatory, which took away the discretion of the police and made it impossible for any consideration of each circumstance to be considered. That is the problem with mandatory legislation; it removes the discretion and does not allow either a police officer or the court to say that there is on the one hand this and on the other hand that, and then to come to a considered view. The mandatory provisions will now receive specific exemptions, but section 79(1) of the Road Traffic Act 1974 remains unchanged. It gives a police officer a mandatory duty to impound a vehicle. It reads —

> If a member of the Police Force reasonably suspects that, while driving a vehicle, the driver has committed an impounding offence (driving), the member must, unless in the circumstances it is impracticable to do so, impound the vehicle within a period of 28 days after the day of the offence.

Sitting suspended from 1.00 to 2.00 pm

HON GIZ WATSON (North Metropolitan) [2.02 pm]: Before we broke for lunch, I was discussing the problems around mandatory provisions in any legislation, but specifically in this legislation. We are not sure why the Minister for Police is now pushing for exemptions in the terms described in this bill; they are highly codified, very difficult to understand and will probably require police officers to undertake additional training in order to be able to implement them. An offender has neither the right to be heard nor an opportunity to appeal a substitution order, and the Greens (WA) argue that an offender should have the right to substitute a vehicle and

nominate which of his or her vehicles should be impounded, if he or she owns more than one. I acknowledge that in the briefing we were provided, we were assured that the order would not be made without consultation with the offender, but that is not what the legislation actually provides. It is evidently optional and is not prescribed within the legislation. The Greens (WA) argue that, in all cases, the penalty should be proportionate to the offence. Impounding a car owned by an innocent third party does not injure the driver, only the car owner.

It is interesting that the Greens should be reminding members about property rights! Property is theft, in my view, but that is another particular political philosophy!

Hon Ken Travers: Unreconstructed socialist!

Hon GIZ WATSON: That is right!

Hon Ken Travers: Marxist, in fact!

Hon GIZ WATSON: Marxist, indeed!

The Universal Declaration of Human Rights is clear in its provision in respect of the protection of property. Article 17 states —

> (1) Everyone has the right to own property alone as well as in association with others.
>
> (2) No one shall be arbitrarily deprived of his property.

This legislation might be open to a challenge under that particular provision.

Similarly, the Fifth Amendment of the United States Constitution states —

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law;

There are therefore international legal provisions or views about people being arbitrarily deprived of their property. We do not have a bill of rights or a human rights charter in Australia or Western Australia, so those sorts of provisions are not enshrined in our legislation; perhaps they should be. However, until we have a charter of rights, this issue about the right to own property is not recognised at law. However, it could be argued that the impounding of a vehicle owned by a third person is contrary to section 51(xxxi) of the Australian Constitution, which states —

> the acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws;

Impounding a vehicle is not acquisition in the constitutional sense, but it has the same significant short-term effect of depriving the owner of a vehicle of his property. The Legislative Council is not the right place to argue such implied rights and protections for property owners, but I am sure that both Liberal Party and National Party members would consider the protection of property to be something they hold dear to their hearts.

The Law Society of Western Australia regards this penalty to be wrong in principle, and requests an immediate mechanism for review by the Magistrates Court of refusals by the police to release a vehicle. Appeals rights exist in legislation in other states, such as in New South Wales where appeals are made to a Local Court, and Victoria, where appeals are made to the Magistrates' Court. In New Zealand, the model laws were mirrored when impounding was first introduced; there is a right to appeal a decision made by an enforcement officer to a District Court. Such right of appeal does not exist in Western Australia; if we do not like what the police decide, there is no avenue for appeal.

I want to talk about the specific provisions for hire cars and care while servicing. This appears to be another inadequate response to try to cover the potential for a penalty to apply to an innocent third party. The provisions appear cumbersome and convoluted, and it is likely that another such case will arise soon. I will talk about this in more detail when we get to the further amendments I am sure the minister will introduce when we get to the committee stage. Clause 10 amends section 79D to prepare for and address situations such as hire cars, for example. It will allow additional cases to be dealt with outside community and media attention and for further exemptions to be made by regulation. This is a clever way to prevent scrutiny and to cover up inadequate drafting. Again, the Greens (WA) have said many times in this place that simply doing things on the run and saying that things will be fixed up and the details dealt with through regulations is something that the Parliament needs to be very mindful of minimising, if not excluding.

I also want to talk about the issue of impounding a substitute vehicle, which raises a lot of other questions. Are offenders to be punished differently depending on whether they own a vehicle? How does that compare with the principle of equality before the law? Does this mean that because an offender does not own a vehicle, an

innocent third party is the correct target of the penalty and has to bear the brunt of the law? How can that, in fact, be just and fair? What other jurisdiction has a similar provision? I understand that in Victoria, the substitution of a vehicle to be impounded requires a decision by the court; it is not for the police simply to go to the garage and pick out the car they like. Under a provision in the comparable Victorian legislation, the Victorian police may ask the court to substitute the vehicle for one registered to the offender. What happens if the offender does not own a car and a business vehicle has been impounded in the first place? Does the minister think that the interests of the owners of a business vehicle that has been impounded will be adequately taken into consideration? I guess it begs the question: what consultation was undertaken by the minister or the department before drafting this further attempt to amend a deeply flawed piece of legislation? From the briefing I received, I understand that no consultation occurred before the bill was introduced because it was considered to be more of a technical nature. I have already read out what the Law Society thinks about that. I am interested to know whether the minister formally responded to the Law Society's submission; and, if so, what he said.

I think that will probably do for my second reading debate contribution. I will obviously have some more questions to raise and matters to discuss when we get to the detail of the bill at the committee stage. Therefore, to summarise, the Greens (WA) oppose this bill because, firstly, it does not provide adequate discretion for police officers when impounding vehicles. Secondly, the provisions are narrow and cumbersome and fail to address the interests of innocent third party car owners affected by the impounding of their vehicle. Thirdly, the legislation does not contain any appeal provisions. For those reasons there is absolutely no way that we can support the bill.

HON COL HOLT (South West) [2.11 pm]: I will take a few moments to say that I support the Road Traffic Amendment Bill 2010. Obviously, some changes need to be made to the original legislation given the unforeseen circumstances that have played out publicly in the media with the cases of the doctor who lost his Lamborghini and the Mini Cooper that went for a bit of a spin.

Hon Giz Watson: I hope you are taking this matter seriously.

Hon COL HOLT: I am. Obviously, there is a real need to ensure that from now on it is very clear to the community what the penalties are and where this legislation fits into the spectrum of trying to address hoon behaviour. As we follow the movable feast of amendments that are already in the bill and the nine pages of amendments that are lined up for the committee stage, hopefully we will finally get to the point at which the meaning of this legislation is very clear to everybody in the community. I look forward to an outcome whereby all amendments are duly made to the legislation so that there are no more loopholes or problems with it so that hopefully in the future we will not find ourselves in this place debating and discussing it yet again.

HON MAX TRENORDEN (Agricultural) [2.13 pm]: I was uncomfortable with this legislation when it passed through both chambers some years ago and I have to say that I remain uncomfortable with several areas of this legislation. There is one key aspect of the Road Traffic Amendment Bill 2010 that I do not like and I do not appreciate—I do appreciate the briefings from the good people who are currently behind your chair, Mr Deputy President—and I will try to put that to members in this place who are prepared to listen at the moment and we will see what happens after that.

I am very concerned about the question of police discretion. Whatever we do, whatever the set of circumstances, when someone is apprehended now and is about to face the wrath of this legislation, there is a delay factor. I am told that it will be at least 48 hours before individuals who can prove the right to keep their vehicle will get their vehicle back. It will be 48 hours before that vehicle is back in the small business fleet or the Telstra fleet or wherever that vehicle came from because an employee was driving that vehicle when it was impounded.

These days—we have only to see it as we drive down the highway and no-one will dispute this—a police car is basically a moving information technology unit. All information is available to a police officer by computer, radio and telephone. A whole raft of information is available to a police officer when a situation occurs. I suggest that discretion would have been a very useful part of this legislation. If a police officer could clearly ascertain who the individual that committed the offence is, who owns the vehicle and the range of circumstances around those individuals, that officer could have been comfortable to allow that person and the car to go home and to deal with the matter later. After all, if an officer knows who the offender is and is comfortable with that, and knows who owns the vehicle and is comfortable with that, why not let the world go on? If the police know who they can pursue to get justice, justice will still occur. Therefore, in some of these cases we could allow for police discretion, as we do in the majority of other cases. I am jumping all over the place, but a police officer's discretion is a core process of policing. We give officers discretion because we train them and they have their own life experience to be able to front circumstances and make decisions on the spot as to whether people will be prosecuted or alternative actions will occur. Why do we not do that with hoon offences? When it is clearly a company vehicle and the individual driving is an employee and the officer has clearly identified that individual, why take the car away? The police know who to go to, they know where the car is going to be, they know where the individual will be and all the other provisions of the act can still follow. If discretion were permitted, what would happen is that, whether it was Telstra or the local butcher, the business would have that vehicle available

to them for work the next morning, which is a basic requirement. After all, it is not the employer who has broken the law; it is the employee or whomever.

I think it is reasonable when employing someone to ask whether they have a licence and all that, but the reality of life is that if some young fellow has been pinged for some event over the weekend, will he always tell the boss on Monday morning? Those sorts of circumstances, as we all know from our own life experience, happen on a fairly regular basis. My concern is that we have put a large slice of bureaucracy and red tape in front of business operators which, in my view, is not warranted. As I have said, I have had the briefings and the discussions and I still do not understand why we take away the police officer's discretion at the time of arrest. Nearly every police officer—when there is any doubt at all as to the circumstances—would proceed down the normal course of action and take possession of the car and lay the charges and the like. However, when an officer knows the circumstances, we could save individuals who are innocent in this process from a great deal of pain. I do not like that aspect of the legislation at all, I have to say.

Another irritation of mine—it probably is not a reasonable argument but I am going to make it anyway—that worries me is in country towns when construction happens during the course of the week. When the construction ceases on the weekend, road signage for reduced speeds remain on the road. We have many cases in regional areas whereby mothers and parents in general will go in and out of the town on a regular basis to go shopping, take the kids to sport, go to their own sport events or whatever, up to half a dozen times a day. They know that no-one is working on the site. When a 60-kilometre-an-hour speed zone is put up to protect the workers, but the workers are not there and a driver travels at 80 or 90 kilometres an hour or whatever the speed is, that makes the driver a hoon and the driver gets pinged; he will be penalised at the top end of the scale. I am not saying that those drivers should not be penalised for breaking the law; I am saying that they go straight to the top end of the penalty scale. If a person breaks the law, that person should be penalised for it. However, if a person is driving on a road with a 60-kilometre-an-hour speed limit and the driver is caught driving at a speed that makes him a hoon, why would the driver not be penalised two demerit points and fined $250 instead of having his car confiscated? The only weakness of my argument—there might be a few more!—is that the person is breaking the law and there is no excuse for breaking the law, which I accept. All I am saying is that those people are getting penalised at the top end of the scale and the other penalties that would normally be in place do not apply.

I do not expect to hear too much from the minister but I express my very strong disappointment that police discretion was not left in the bill. I believe we will regret that at some stage. In the vast majority of cases the provisions of this bill would have still rolled on, and if the police officer had any doubt at all about the circumstances of the case, the provisions of the bill still would have rolled on. To repeat myself, when an officer knows all the circumstances and has a great deal of information available at his fingertips, why would we take away that discretion? Why would we put an innocent party in pain for at least 48 hours and build a bureaucracy under which people have to sign papers and turn up to a lot of locations just to get back impounded vehicles the confiscation of which they had no part in? Not happy, Jan.

HON PETER COLLIER (North Metropolitan — Minister for Energy) [2.22 pm] — in reply: I thank members for their contribution to and general support of the Road Traffic Amendment Bill. I appreciate that the Greens (WA) will not be supporting the bill and I will talk about a few of the issues that they have raised. We will also deal with them much more forensically in committee. I will respond to a few issues that were raised by several members. This bill has captured the imagination of the community at large and has been in the public arena for the past 12 months in particular. It is only appropriate to go through this bill in a much more comprehensive fashion. I will respond to the issues of the regulations in a general sense because they were raised by several members.

Hon Kate Doust asked whether the window of opportunity for giving the surrender substitute vehicle notice was 28 days. Proposed section 79BCA(3) states —

> The surrender substitute vehicle notice cannot be given after 28 days after the date of the release of the initially impounded vehicle.

Surrender substitute vehicle notices may be given when the vehicle used in the commission of an alleged offence is impounded but released because of proposed section 79D.

Hon Kate Doust: Does the notice have to be given from the date when the original vehicle was impounded?

Hon PETER COLLIER: That is correct. That is the advice I have received. The member might like to revisit that in committee. Hon Kate Doust referred to the financial shortfall. The offender is liable to pay all costs incurred by the commissioner relating to the impounding of the vehicle under proposed section 79E.

Hon Kate Doust: Does that get picked up by the $1.4 million shortfall? Will the offenders be targeted to recoup that money?

Hon PETER COLLIER: We will deal with that issue in committee. Hon Giz Watson asked a question about the early release and surrender. The police will not be able to give a surrender substitute vehicle notice unless the

vehicle used in the commission of the alleged offence has been released early because the circumstances in proposed section 79D apply. The vehicle used in the commission of the alleged offence will be released if section 79D applies, regardless of whether the alleged offender has a vehicle or vehicles. Hon Giz Watson asked a specific question in response to the letter —

Hon Giz Watson: Is that the submission from the Law Society?

Hon PETER COLLIER: That is correct. I am unsure whether the minister has responded to that. With regard to discretion, which Hon Max Trenorden raised, it has been suggested that the early release of a vehicle is not necessary if the police have the discretion to not impound a vehicle, but the matters that need to be established to enable early release cannot be readily established at the roadside; for example, measures to ensure that the offender was licensed. That issue requires more assessment and I would like to deal with that during the committee stage, so I ask the member to raise that matter again during the committee stage. I thank Hon Col Holt for indicating that he will support the bill.

I will go through a few general issues of the bill before we go into committee. Members are well aware of the history of the bill, which was prepared as a high priority to provide a prompt response to recent circumstances with which we are all familiar and which have been raised in this chamber on a number of occasions. Certain vehicles were impounded and, under the circumstances, it was considered appropriate to release those vehicles prior to the end of the impounding period. As we all know, the legislation as it stands did not permit the early release of those vehicles. As I said, the issue was in the public arena for several weeks and it was evident that we needed to change the legislation. When the bill was being drafted, the government acknowledged that there would be a need to provide for the early release of impounded vehicles in some circumstances other than those that were established within the bill. In order to introduce the amendments contained in this bill as matter of priority, while retaining the ability to cater for these other circumstances, the bill includes the power to make regulations, prescribing further circumstances in which the Commissioner of Police can release an impounded vehicle prior to the end of the applicable impounding period. It was always intended that this power would be used soon after the provisions of the bill came into operation once the proper assessment of potential circumstances could be completed. I appreciate that that will not satisfy Hon Giz Watson and I am sure that we can further extend on that in the committee stage.

There is some validity to the point raised during the bill's passage that no member who represents a minister in the other place likes the notion of having 10 pages of amendments to a bill.

Hon Giz Watson: It is only nine!

Hon PETER COLLIER: I stand corrected. I acknowledge the comments made by Hon Kate Doust that the opposition raised a number of proposed amendments in the other place that were aimed at dealing with some of the early-release circumstances which the opposition had identified and which have pretty much come to fruition. At the time, those amendments were not acceptable in the draft in which they were presented. However, the minister in the other place saw merit in what those amendments were trying to achieve. Therefore, in the spirit of cooperation, rather than await the bill's passage and make use of the regulation-making power referred to, the Minister for Police committed to drafting the amendments members see standing in my name on the supplementary notice paper. Other amendments flow naturally from those and will ensure that the legislation is consistent.

I will briefly summarise the key matters contained in the government's amendments. Firstly, they will add further circumstances in which the Commissioner of Police can release an impounded vehicle before the end of the impounding period. That issue was raised in the other place. Secondly, the amendments will enable the cancellation of a notice that has been given requiring the surrender of a vehicle for impounding. There are only two instances in which such a notice may be cancelled. The first instance is when a vehicle would be eligible for early release if it were impounded. It is obvious that no purpose would be served in proceeding to impound the vehicle in those circumstances.

The second and final instance is when the condition of the vehicle has been so significantly altered—for example, it has been involved in a serious motor vehicle accident—that it no longer functions as a vehicle. Once again, it is obvious that no purpose would be served in impounding the vehicle as no-one would suffer any ill consequence in relation to its impoundment.

Thirdly and finally, the government amendments will empower a member of the police force to give an alleged offender a surrender alternative vehicle notice. If a notice requiring the surrender of a vehicle for impounding has been cancelled in the manner I have just described, and the alleged offender is the responsible person of one or more other vehicles, this power is in keeping with the proposed power already contained in the bill to give an alleged offender a surrender substitute vehicle notice if the Commissioner of Police has released early a vehicle impounded in connection with an impounding offence and the alleged offender is the responsible person for one or more other vehicles. That deals with the government amendments.

Two amendments from Hon Giz Watson are on the supplementary notice paper. Did she say that she had three amendments?

Hon Giz Watson: I thought I had three.

Hon Kate Doust: There are only two on the supplementary notice paper.

Hon Giz Watson: Okay. I get confused between bills. I am sure there are two.

Hon PETER COLLIER: That is fine; I thought there might have been another one, but there are two amendments.

Hon Giz Watson: Yes; two is more than enough!

Hon PETER COLLIER: Hon Giz Watson has tabled two proposed amendments. The government will not be supporting those amendments. The government feels that the amendments would lower the bar too much and would in fact detract from the spirit of the legislation. Again, we can perhaps dissect that a little further at the committee stage.

Hon Kate Doust: What is the actual spirit of the legislation?

Hon PETER COLLIER: Probably to ensure that, as far as hooning is concerned, the bill is appropriate and fair. I think this bill ensures that it will occur in a more equitable fashion.

Hon Kate Doust: That's what we hope.

Hon PETER COLLIER: Having said that, I thank members once again for their contribution and their general support for the bill. I commend the bill to the house.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon Matt Benson-Lidholm) in the chair; Hon Peter Collier (Minister for Energy) in charge of the bill.

The CHAIRMAN: Members, there is one small issue inasmuch as the substantive amendments on the supplementary notice paper appear to be to clause 6. If the chamber is in agreement with that clause going ahead, then the amendments to clause 4 can go straight after. If the chamber is in agreement with the amendments to the substantive clause, clause 6, and they are accepted, we can go back to the amendments at the start of the supplementary notice paper. However, if the chamber is not in agreement with the amendments to clause 6, there would be an issue.

Hon GIZ WATSON: Thank you, Mr Chairman, for that clarification. I think what I am hearing is that clauses 4 and 5 are consequential on clause 6.

The CHAIRMAN: They are.

Hon GIZ WATSON: Therefore, it makes sense to deal with clause 6 first.

The CHAIRMAN: Yes.

Hon GIZ WATSON: In that case, that is a very good idea.

Hon KATE DOUST: I agree with Hon Giz Watson. I have only a couple of questions on clause 6 anyway, but the opposition will support the clause. I just wanted some clarification, so I am happy to proceed.

Clause 1: Short title —

Hon KATE DOUST: There are a couple of matters that I raised during the second reading debate. The minister touched briefly on a couple of them and said that we would cover them in committee. I am not too sure, because the matters are general, during which clause to debate them, so I thought I would start them in clause 1.

I want to go back to and get some clarification on a couple of areas. I might do them separately, if that is all right, because they are quite distinct issues. The first matter is research. What research has been done by the government concerning the impact of this legislation to demonstrate that it will actually change driver behaviour? That is my first question.

Hon PETER COLLIER: The main stimulus for the amendments in 2009 was a significant increase in repeat offending. That was the main motivating factor for the legislation. Since 1 July 2009, as a result of the Australian Labor Party's unauthorised driving legislation, there has been a significant decrease in unauthorised driving since that period.

Hon Kate Doust: Could you just run that last part by me again?

Hon PETER COLLIER: Since 1 July 2009, as a result of the ALP's unauthorised driving legislation, there has been a decrease in unauthorised driving.

I have some more information that I might add to that. The 2009 police report on fatal traffic crashes found that 16.5 per cent of drivers involved in those crashes in the five years from 2004 to 2009 were unlicensed at the time of the crash when the driver's licence status was known. Within six months of actual impounding for unlicensed driving, the rate of unlicensed drivers involved in fatal traffic crashes dropped to 14.1 per cent, which reinforces what I was saying. This is the second-lowest rate in the past five years.

Hon KATE DOUST: I thank the minister. That is all useful information, but I am really interested in finding out whether the government has done, or is planning on doing, any academic research into how this type of legislation will actually change behaviour. Members would have noted from the statistics that I read out today, which were provided by the department, that there has been since July last year a substantial number of cars seized and impounded. I therefore thought that although the legislation was in place, it did not seem to have led to a rapid change in behaviour. I am just wondering whether at some point the government will look at whether this is an effective tool to modify driver behaviour, or whether it should be looking at other ways of modifying hoon behaviour in the community.

Hon PETER COLLIER: At this stage no research is planned into changed behaviour or changing behaviour as a result of the legislation, and there was not any research prior to that.

Hon LJILJANNA RAVLICH: Can the minister provide us with information about the current number of cars that are impounded and the periods for which they are impounded? Could he also take on notice trend data from the time of the first impounding to where we are at now?

Hon PETER COLLIER: The total number of vehicles impounded for hoon offences since July 2009 is 1 483. The total number of vehicles impounded for unauthorised driving offences since July 2009 is 7 269. The total number of vehicles that have been crushed or confiscated is two. The total number of hardship applications is 506. The total number of hardship applications granted is 109. The total number of surrender notices issued for hoon offences is 56. The total number of surrender notices issued for unauthorised driving offences is 150. I give an undertaking to provide trend data to the member.

Hon LJILJANNA RAVLICH: I wonder whether the member would be good enough to hand me that piece of paper, because certain categories were outlined there. Perhaps I could be given a photocopy of it.

Hon Peter Collier: It was an email to Hon Kate Doust. It is information.

Hon LJILJANNA RAVLICH: Let us share it around. How about passing it over?

Hon Peter Collier: Yes; okay.

Hon LJILJANNA RAVLICH: Let us take the unauthorised driving category. Is the minister saying that there have been 7 269 confiscations for unauthorised —

Hon Peter Collier: Did you say confiscations or impoundments? That figure of 7 269 is the number of impoundments.

Hon LJILJANNA RAVLICH: That is impoundments. At any one time, how many cars are impounded in one place?

Hon Peter Collier: No, I can't —

Hon LJILJANNA RAVLICH: Can the minister take that on notice?

Hon Peter Collier: Yes.

Hon LJILJANNA RAVLICH: What I am really trying to get to is: where are these cars impounded? That figure of 7 269 that the minister has given me is a cumulative figure over a period.

Hon Peter Collier: That's right.

Hon LJILJANNA RAVLICH: So if I were to ask how many cars are impounded as of today's date, I would get a very different figure, and perhaps that might be a figure that we can work on. Can the minister give me that figure if he has it available?

Hon Peter Collier: Do you want to know the number today?

Hon LJILJANNA RAVLICH: Yes. I am trying to get a figure because —

Hon Peter Collier: It is around 25 per day over that period from 1 July last year to 15 April this year.

Hon LJILJANNA RAVLICH: But because they have to be in there for a period, more come in and then some go out. Therefore, I am trying to get a sense of whether we have 25 cars impounded somewhere or whether we have 2 500 cars impounded somewhere. I am told that there are a lot in Karratha. That might help the minister.

Hon Kate Doust: Karratha is full.

Hon LJILJANNA RAVLICH: Karratha is full.

Hon Peter Collier: It is 25 motor driver's licence impoundments and 20 hoon drivers. That is the average over that period.

Hon LJILJANNA RAVLICH: Okay. If since July 2009, 7 269 vehicles have been impounded for unauthorised driving offences alone, what has been the cost of impounding these vehicles?

Hon Peter Collier: For a 28-day impoundment, it is roughly $900 per vehicle.

Hon LJILJANNA RAVLICH: I have asked for the cumulative cost. I am happy if the minister wants to give me a breakdown of the per unit cost, but I am after a cumulative cost, because I want to know what is the cost impact of this policy decision by government.

Hon Peter Collier: We haven't got that information at the moment.

Hon LJILJANNA RAVLICH: Clearly the minister has not. Can he provide that information for each of the categories that he has outlined?

Hon Peter Collier: Don't forget that it is the person who has to pay the cost for the release of the car.

Hon LJILJANNA RAVLICH: Yes, but the person is not paying for the 28 days that the vehicle is on site, wherever it is that the car is being impounded.

Hon Peter Collier: Yes, the person is paying.

Hon LJILJANNA RAVLICH: The person is. With these 7 269 vehicles, is the minister saying that the people lost their car, they had to pay to get the car out, and then they had to pay the rent for having their car impounded? Is that what the minister is telling me?

Hon Peter Collier: Yes, the $900 is for the rental. That is the cost—the storage, the impounding, the lot.

Hon LJILJANNA RAVLICH: In view of that, can the minister nevertheless provide me with the cost of, or a breakdown of, this policy decision and how much it has cost the government to implement this policy?

Hon Peter Collier: Those people had to pay for it. It is an outstanding debt, so if they do not pay it, it is an outstanding debt to the government. It is not going to cost the government anything; it is going to cost the person.

Hon LJILJANNA RAVLICH: So this is all cost neutral; there is no cost associated with this policy. No, that is not right, because we have had answers in the Parliament before, and that is not right.

Hon PETER COLLIER: I will clarify one thing. The $900 will be paid for the impounding of the vehicle. That will be borne by the person whose vehicle was impounded. That debt is going to be incurred by that person. I am not quite sure whether we can provide any more information than that for the member. If she wants something specific, perhaps she can identify it, but I am not quite sure what else she wants.

Hon Ken Travers: Whilst the minister is on his feet, are you bringing in legislation to recoup more money? Is there some proposed legislation?

Hon PETER COLLIER: No, not at all. This is the impounding cost. It is an impounding fee. It is the $900.

Hon Ken Travers: But when people don't pay it, the police are picking up that cost at the moment, aren't they?

Hon PETER COLLIER: They are.

Hon LJILJANNA RAVLICH: That is an excellent question. Let me rephrase it. What has been the cost to police of paying for the impoundment of those vehicles owned by those people who have not paid?

Hon PETER COLLIER: As I was saying, under the current legislation vehicles will not be released until payment. Does Hon Ken Travers disagree with that? The commissioner can then pursue that debt.

Hon Ljiljanna Ravlich: Are they pursuing it?

Hon PETER COLLIER: I will give an undertaking to get as much information on that as I possibly can. The cost is borne by the person whose vehicle is impounded.

Hon KEN TRAVERS: I had intended to try to keep out of this debate but now that we have got on to the financial side of it, it is important to clarify exactly what is going on here. As I understand it, vehicles are impounded. I agree with the minister that one cannot get one's vehicle back until one has paid for having the vehicle impounded. That cost is collected by the impounding company and incurred by the state. If the person does not pay the fee, the company that has impounded the vehicle does not seek to recoup the cost from the owner of the vehicle; it is picked up by the police department.

Hon Peter Collier: What I said earlier is correct. The commissioner cannot release the vehicle until the money is paid.

Hon KEN TRAVERS: If that is the case, are a range of vehicles currently held in the pound for which the company that is holding them has not been paid any money by anyone at this stage?

Hon Peter Collier: No.

Hon KEN TRAVERS: Who has paid for the cost of impoundment incurred by this state?

Hon PETER COLLIER: What I said originally was correct. I will go through it again. The towing contractor works for the commissioner. The commissioner incurs the cost. The vehicle can be sold if the fee cannot be paid. If need be, the commissioner can issue a debit note. There is also a process in the current act for the buying and disposal of uncollected vehicles. It is section 80J.

Hon KEN TRAVERS: In that case, if the value of the vehicle when it is sold is less than the total cost that has been incurred, the commissioner will pick up that cost. The police may be able to recoup the money from the owner of the vehicle but they will need to pursue that person through the courts to get that money.

Hon Peter Collier: From the alleged offender or when the offender is convicted.

Hon KEN TRAVERS: There is a cost, and that is the $1.94 million that has been incurred by the department. If that is the case, could the minister explain something to us? In this year's budget one of the items listed under the three per cent efficiency dividend was savings associated with the implementation of the imminent hoon legislation. It was expected that $8 million would be saved every year for the next four years as a result of that. Where does that saving of $8 million come into this whole process? What impact will the legislation we are dealing with today have on the $8 million that was expected to be saved in the budget?

Hon Peter Collier: What is that figure you were quoting?

Hon KEN TRAVERS: I think you said earlier that the total cost of it was $1.94 million.

Hon Kate Doust: The amount of $1.4 million was the debt that the police incurred.

Hon KEN TRAVERS: I thought it was for the costs the police paid out and the costs they recouped themselves.

Hon Peter Collier: I did not mention that.

Hon KEN TRAVERS: That is fine; my apologies. Before we pass this legislation, it is important that we understand the financial implications of it. That is absolutely crucial. The way the minister has explained it today, even if the vehicles can be sold —

Hon Peter Collier: This legislation is about the early release of vehicles. If anything, it will improve the financial situation.

Hon KEN TRAVERS: Except it becomes a bit more complex as to who picks up the cost when a vehicle is released early. If the person whose vehicle was seized cannot afford to pay it, if it is released early, can the owner of the vehicle still get it out of impoundment?

Hon PETER COLLIER: In short, it is at the commissioner's discretion. A debt recovery process will be followed. That is the long and short of it.

Hon Ken Travers: Who has to pay it though?

Hon PETER COLLIER: Ultimately, the offender.

Hon Ken Travers: If the offender cannot afford it, can the owner of the vehicle —

Hon PETER COLLIER: With an early release, it is at the commissioner's discretion. For example, the commissioner used his discretion with the Lamborghini and the owner did not have to pay.

Hon KEN TRAVERS: In the case of the Lamborghini, I am sure that the commissioner used his discretion to get it out of the headlines as quickly as possible. Is the minister saying that we should just pass the legislation and leave it to the discretion of the commissioner, which means in some cases the owner of the vehicle can pay the fee and in other cases, the owner will not have to pay it and the commissioner will keep it from the person who committed the offence as opposed to the owner?

Hon Peter Collier: Can you just repeat your exact question? I think we are at cross purposes here.

Hon KEN TRAVERS: Before I do that, I want to make a comment. I support the principle of what we are trying to do. I want to make that very clear. The minister will recall that when the original bill was debated, the Labor opposition pointed out that there were inconsistencies and loopholes in the bill and that problems would arise. I use the same words for the Minister for Police that I used earlier today about the former Treasurer; that is, he was reckless and cavalier in his approach to managing these issues and created legislation that was going to

create injustices within the community and would not target the offenders. I do not want to pass another bill and have someone claim in three months that he or she has not been dealt with justly because that person did nothing wrong. I am the first person to put up my hand and say that we should take cars off hoons who speed and do stupid things on the road. We should get them off the road and give them a quick, hard burst. I am trying to understand what will happen. I know the minister says that it is discretionary. Are there guidelines within which the discretion will operate? How will it be determined who will pay the cost of impoundment? If someone other than the owner of the vehicle was driving the vehicle when it was impounded and the police agree, under the clauses we are dealing with today, that they will return the vehicle to the owner —

Hon Peter Collier: Early release.

Hon KEN TRAVERS: Early release—the police allow the owner to have the vehicle back. Costs will have been incurred in towing and impounding the vehicle. Even if the owner of the vehicle were given it back the day after it was impounded, there would still be a $600 or $700 cost involved at that point.

Hon Peter Collier: That is when the offender will be pursued to cover those costs.

Hon KEN TRAVERS: That is what I want to know. Is the minister guaranteeing that the owner of the vehicle, in those circumstances, will never be pursued for the cost?

Hon Peter Collier: Yes.

Hon KEN TRAVERS: If that is the case, why is it not in the legislation?

Hon PETER COLLIER: As always, it is up to the discretion of the commissioner. Bear with me on this one.

Hon Ken Travers: I am trying to.

Hon PETER COLLIER: I understand. It is a good point. This is what it is all about. For example, if the owner of the vehicle is not the offender, he will not pay. For all intents and purposes, that is the case; he will not be liable for any costs when a vehicle is returned under early release.

Hon Ken Travers: So what if it is not released early?

Hon PETER COLLIER: That is with early release. That is why we need the commissioner's discretion. For example, a situation may arise in which an employee is a multiple offender. The commissioner would have the discretion to say that the vehicle will not be released early. If early release were allowed in the case of a multiple offender, the commissioner would not do that without payment being first received. That is just one example.

Hon KEN TRAVERS: Maybe I am misreading the amendments the government is making. Would vehicles driven by multiple offenders be subject to early release?

Hon Kate Doust: You can get a substitution.

Hon PETER COLLIER: Exactly. That might happen if all the circumstances have been met. That is why we need the commissioner to have the discretion.

Hon KEN TRAVERS: This is why I cannot work out why we cannot put it in the legislation, to be honest. If it went through all the tests and the commissioner determined that early release was warranted, and if the intention is to not charge the owner but to seek to pursue the money from the offender, why not say in the legislation that the money will be sought from the offender and no costs will be incurred by the owner of the vehicle?

Hon Peter Collier: I think it is more fraught with problems if it is put in the legislation. That discretion is needed.

Hon KEN TRAVERS: I do not understand the discretion, because the minister is assuring us that it is never going to happen.

Hon Peter Collier: For all intents and purposes it is not going to happen.

Hon KEN TRAVERS: What does that mean? What are the scenarios in which the minister would envisage —

Hon Peter Collier: I have just given you one.

Hon KEN TRAVERS: They need to be treated separately. In the first instance, I would like a scenario in which, for the owner of the vehicle and the offender, it is the first time that the vehicle has been impounded and there is a possibility that the owner of the vehicle will incur the charges.

Hon Peter Collier: Sorry, what was that?

Hon KEN TRAVERS: I am asking the minister to give me an example in which it is the first time that this has ever happened for the owner and the offender. It is the first time, and the minister is assuring the chamber that the commissioner would never seek to recoup the cost from the owner of the vehicle —

Hon Peter Collier: The first time it has occurred?

Hon KEN TRAVERS: Yes, the first time it has ever occurred. The minister is assuring the chamber that the commissioner would always seek to recoup the money from the offender. If that is the case, why would we not put it into the legislation? Why do we need clarifications such as "for all intents and purposes" if it is so clear that on the first occasion that such an offence happens, the cost will never be recouped from the owner?

Hon Peter Collier: Okay; I understand that now.

Hon KEN TRAVERS: The second scenario painted by the minister is a situation where the offence has happened more than once. As I understand the further amendments that the government has brought to the chamber today, they set up a scenario where the commissioner has some discretion to return the vehicle to the owner on early release in certain circumstances. In a scenario in which the offence has happened previously, but the commissioner nevertheless takes the view that, in his discretion, there is still good reason to return the vehicle to the owner early, the owner may still be penalised by charging him the cost of impoundment and towing. That does not make sense to me, to be honest. If the owner meets all the tests for getting the vehicle back early, surely he should not incur a penalty. Even though the commissioner has accepted, through his discretionary mechanism, that it is okay to hand the vehicle back, the owner is still going to be effectively punished with a fine of the cost of impoundment. When the minister responds, I ask him to tell the chamber what the cost of impoundment will be the morning after the vehicle has been seized, towed and put into an impounding yard.

Hon PETER COLLIER: The amendments to the act came under the administration of the previous government in 2006. That was to ensure that the commissioner did not release vehicles without being paid. That was the whole point of the exercise; the government did not want the taxpayer to pay. However, this cannot be used across the board. We have to have that discretion so that not every vehicle necessarily requires payment. Hire vehicles are a perfect example; that is what is happening at the moment. It is then up to the hire company to make the payment for the impounding. It is up to the hire company to do that for an early release.

Hon KEN TRAVERS: The hire company pays to get the vehicle back, and then it is up to the hire company to recoup the cost from the person who hired the vehicle—is that right?

Hon Peter Collier: Yes.

Hon KEN TRAVERS: What about taxis, then? There are amendments dealing with taxis. Will taxi operators be required to pay it and recoup the cost from the lessee of the taxi?

Hon PETER COLLIER: It could be part of a contract, yes, with a taxi.

Hon KEN TRAVERS: It could be, but what attitude will the police take? Will the police say that if it is a taxi, the owner should have made it part of his contract, so he will be charged the impoundment fee and will have to recoup the cost from the lessee? Will the police ask to examine the contract? How will the police operate this?

Hon PETER COLLIER: Again, it is up to the discretion of the commissioner, but the commissioner may require, for example, payment under a lease agreement if such a lease agreement exists between the driver of the taxi and the owner of the taxi.

Hon KATE DOUST: I thank the minister for that information. In a perfect world that is probably how it would be, and it should be that those sorts of details would be in a contract. However, given that we are now trying to fix this legislation, how will that sort of information be provided to interested players? How will taxidrivers and their companies know that this level of detail needs to be included in a contract in the instance that they might have to pay money back? Otherwise —

Hon Adele Farina interjected.

Hon KATE DOUST: That is right; in fact, I would imagine that all current contracts predate this legislation. Therefore, how do we sort of retrofit contracts that already exist between employers and employees, or contractors and subcontractors, or any other sort of arrangement whereby people use a car that is not their own for the purpose of their employment? How does the government propose to deal with that? What consultation had the government entered into with industry to discuss this type of problem before it drafted this bill and brought it into the other place?

Hon PETER COLLIER: The Department of Transport passenger services business unit is doing an education campaign with taxidrivers and omnibus drivers to ensure that they are aware of the situation.

Hon KATE DOUST: It is good that the department is running an education program; I am always very keen to see that happen with any legislation we introduce. However, that still does not answer my question about how people will deal with retrofitting detail of current contracts. How do people deal with that because I imagine a lot of these contracts would have been in place for a while? How will they deal with those situations?

Hon Peter Collier: What do you mean by "detailed current contract"?

Hon KATE DOUST: Say there is a contract between Swan Taxis and a driver, if this type of detail—if the car is impounded, who pays what—does not currently exist in the contract and it is signed and sealed, it may last for a couple of years. This is all just hypothetical. If this legislation is passed today or when we come back in a week's time, how will adjustments be made so that the contract reflects the arrangement the minister has talked about in terms of recouping moneys?

Hon PETER COLLIER: Again, I think we are probably straying a bit. I understand where the member is coming from but ultimately, as I said before, it is up to the discretion of the commissioner. The ultimate aim, as came through the amendments in 2006, is that we not make the taxpayer pay the bill. In a lot of shift leases, for example, the owner will take the appropriate means. A lot of the shift lease contracts are done by handshake, with all due respect, that is why this educative —

Hon Kate Doust: That's a worry.

Hon PETER COLLIER: They are in taxis —

Hon Ken Travers: I must say that when you kept talking about taxis and contracts I was starting to think that I am not sure that they have these sorts of complex contracts.

Hon PETER COLLIER: Precisely, because they do not exist in a lot of instances. Therefore, it depends on the arrangement in place but ultimately it is up to the discretion of the commissioner.

Hon KATE DOUST: I thank the minister but he did not answer my question about what type of consultation had occurred across industry about the changes that were being proposed prior to this legislation being introduced in the other place.

Hon PETER COLLIER: There has not been consultation with industry.

Hon KATE DOUST: Was there consultation with anyone?

Hon PETER COLLIER: Departments of police and transport.

Hon KEN TRAVERS: I asked earlier, and I know it is probably part of a bigger question, what is the average cost for the seizure of a vehicle on the roadside that is held overnight just for the one night? What is the average cost per vehicle of the towing cost and the overnight cost?

Hon PETER COLLIER: I cannot give the member precise figures on this today for, I think, quite legitimate reasons. For example, if the police tow it or take it, there is zero cost for towing. If a contractor takes it, it is dependent on distance and a whole raft of issues, but I give an undertaking that we will get as comprehensive detail on that question as is possible for the member.

Hon KEN TRAVERS: I appreciate that —

Hon PETER COLLIER: I am sorry to interrupt you, member, but I have been provided with further information. The very crude approximate estimate is that it will be around $130.

Hon KEN TRAVERS: Maybe the trick is to get the police to seize my car if I get into an accident because it will be cheaper than a private towing service! I would have thought that the amount would have been slightly higher than that, knowing the cost of towing, but I appreciate the minister's answer. At the time of the budget, the government said it expected that the imminent hoon legislation, which is the original legislation that we are seeking to amend today, was going to save $8 million per annum. The government intended to save $8 million as a result of that hoon legislation. I want to know whether that is the case and what impact this legislation will have on that $8 million. Is it likely to increase or decrease the amount that will be saved?

Hon PETER COLLIER: The advice I have received is that the impact of this legislation will be cost neutral. It should not have any impact.

Hon KATE DOUST: If that is the case, during the second read debate I quoted a newspaper article from *The Sunday Times* on 2 May that referred to the $4.71 million that the police had paid out in impounding costs and the amount that the police had recouped. The police still had a $1.4 million shortfall. How will that be managed?

Hon Peter Collier: That is an outstanding debt, not a shortfall.

Hon KATE DOUST: That is not what *The Sunday Times* stated. It said that it was a shortfall. Is the minister saying that the media was wrong? A police spokesman said that there was a shortfall and that the Commissioner of Police would consider approaching the government for extra funding. Will the government bail out the police? I imagine that that figure will increase. Is it a shortfall?

Hon PETER COLLIER: The advice I have received is that it is outstanding debt.

Hon LJILJANNA RAVLICH: I have some sympathy for my colleagues because the more questions they ask, the murkier this whole thing becomes. Surely there is a chart or a piece of paper outlining the associated costs broken down into components. Is there not?

Hon Peter Collier: The costs of what?

Hon LJILJANNA RAVLICH: The impounding cost per unit, the cost of towing and the cost of getting a car out of impoundment. Surely regulations outline how this thing works and all the costs that are associated with it.

Hon Peter Collier: I have given an undertaking to provide information about costs, wherever possible, to each member who has asked me a question about it. If the member asks me a specific question, I will give her an undertaking that I will get the information.

Hon LJILJANNA RAVLICH: It is fine for the minister to give an undertaking to provide the information that has been asked of him, but it is a bit here and a bit there. When the minister sought an appropriation for the budget allocation for this policy, clearly there were components of the cost that made up the whole picture of what the total cost of this policy would be. What was the appropriation that the minister sought? I see that there is some discussion going on between the minister and his advisers. It is reasonable for us to ask the minister to provide that information to Parliament. Frankly, I do not believe that it should be up to members of Parliament to try to weave a picture of what the cost structure might be.

Hon Peter Collier: Specifically, what information do you want?

Hon LJILJANNA RAVLICH: I want any part of this policy position that has a cost attached to it to be itemised. That is specifically what I want. If the minister is telling me that he cannot produce that, I have very serious reservations about how the police go about their business and about what is happening to taxpayers' money. The minister asked me what I specifically want. That is what I want because I do not want to half-guess anymore.

Hon Peter Collier: Do you want the costs up to today or do you want to know the cost implications of this legislation?

Hon LJILJANNA RAVLICH: I want the costs up to today.

Hon Ken Travers: And I want the implications!

Hon LJILJANNA RAVLICH: And he wants the implications!

Hon Peter Collier: So we are not dealing with this legislation.

Hon LJILJANNA RAVLICH: We need to know what the baseline costs are —

Hon Peter Collier: Of what?

Hon LJILJANNA RAVLICH: Of the policy initiative —

Hon Peter Collier: It has not been introduced yet.

Hon LJILJANNA RAVLICH: I am talking about the total number of vehicles impounded for hoon offences since July, which is 1 483, and the total number of vehicles impounded for unauthorised driving offences. There are storage, towing and administrative costs. Surely to goodness there must be some administrative costs. There are costs for all manner of things and there may be some savings that are offset by the people who get their car released.

Hon Peter Collier: I can provide the information on the costs of the impounded vehicles and the costs that have been recovered, but not today. That should cover everything the member has asked for, unless she wants something else.

Hon LJILJANNA RAVLICH: That would be a good start. We are making progress because two minutes ago the minister was leading me to believe that that information could not be provided.

Hon Peter Collier: Not at all.

Hon LJILJANNA RAVLICH: If the minister can provide that cost, that would be good. I have another reservation because the bill broadens the ability for the police to release impounded vehicles early when the vehicle was in possession of a vehicle service provider, as was the case for the Lamborghini. It is interesting that the holding facilities are not full of Lamborghinis. Although this legislation deals with the furore that arose in relation to the yellow Lamborghini, I do not believe that too many people will be collecting Lamborghinis. More to the point is the fact that many of the cars that will be impounded will be dumpy cars, by and large, that the owners will be happy to walk away from, frankly. When the minister talks about cost recovery by selling the cars, the fact is that no-one will claim many of them and the government may incur the cost of having to crush them. I suspect that the government's chance of getting any outstanding moneys from some of the owners in a court of law is fairly remote. Can the minister provide us with some figures on how many cars have been abandoned? We do not have a category here for the number of cars that have been abandoned. It says that two have been crushed. I find that very low, but if that is what the minister is saying, I will cop that. I wonder how many cars have been abandoned.

Hon PETER COLLIER: Yes, I will once again give an undertaking to get that information. The information I have received at this stage is that it is about one in five.

Hon LJILJANNA RAVLICH: One in five; okay, that is 20 per cent. If the total number of vehicles impounded for hoon offences since July 2009—so that is not even a year—is 1 483 and we combine that with the figure for the total number of vehicles impounded for unauthorised driving offences since July 2009, which is also less than a year, at 7 269, that is a total of 8 700 or thereabouts, and 20 per cent of that is about 2 000. The minister said that it was one in five.

Hon Peter Collier: That was a loose figure.

Hon LJILJANNA RAVLICH: Hang on! All of a sudden it is a loose figure.

Hon Peter Collier: No, I said that I was acting on advice and that it was approximately one in five; so, yes, it is around 20 per cent.

Hon LJILJANNA RAVLICH: Is the minister disputing that 20 per cent of 1 483 plus 7 269, which, without a calculator, I will call 8 700—any higher bids?—is 1 800? Is that 1 800 cars abandoned?

Hon Peter Collier: Yes, and I said —

Hon LJILJANNA RAVLICH: Yes, yes. yes?

Hon Peter Collier: No, I do not know whether it is that number.

Hon LJILJANNA RAVLICH: The minister said that it is one in five. That is the calculation—one in five.

Hon Peter Collier: Yes.

Hon LJILJANNA RAVLICH: And I have not even calculated these others. However, let us call it 1 800 cars abandoned. The minister has said, "Yes, we've got a deal."

Hon Peter Collier: What is that?

Hon LJILJANNA RAVLICH: The minister has just said yes to 1 800 cars abandoned.

Hon Peter Collier: No, I didn't say yes.

Hon LJILJANNA RAVLICH: Yes, he did.

Hon Peter Collier: No, I didn't.

Hon LJILJANNA RAVLICH: Let us do it again.

Hon Peter Collier: I was sitting here having a conversation. I didn't realise you were still going.

Hon LJILJANNA RAVLICH: The minister just told me one in five.

Hon Peter Collier: Yes, approximately.

Hon LJILJANNA RAVLICH: Approximately! One in five is pretty approximate. One in five is abandoned.

Hon Peter Collier: Yes.

Hon LJILJANNA RAVLICH: I have just told the minister and done the calculation that it is just under 8 800 or thereabouts and I said that 20 per cent of 8 800 is probably about 1 800. Has somebody got a calculator? I might be wrong, but I do not think I am too far off the bar.

Hon Peter Collier: Yes, but what is your question? What do you want to know?

Hon LJILJANNA RAVLICH: I am just asking whether the minister can verify that it is one in five—20 per cent—which would mean 1 800 cars have been abandoned, because then I can ask the minister what has happened to these abandoned cars.

Hon Peter Collier: I cannot give you a precise number and I gave an undertaking earlier to get that exact number, but I said that on the advice I have just received it is about one in five; so I will get that information for you. I can't do any better than that.

Hon LJILJANNA RAVLICH: So total up 1 483 plus 7 269 and it is 20 per cent.

Hon Ken Travers: It is 1 750.

Hon LJILJANNA RAVLICH: I said 1 800 without a calculator; I was very close! All right, 1 750.

Hon Ken Travers: Point four.

Hon LJILJANNA RAVLICH: Point four! I have to ask: what has happened to these cars?

Hon Peter Collier: Are you going to sit down?

Hon LJILJANNA RAVLICH: Yes. Poetry in motion!

Hon PETER COLLIER: I thank Hon Ljiljanna Ravlich very much for the question. In some instances the cars are sold and that money is used to recoup the cost of the impoundment. In other instances when they are just not of any value at all, they are disposed of. As I mentioned in my comments today, I have been in dialogue with the Minister for Police to suggest that perhaps we might give those vehicles to our state training providers. I think that would be a very positive step forward; but that is the situation as I am advised.

Hon LJILJANNA RAVLICH: The minister will not need them for training as the number of apprentices in this particular category of training has gone down. Perhaps if he produces the cars, the number might go back up.

Hon Peter Collier: Which area is that?

Hon LJILJANNA RAVLICH: In metals.

Hon Peter Collier: Metals?

Hon LJILJANNA RAVLICH: Metals, automotive. I have just met with them.

Hon Peter Collier: Keep going.

Hon LJILJANNA RAVLICH: Let us go back to this question. Can the minister now—this is very serious —

Hon Peter Collier: Yes, I am too.

Hon LJILJANNA RAVLICH: Can the minister now give me an undertaking that he will provide me with a breakdown of those that were sold and the revenue received? In other words, how much did the police make when they sold them?

Hon Peter Collier: Yes, that is available.

Hon LJILJANNA RAVLICH: Okay. Also, the minister is going to give me the number of those that were of no value and so were disposed of, and he might like to give me the cost of the disposal.

Hon Peter Collier: I don't know whether we can get that.

Hon LJILJANNA RAVLICH: There may well be another category of doing something with 1 700 abandoned cars. Can the minister give us an undertaking that he will provide information in respect of that?

Hon Peter Collier: Yes.

Hon KEN TRAVERS: Earlier when I asked the minister about the $8 million, he said that this bill is revenue neutral.

Hon Peter Collier: Yes.

Hon KEN TRAVERS: I must say that I find it extremely hard to believe that it will not have any impact on the finances. If we go back to those issues, if a vehicle is impounded and then another vehicle is seized to replace it because the earlier one is released, that has to have a cost. I would imagine that if at least one in five vehicles is abandoned—a reasonably large percentage—it is because their value is less than the cost of paying to get them out and that is why they are abandoned.

Hon Peter Collier: Less than $900, yes.

Hon KEN TRAVERS: I would have thought swapping vehicles around would incur some cost. For those vehicles that are abandoned, that must have some impact on the finances. I would therefore like a little more explanation as to whether the government is on track to make this $8 million saving; and, if so, what impact will this legislation have on that $8 million?

Hon PETER COLLIER: I just reinforce that this provision in the bill is anticipated to be cost neutral. As I said, I cannot be any more definitive than that. The two factors that need to be taken into account are that the vehicles are not released until the commissioner is paid in the first place; and, in the second place, once they are released, if the commissioner is not paid, the commissioner then seeks payment from the offender.

Hon KEN TRAVERS: I understand all of those circumstances in which payment is not made. But the government is clearly incurring a debt at the moment for vehicles that are abandoned and the cost of impounding them is more than the government can ever recoup from the vehicle. I hope, when the minister gets some of the vehicles for the state training system, that it will include Joondalup TAFE and the Motor Industry Training Association—if I can just put a little plug in for MITA—getting a couple of those vehicles. In all those circumstances there will still be a cost incurred to the state, so I would have thought there should be some figures on that. I am happy for the minister to take that question on notice, and I assume that when he says that he will take it on notice, what he is intending to do is provide those answers as part of his third reading speech when we get to the third reading stage when we come back after the break.

Hon Peter Collier: Yes.

Hon KEN TRAVERS: Perhaps one of the things the minister could undertake is to give us a clearer indication at that time of how much of the $8 million the government has saved up to this date. So, $8 million was estimated in the budget; how much of it has been saved? The minister can take that on notice to give us the answer as part of his third reading speech.

Hon PETER COLLIER: That is a very good suggestion from Hon Ken Travers, because I cannot provide any more information than I have already done at this stage, so I will do so during the third reading.

Hon ADELE FARINA: I just want to check something with the minister. In a situation in which a car is abandoned and the police proceed to sell the vehicle and the sale cost of the vehicle returns less than the cost of impoundment, do the police then pursue the offender for the balance of the cost?

Hon PETER COLLIER: Yes, the offender is liable for the balance.

Hon ADELE FARINA: What is the cost of pursuing the offender for the balance of the cost?

Hon PETER COLLIER: First of all, the person will receive a letter and an invoice; secondly, there is a debt collector; and, thirdly, if necessary, the matter will go through the court system.

Hon ADELE FARINA: I did not ask for the process; I asked for the cost. Obviously, if the government ends up in court pursuing the balance of the money owing, there will be a cost involved, and in some situations the people who are being pursued do not have the capacity to pay anyway. I find it very difficult to believe that there have not been any write-offs of the debt. I suspect that the $1.4 million shortfall—which the minister says is not a debt; it is just a shortfall because the money has not yet been recovered—is not likely to be fully recoverable in any event.

Hon PETER COLLIER: We at no stage said that there would not be any write-offs. I have never said that. If it is going to cost more to collect it, the person will not be pursued. However, with regard to the cost, we will provide the information that is required—what we can provide, that is.

Hon KATE DOUST: I do not think anyone has explained to me what criteria are used when it comes to making a decision for early release of an impounded car.

Hon Peter Collier: Do you mean to require payment for an early release?

Hon KATE DOUST: No. Say the commissioner, as the minister said earlier, has the capacity to make that decision. On what basis does he make the decision? What criteria does he work through to decide whether that car should be released in the individual situation?

Hon PETER COLLIER: That is contained within the bill that we are dealing with.

Hon Kate Doust: Which clause?

Hon PETER COLLIER: There are several clauses. Clause 10 is the main one, and it is also contained in government amendment 17/10, which amends clause 10.

Hon ADELE FARINA: Would the minister be able to advise members whether any vehicles have been damaged during the period that they have been impounded?

Hon PETER COLLIER: I will get that information for the member.

Hon ADELE FARINA: While the minister is getting that information, he might also check who has borne the liability for that cost—that is, whether it is the people who are holding the car or whether it is the state.

Hon PETER COLLIER: Yes.

Clause put and passed.

Clauses 2 and 3 put and passed.

Clauses 4 and 5 postponed until after consideration of clause 6, on motion by Hon Peter Collier (Minister for Energy).

Clause 6: Sections 79BCA and 79BCB inserted —

Hon PETER COLLIER: I move —

Page 6, after line 29 — To insert —

79BCC. Cancelling notices to surrender

(1) In this section —

notice to surrender means —

(a) a surrender notice given under section 79BA; or

(b) a surrender substitute vehicle notice given under section 79BCA; or

(c) a surrender alternative vehicle notice given under section 79BCD.

(2) If a senior police officer is satisfied that —

(a) a notice to surrender has been given to a person in respect of a vehicle; and

(b) the vehicle has not been impounded under section 79BB, 79BCB or 79BCE, as the case may be; and

(c) either —

(i) if the vehicle were so impounded, the vehicle would be a vehicle that could, under section 79D, be released before the impounding period ends; or

(ii) the vehicle's condition is such that it no longer functions as a vehicle and a licence could not be issued for it under Part III,

the officer may cancel the notice to surrender.

(3) As soon as is practicable after a senior police officer cancels a notice to surrender, the officer must give a written notice of the cancellation to the person to whom the notice to surrender was given.

79BCD. Notice to surrender alternative vehicle if surrender notice cancelled

(1) This section applies if —

(a) under section 79BA a surrender notice is given to a person responsible for a vehicle (***vehicle A***) the driver of which (the ***alleged offender***) is suspected of having committed an offence (the ***offence***); and

(b) under section 79BCC the surrender notice is cancelled before vehicle A is impounded under section 79BB; and

(c) the alleged offender is a responsible person for one or more other vehicles.

(2) If this section applies, a member of the Police Force may give the alleged offender, personally or by registered post, a notice in accordance with this section (a ***surrender alternative vehicle notice***).

(3) The surrender alternative vehicle notice cannot be given after 28 days after the date on which the surrender notice was cancelled.

(4) The surrender alternative vehicle notice must contain a statement to the effect that, because vehicle A will not be impounded, a vehicle for which the alleged offender is a responsible person (the ***alternative vehicle***) is required to be surrendered to the Commissioner for impounding instead of vehicle A.

(5) The surrender alternative vehicle notice must specify the following —

(a) in relation to the offence, its details and the time and place at which it is suspected to have been committed;

(b) which of sections 79(1) and 79A(1) is the provision that authorised the impounding of vehicle A (the ***impounding provision***);

(c) sufficient details of vehicle A to identify it;

(d) when the surrender notice was cancelled under section 79BCC;

(e) sufficient details of the alternative vehicle to identify it;

(f) if the impounding provision is section 79(1) and the alleged offender is a previous offender as defined in section 79(1A), sufficient details to explain why the alleged offender is regarded as a previous offender;

(g) the length of the impounding period for the alternative vehicle, which is to be —

(i) if section 79(1) was the impounding provision for vehicle A, either 28 days or 3 months according to which of those periods was the impounding period for which section 79(1) required vehicle A to be impounded; and

(ii) if section 79A(1) was the impounding provision for vehicle A, 28 days;

(h) the place at which, and the time of day during which, the alternative vehicle and its keys are required to be surrendered under this Division;

(i) the last day on or before which the alternative vehicle and its keys are required to be surrendered, being the seventh day after the day on which the notice is given.

(6) The surrender alternative vehicle notice must also include —

(a) a statement to the effect that this Division contains law about the notice and the impounding of the vehicle; and

(b) a statement as to the effect of section 79BCE(5); and

(c) a statement to the effect that failure to comply with the notice will result in the vehicle being impounded by operation of section 79BCE(2).

(7) If the alleged offender is a responsible person for 2 or more other vehicles, the surrender alternative vehicle notice must specify only one of them as the alternative vehicle, being the one decided by the member of the Police Force issuing the notice.

79BCE. Consequences of surrender of alternative vehicle notice

(1) If a responsible person who is given a surrender alternative vehicle notice under section 79BCD surrenders the alternative vehicle specified in the notice according to the notice, the vehicle is impounded by operation of this subsection for a period that commences at the time when the vehicle is surrendered.

(2) If a responsible person who is given a surrender alternative vehicle notice under section 79BCD fails to surrender the alternative vehicle specified in the notice according to the notice, the vehicle is impounded by operation of this subsection for a period that commences at the time when a member of the Police Force takes possession of the vehicle for the purpose of impounding it.

(3) An impounding period the length of which is specified as 28 days or 3 months in a surrender alternative vehicle notice includes the part of the day on which the vehicle is impounded that is after the impounding occurred even though including that part of the day makes the period more than 28 days or 3 months, as the case requires.

(4) The period for which a vehicle is impounded by operation of subsection (1) or (2) ends when the impounding period has passed since the end of the day on which the vehicle was impounded.

(5) A responsible person who is given a surrender alternative vehicle notice under section 79BCD commits an offence and is liable to a fine of 50 PU if, when the alternative vehicle specified in the notice has not been impounded by operation of subsection (1) or (2) as a consequence of the notice, the person disposes of an interest that the person has in the vehicle.

Hon GIZ WATSON: I think members need to appreciate that we are dealing with something fairly convoluted. There is an amendment to which we are moving an amendment. Just by way of suggestion, for those who are interested in following this, I think it would be interesting to know what the first amendment does and what the amendment to the amendment does, for the benefit of the sanity of all of us, if the minister could explain that. I have all the explanatory notes in front of me, and I could read them out. I just think that if we do not have an explanation, we will not quite know what we are dealing with.

The CHAIRMAN: If the minister is in favour of that, could he please address those issues?

Hon PETER COLLIER: Clause 6 introduces proposed sections 79BCA and 79BCB. Proposed section 79BCA empowers a member of the police force to give an alleged offender a surrender substitute vehicle notice. A surrender substitute vehicle notice may be given where the vehicle used in the commission of the alleged impounding offence was eligible for early release and the alleged offender is the responsible person for one or more other vehicles. Proposed section 79BCB is a technical amendment and sets out the consequences that flow from the surrendering substitute vehicle.

Hon GIZ WATSON: I am going to take the liberty of reading from the explanatory memorandum because that might give us a bit more of an idea of what we are dealing with. It might take a minute but I am finding it hard to juggle this in my head. By way of commentary, I think it is exceedingly unfair that a representing minister has to deal with this sort of mess. It would have been a lot simpler if the government produced a different bill or referred this to the Standing Committee on Legislation, which could tell us what we are dealing with.

I refer to the explanatory memorandum to the Road Traffic Amendment Bill 2010. In a sense, it is what the minister just said but it is much more formal. It states —

> **6. Sections 79BCA and 79BCB inserted**
>
> This clause will insert two new sections into Part V Division 4.
>
> Proposed new section 79BCA
>
> Section 79D of the *Road Traffic Act 1974* ("the Act") provides that the Commissioner of Police is not to release a vehicle impounded by a member of the Police Force, or surrendered for impounding following the giving of a surrender notice, prior to the end of the applicable impounding period, unless certain, limited circumstances apply.
>
> Examples of these circumstances are:
>
> - at the time of the commission of the alleged offence, the vehicle that was used in its commission was stolen or was a hired vehicle;
> - exceptional hardship will be suffered if the impounded vehicle is not released.
>
> Clause 8 will amend section 79D to expand upon these circumstances.
>
> It is considered that, where an impounded vehicle is released in any of these circumstances and the alleged offender is the responsible person for another vehicle that is a reasonable impounding prospect, the alleged offender should be required to surrender that vehicle for impounding in place of the released vehicle.
>
> Proposed new section 79BCA will enable this to occur. It will empower a member of the Police Force to give the person (the alleged offender) a "surrender substitute vehicle notice", requiring the surrender of a vehicle for which the alleged offender is the responsible person, where:
>
> - an impounded vehicle is released prior the end of the applicable impounding period pursuant to section 79D; and
> - the alleged offender is the responsible person for one or more vehicles.
>
> (See proposed new sections 79BCA(1) and (2).)

I hope all members are following this. It continues —

> If the alleged offender is the responsible person for more than one vehicle, the member of the Police Force giving the "surrender substitute vehicle notice" is to nominate the vehicle that is to be surrendered. Only one vehicle may be required to be surrendered. …
>
> A "surrender substitute vehicle notice" will only be able to be given to an alleged offender after the release of the vehicle that was impounded following the commission of the alleged offence. …
>
> In addition, the "surrender substitute vehicle notice" must be given within 28 days from the date of the release of the initially impounded vehicle. …
>
> Proposed new sections 79BCA(4), (5) and (6) will require the "surrender substitute vehicle notice" to contain relevant information regarding the substitute vehicle, the circumstances and legislation that give rise to the power to require its surrender, and the consequences of non-compliance with the notice.

I ask members to bear with me as I have only another half a page. It continues —

> Proposed new section 79BCB
>
> This proposed new section will set out the different consequences that may result following the giving of a "surrender substitute vehicle notice".

> Proposed new section 79BCB(1) will enable the vehicle to be impounded by the responsible person for the vehicle (the alleged offender) surrendering the vehicle to be impounded.
>
> Proposed new section 79BCB(2) will enable the vehicle to be impounded by a member of the Police Force, if the alleged offender fails to comply with the "surrender substitute vehicle notice". The member will have recourse to powers under section 78C of the Act to effect to the impounding.

I presume that should read "to effect the impounding". I continue —

> Proposed new sections 79BCB(3) and 79BCB(4) are technical provisions intended to clarify when the applicable impounding period will come to an end and how the impounding period is to be calculated.
>
> Proposed new section 79BCB(5) will provide that it is an offence for a person to dispose of an interest the person has in a vehicle that is the subject of a "surrender substitute vehicle notice", if the vehicle has not yet been impounded.

That is what we were going to do under the bill. Perhaps I might invite the minister to comment. What does the amendment do to that amendment?

Hon PETER COLLIER: This amendment will provide for the insertion of new sections 79BCC, 79BCD and 79BCE. New section 79BCC will enable a surrender notice, a surrender substitute vehicle notice or a surrender alternative vehicle notice to be cancelled if the vehicle the subject of the notice has not yet been impounded and the vehicle has been written off or otherwise so significantly damaged or altered that it is incapable of being licensed or a person is able to establish that if the vehicle were to be impounded, it would be eligible for early release. In either of these circumstances it would be counterproductive to carry on with requiring the surrender of the vehicle.

New section 79BCD will empower a member of the police force to give an alleged offender a surrender alternative vehicle notice where a surrender notice or surrender substitute vehicle notice has been cancelled pursuant to section 79BCC and the alleged offender is the responsible person for one or more vehicles other than the vehicle that was the subject of the cancelled notice. The surrender alternative vehicle notice will require the alleged offender to surrender to the commissioner for impounding one of the vehicles for which the alleged offender is the responsible person. If the alleged offender is the responsible person for more than one vehicle, the member of the police force giving the surrender alternative vehicle notice is to nominate the vehicle that is to be surrendered.

New section 79BCE sets out the consequences of failing to comply with the surrender alternative vehicle notice or of disposing of an interest in the vehicle the subject of the notice before it has been impounded. It reflects the content of proposed section 79BC relating to surrender notices and proposed section 79BCB relating to surrender substitute vehicle notices.

Hon GIZ WATSON: I thank the minister. That has helped somewhat. To be clear, it is expanding or it is making an additional provision for the circumstances where a vehicle has been damaged to a certain point and is not worth impounding. Is that correct? Is that new?

Hon PETER COLLIER: Yes. For example, a surrender notice has been given or issued, but the person establishes that the vehicle would be eligible to be released if it were impounded or, alternatively, when the vehicle has not been impounded, it is worthless—it has been written off.

Hon GIZ WATSON: The minister kindly read out the explanatory memorandum to the chamber. In what circumstance would a vehicle be eligible for early release?

Hon PETER COLLIER: Those circumstances are listed under section 79D. The bill will be adding to that.

Hon GIZ WATSON: Section 79D as it already exists?

Hon Peter Collier: As it will be amended.

Hon GIZ WATSON: Okay. I will try something else. It involves a bit of mental gymnastics to anticipate something we have not yet dealt with. I refer to the cancellation of vehicle licences. Section 79BD(1) states that if a person does not surrender his vehicle as requested under section 79BA, the commissioner may, as I understand it, request the director general to suspend the vehicle licence. Such a decision could have a significant consequence. Licence suspension usually has the consequence of the insurance of the car lapsing, for example. That raises a number of questions. The minister may be pleased to know that I provided advance notice of these questions, so he will hopefully have some answers to them. I always like to be helpful! Has the minister considered such consequences when proposing to suspend a vehicle's licence?

Hon PETER COLLIER: Is there a definitive policy reason? Yes, there is. I will read out the answer for the benefit of the chamber, but the member might also like to get a copy during the break. Section 79BD provides that where a vehicle the subject of a surrender notice is not surrendered in compliance with the notice, the

Commissioner of Police may request the director general to suspend the vehicle licence relating to that vehicle. The government will amend section 79BD for consistency, so that it will also include reference to the new surrender substitute vehicle notice and the new surrender alternative vehicle notice. The amended section 79BD will empower the Commissioner of Police to request the director general to suspend the vehicle licence relating to a vehicle the subject of a surrender substitute vehicle notice or a surrender alternative vehicle notice when a person fails to comply with such a notice. The fact that non-compliance with a notice can result in the suspension of the vehicle licence is intended to strongly deter a responsible person from electing to not comply with a notice requiring the surrender of a vehicle for impounding or from attempting to evade police endeavours to impound a vehicle. This consequence is clearly set out in the relevant notice, which I stress is given personally or by registered post. Proposed section 79B(3B) will enable the cancellation of the notice if a person is able to establish that, were the vehicle to be surrendered for impounding, it would be eligible for early release. If there are no grounds for the early release of the vehicle, the vehicle is to be surrendered. Section 78C provides police with the necessary powers to impound a vehicle following any failure to comply with a notice. Section 79BD(2) empowers the commissioner to request the director general to revoke the suspension for any reason the commissioner considers appropriate. In addition, it requires the commissioner to request the director general to revoke the suspension if the commissioner becomes aware that any of the circumstances set out in section 79D relating to the early release of an impounded vehicle exist.

Committee interrupted, pursuant to temporary orders.

[Continued on page 2588.]

Sitting suspended from 4.15 to 4.30 pm

QUESTIONS WITHOUT NOTICE

SOUTHERN SEA WATER DESALINATION PLANT

211. Hon KATE DOUST to the parliamentary secretary representing the Minister for Water:

(1) Can the minister confirm that the Water Corporation will power the new desalination plant completely with renewable energy; and, if not, why not?

(2) Can the minister confirm that the state government and the Water Corporation have a current contract that requires renewable energy use for desal 2?

(3) If not, what has happened to the contract that existed 18 months ago?

Hon HELEN MORTON replied:

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

(1) The Water Corporation fully intends to purchase renewable energy for the southern sea water desalination plant's energy requirements.

(2) The Water Corporation is continuing to pursue agreements for the purchase of renewable energy for the southern sea water desalination plant.

(3) The Water Corporation did not have a contract 18 months ago.

SOUTH METROPOLITAN REGIONAL COUNCIL — RESOURCE RECOVERY FACILITY

212. Hon KATE DOUST to the Minister for Environment:

I refer to the South Metropolitan Regional Council's proposal to rebuild its resource recovery facility.

(1) Has the minister been briefed by the SMRC on its plans for a replacement facility?

(2) Does the minister consider the SMRC has conducted adequate consultation with the community regarding a replacement facility?

(3) Can the minister assure the local community that its concerns regarding odour and odour management will be dealt with in any environmental approval?

Hon DONNA FARAGHER replied:

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

(1)–(2) In late 2009, the Department of Environment and Conservation was advised by the SMRC that it had commenced discussions with its member councils about options for replacement of the materials recovery facility, which was destroyed by fire in June 2009. I have been advised by the Department of Environment and Conservation that it is not aware of the outcome of these discussions to date.

(3) I am advised that the materials recovery facility is not a prescribed premises under the Environmental Protection Act 1986, and therefore the SMRC does not require a works approval or licence to replace or

operate the facility. However, it should be noted that the SMRC's waste composting facility, which has been the subject of odour concerns within the community, is a separate premises licensed under the act.

For the benefit of the member, on Monday the DEC released a licence for that facility, which includes specific conditions with regard to odour. It is open to two weeks' appeal, and I am very happy to provide a copy of the licence to the member if she would like.

Hon Kate Doust: I would appreciate that. Thank you.

SWAN RIVER — SPEED LIMITS

213. Hon SALLY TALBOT to the Minister for Environment:

(1) Does the minister support the reduction of speed limits on the Swan River to five or six knots, to reduce the potential for erosion?

(2) If no to (1), why not?

(3) If yes to (1), has the minister spoken to the Minister for Transport about amending the speed limits prior to the 2010–11 boating season?

Hon DONNA FARAGHER replied:

I thank the honourable member for her question.

(1)–(3) This is an issue that has been worked on quite comprehensively and cooperatively by the Swan River Trust and the Department of Transport. They have undertaken a number of studies on this. It is clear that boat wash can cause significant erosion issues. I am certainly keen to see whether there is a need to reduce boat speeds, and that is being looked at in an appropriate way by the Swan River Trust and the Department of Transport. When I have received their advice, following all their consultations, I am quite sure that the Minister for Transport and I will discuss the matter.

HORIZON POWER — HON CHERYL EDWARDES AND MINTER ELLISON

214. Hon KEN TRAVERS to the Minister for Energy:

I am going to see whether I can get a proper answer from the Minister for Energy.

Hon Simon O'Brien: It's unlike you to give up so easily!

Hon KEN TRAVERS: I have done the Minister for Transport enough today; I think I will ask a question of the Minister for Energy!

(1) Has Mrs Cheryl Edwardes or the Minter Ellison law firm been contracted by Horizon Power; and, if yes, for what purpose are they contracted?

(2) How much is Mrs Edwardes or Minter Ellison being paid by Horizon Power per month, and how long is the contract for?

(3) Will the minister table a copy of the contract; and, if not, why not?

(4) Does the contract involve Mrs Edwardes having contact with the Premier's office in relation to Horizon Power issues?

Hon PETER COLLIER replied:

I thank the honourable member for the question.

(1) Minter Ellison is engaged by Horizon Power to provide legal services on a broad range of matters relating to its operations. Cheryl Edwardes was one of the solicitors providing advice in relation to developments in the north west interconnected system and on the carbon pollution reduction scheme.

(2) Minter Ellison was paid on a fee-for-service rate at standard legal rates. For this financial year, Horizon Power has paid approximately $25 000 per month to Minter Ellison.

(3) No, there is no contract for a retainer, as Minter Ellison is paid on a schedule of rates. Tabling the letter of engagement and the schedule of rates would compromise Horizon Power's ability to negotiate fees for legal services with other providers in future.

(4) No.

METROPOLITAN REGION SCHEME AMENDMENT 1133/57 — REZONING OF KIARA TAFE SITE

215. Hon ALISON XAMON to the minister representing the Minister for Planning:

I refer to metropolitan region scheme amendment 1133/57—rezoning of Kiara TAFE site and the answer to question without notice 182 on 4 May 2010.

(1) Has the bush on the site been assessed since the year 2000?

(2) If no to (1), why has the Western Australian Planning Commission not reassessed this site, given the recommendation of the hearings committee and the Bush Forever office's note that the bushland is likely to have regenerated and may have become regionally significant, given the amount of clearing regionally that has occurred since 2000?

(3) If yes to (1), why is a superseded study the basis of the Environmental Protection Authority's advice, the WAPC's advice to the minister, and the minister's decision about the bush?

(4) The petition to save the site in 1998 raised nearly 1 000 signatures, and nearly 80 individuals and groups made submissions to the WAPC against zoning this site to urban. How many local residents and environmental groups were involved in the "extensive consultation process" that developed the draft outline development plan?

Hon PETER COLLIER replied:

I answer on behalf of the Minister for Child Protection. I thank the honourable member for some notice of this question.

(1) The Western Australian Planning Commission has not undertaken an assessment of the bushland since the year 2000.

(2) The WAPC's decision not to undertake further assessment of the bushland was based on information supporting the development concept provided by the Department of Housing, which included environmental assessment of the site by environmental consultants; the decision of the EPA not to require formal environmental assessment of the site, and advice that the intent to protect 30 per cent of the best condition bushland on the site—the conservation category wetland and buffer area, as indicated on the outline development plan—was supported; the expressed intent of the Department of Housing to protect or relocate worthy pockets of vegetation located outside the public open space area; and the opportunity for further management of the vegetated areas of the site.

(3) Not applicable.

(4) The preparation of the outline development plan involved an extensive consultation process including four stakeholder meetings between December 1998 and October 1999 involving Bayswater Green Works, the Kiara Progress Association and other members of the community.

An inquiry by Design Workshop was held in November 2002 to obtain further input from the community. The consultation process included early identification of stakeholders including Kiara, Eden Hill and Lockridge residents; the Bassendean Preservation Group; and, the Wildflower Society; the Urban Bushland Council, and the inclusion of 40 stakeholders on a mailing list. Newsletters were distributed to the wider community in October 2002 to introduce the project and promote the workshop. There was a press advertisement in the *Midland Reporter* in October 2002. Letters were sent to the local member, Hon Clive Brown, and stakeholders attending the workshop, including members of the Bennett Brook Catchment Group and the Kiara Progress Association. Twenty-five local stakeholders participated in the workshop. Further newsletters were distributed in December 2002 and August 2003 providing feedback on the workshop and, finally, the outcomes of the consultation process.

A sustainability study was undertaken of the four options for the outline development plan identified by the workshop to assess each against environmental, community, economic and infrastructure criteria and this produced a preferred option. This was advertised in a public information display at the Altone Park Public Library in September for 12 days. The Department of Housing responded to the eight submissions on an individual basis.

TOURISM WA — PROPOSED RESTRUCTURE

216. Hon LJILJANNA RAVLICH to the minister representing the Minister for Tourism:

(1) Can the minister give an assurance that under the proposed restructure of Tourism WA —

(a) Tourism WA's industry development division will not be abolished, have functions outsourced or be transferred to other government agencies; and

(b) the seven tourism WA regional offices, which form part of the industry development division in Tourism WA, will not be abolished, have functions outsourced or be transferred to other government agencies?

(2) Did Ms Jennifer Duffecy, executive director of the industry development division, leave Tourism WA of her own accord or was she asked to leave?

(3) What was the payout figure for Ms Duffecy and was she required to sign a confidentiality agreement?

Hon DONNA FARAGHER replied:

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

(1) The answer to this question will be released during the course of the budget process.

(2) Ms Duffecy sought and was granted voluntary separation under the government's 2010 targeted separation offer.

(3) The payout figure of $160 480 was set by the Public Sector Commissioner. Ms Duffecy was not required to sign a confidentiality agreement.

ELECTORAL SYSTEM — REFORMS FOR BLIND OR VISION-IMPAIRED ELECTORS

217. Hon MATT BENSON-LIDHOLM to the Minister for Electoral Affairs:

I refer to the announcement by the federal government to reform Australia's electoral system to allow electors who are blind or have low vision to properly cast a secret ballot. Are there any plans for a similar system to be implemented in Western Australia?

Hon NORMAN MOORE replied:

I thank the member for some notice of this question.

The Western Australian Electoral Commission is working with the commonwealth, other states, and agencies representing people who are blind or who have a vision impairment to develop a common approach in providing services to the blind voting community. This includes broad principles such as secret voting and systems development, thereafter. Additionally, general changes to the Electoral Act 1907 will be considered to allow ballot papers to be produced in other formats, including electronic and possibly braille, and to allow for the implementation of electronically assisted voting in certain circumstances.

The Western Australian Electoral Commission has the "'Be Involved': Disability Access and Inclusion Plan 2007–12", which is compliant with the Disability Services Act's requirements and acknowledges the commitment to ensure that the needs of electors with a disability are considered and that access requirements are a priority. The WA Electoral Commission has made many improvements to address the needs of people with disabilities.

JANDAKOT AIRPORT EXPANSION — PRESENCE OF GRAND SPIDER ORCHID

218. Hon LYNN MacLAREN to the Minister for Environment:

(1) How many grand spider orchids were identified in the Jandakot bushland that has been approved to be cleared for the Jandakot Airport expansion, and by whom?

(2) How many have been removed to date?

(3) Is the minister aware that there is anecdotal evidence of a significantly higher number of orchids in the area than has been officially reported?

(4) In reference to the translocation studies of grand spider orchids taken from the Roe Highway stage 7 project area, how many orchids were removed?

(5) On each year since their translocation —

  (a) how many orchids survived;

  (b) how many flowered; and

  (c) how many reproduced—that is, set seed?

(6) For how much longer will this monitoring be undertaken?

Hon DONNA FARAGHER replied:

I thank the member for some notice of this question.

(1) Jandakot Airport Holdings stated in its Environmental Protection and Biodiversity Conservation Act 1999 referral that there are 40 individual grand spider orchids in the area that has been approved to be cleared for the Jandakot Airport expansion.

  These orchids were identified by environmental consultants employed by Jandakot Airport Holdings. The initial identification of grand spider orchids in the proposed development area was by staff from the Department of Environment and Conservation and the Botanic Gardens and Parks Authority who were asked by Jandakot Airport Holdings to survey the site in 2005.

(2) Twenty grand spider orchids have been removed by BGPA to date as part of a translocation project.

(3) I understand that public submissions to the EPBC act referral and draft master plan suggest that there are more than 40 grand spider orchids within the area proposed for development.

(4) I am advised that 22 grand spider orchids were translocated by BGPA in 2004.

(5) (a)–(b) In 2005, 17 orchids emerged of which nine flowered. In 2006, 11 orchids emerged of which eight flowered. In 2007, 10 orchids emerged of which six flowered. In 2008, 10 orchids emerged of which five flowered. In 2009, eight orchids emerged of which five flowered.

(5) (c) I am advised that none of the translocated plants set seed during this period. Seed set in this species is typically extremely low.

(6) Although the specific monitoring program concluded in 2009, I am advised that the BGPA will continue to monitor these translocated individual plants on an annual basis as part of its broader ongoing threatened flora research.

TOURISM WA — INDUSTRY DEVELOPMENT DIVISION

219. Hon HELEN BULLOCK to the minister representing the Minister for Tourism:

(1) Can the minister advise why she provided funding to the five regional tourism organisations for the marketing of the five regions, but has given no commitment to funding the industry development division of Tourism WA and its seven regional offices in Broome, Port Hedland, Carnarvon, Geraldton, Bunbury, Albany and Kalgoorlie?

(2) Can the minister give an assurance that there will be no further cuts in the 2010–11 budget to tourism; and, if not, why not?

Hon DONNA FARAGHER replied:

I thank the member for some notice of this question.

(1)–(2) The answers to these questions will be released during the course of the budget process.

GALLIERS HOSPITAL — PRIVATISATION OF SERVICES

220. Hon LINDA SAVAGE to the minister representing the Minister for Health:

Given that the expressions of interest for the privatisation of hospital services at Galliers has now closed —

(1) How many companies formally responded?

(2) Which companies responded?

(3) What is the time frame for a decision?

(4) Will the minister table plan B, the hospital administration's alternative plan for the use of Galliers as a combined maternity facility; and, if not, why not?

Hon SIMON O'BRIEN replied:

I have a concern with the answer that has been provided. I would like to come back to this, if I may, later in question time today. I just want to check a detail.

WA WETLANDS CONSERVATION POLICY

221. Hon ALISON XAMON to the Minister for Environment:

I refer to the WA wetlands conservation policy.

(1) Has the minister received a draft of the WA wetlands conservation policy and strategy 2009–18?

(2) When will the final draft of the WA wetlands conservation policy and strategy 2009–18 be published?

Hon DONNA FARAGHER replied:

I thank the member for some notice of this question.

(1) No.

(2) I am advised that the wetlands coordinating committee is currently preparing a draft update to the state wetlands conservation policy for Western Australia.

CRIMINAL INVESTIGATION ACT — REVIEW

222. Hon ED DERMER to the minister representing the Minister for Police:

Some notice of this question has been given. I refer to the statutory review of the Criminal Investigation Act that included the examination and consideration of retina scanning, facial mapping, the covert taking of DNA when authorised by a court and the taking of DNA for non-indictable offences.

(1) Has a formal government response been finalised?

(2) Has the response been considered by cabinet; and, if not, when is it anticipated that this will occur?

(3) Which, if any, of the review's recommendations does the minister support?

(4) When does the government intend to make a decision on whether amendments will be made to the Criminal Investigation Act?

(5) What is the timetable for introducing those amendments into Parliament?

Hon PETER COLLIER replied:

I thank the honourable member for some notice of the question. I do not have an answer to the fifth question. I will give the member the response provided.

(1) No.

(2) Not applicable.

(3) The minister supports the majority of the recommendations. However, there are areas of the report and recommendations in the report on which the minister is currently seeking further advice in order to formulate the government's response.

(4) The government will make a decision after the matter has been to cabinet.

WESTERN POWER — COLLIE–PERTH TRANSMISSION REINFORCEMENT

223. Hon KATE DOUST to the Minister for Energy:

I refer to Western Power's proposed 330 kilovolt south west transmission reinforcement from Collie to Perth.

(1) What progress has been made since Western Power called for submissions on this project in December 2008?

(2) Does Western Power still consider this project to be important to the energy security of the Perth metropolitan area?

(3) When does the minister expect this project will get all the necessary regulatory approvals?

(4) When does the minister expect this project to be completed?

Hon PETER COLLIER replied:

I thank the member for some notice of this question.

(1) The Collie to Perth transmission reinforcement project has been deferred. The driver for the Collie to Perth 330 kilovolt transmission reinforcement was the connection of electricity generation in the south west. Alternative generation developments in the Perth metropolitan area—mainly the NewGen Neerabup power station at 330 megawatts—have deferred the need for this network reinforcement. Since December 2008, Western Power has prudently progressed with environmental approvals and community engagement to preserve options to respond to future load and generation requirements.

(2) The timing, size and location of new generators that wish to connect in the south west will determine the requirement for the project.

(3)–(4) The project has not progressed to regulatory approval stage due to uncertainty regarding the time frame for developing new generation in the area. Alternative generation developments have deferred the need for this network reinforcement. Western Power is continuing to review the need for the project in light of these revised plans and consultation with key government and industry stakeholders.

FREMANTLE PORTS OPTIMUM PLANNING GROUP REPORT

224. Hon LYNN MacLAREN to the Minister for Transport:

(1) Has the report from the Fremantle Ports Optimum Planning Group, which was due on 30 June 2009, been completed?

(2) Has the integrated transport route for the metropolitan area report been completed?

(3) Why have the reports not been publicly released?

(4) Will the minister table the reports?

Hon SIMON O'BRIEN replied:

(1) The member may assert that a report from the Fremantle Ports Optimum Planning Group was due on a particular date, but I do not necessarily accept that. That is the problem with trying to build a presumption into a question. However, the report referred to has been completed.

(2) I do not know what the member is referring to when she refers to the integrated transport route for the south metropolitan area report.

(3) The Fremantle Ports Optimum Planning Group has not been publicly released because it is subject to cabinet consideration; therefore the question is not applicable.

(4) Not applicable.

DOLPHIN DEATHS — CHIEF SCIENTIST'S REPORT

225. Hon SALLY TALBOT to the Minister for Environment:

Has the minister received the Chief Scientist's report on the Swan River dolphin deaths; and, if so, when did the minister receive the report, when will the minister comment on the report and will the report be made public?

Hon DONNA FARAGHER replied:

I thank the member for the question. I received the very comprehensive report from the Chief Scientist last Friday afternoon and I intend to release the report by the end of the week. She has made a number of recommendations and I have sought some advice from the Department of Environment and Conservation and the Swan River Trust about a couple of aspects of the report. I can assure the member that it will be made public.

PORT HEDLAND POWER STATION

226. Hon KATE DOUST to the Minister for Energy:

I refer to the proposed new Port Hedland power station.

(1) When is demand expected to exceed supply for electricity in the Port Hedland area, and what will be the additional requirements in megawatts?

(2) Has the government committed to building a new power station in Port Hedland; and, if not, when will a decision be made?

(3) How long does the government expect it will take to construct a new power station in Port Hedland from the awarding of the tender to the commencement of the operations?

(4) When does the government expect to award the tender to construct the power station?

(5) What is the expected cost of the station?

Hon PETER COLLIER replied:

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

(1) Electricity and supply demand in Port Hedland is linked to the supply and demand balance across the Pilbara more broadly. Horizon Power's electricity demand in the Pilbara is expected to exceed available supply from 1 January 2013. Horizon Power is in discussions with generators to extend the current supply.

(2) At this stage no commitment has been made by either the government or Horizon Power to develop a new power station in Port Hedland. Horizon Power and the government are currently exploring other alternatives to meet both the short and long-term future supply requirements of Port Hedland and the Pilbara more broadly.

(3) The construction of a new power station would take about two to two and a half years from the time the contract was awarded. Other alternatives being explored by the government and Horizon Power could be implemented in a reduced time frame.

(4) There is currently no plan for the government to award a tender or contract to construct any new power stations in either Port Hedland or the Pilbara.

(5) Horizon Power estimates that the cost to build a 110-megawatt power station in Port Hedland to be in excess of $300 million.

NORTH WEST HOSPITALS — INFECTION PROTOCOLS BREACHES

227. Hon MATT BENSON-LIDHOLM to the minister representing the Minister for Health:

I refer to a recent announcement that 250 patients will be contacted as a result of a breach of the infection protocols at Port Hedland Regional Hospital, Nickol Bay Hospital and Derby Regional Hospital.

(1) How did the breach of infection protocols occur?

(2) Has any patient testing begun; and, if yes, have any patients tested positive to any infections?

(3) What support or compensation will be offered to anyone who may have been infected?

(4) What endeavours will be made to alert patients who may not be immediately contactable?

(5) What protocols are now in place to ensure that this does not happen again?

Hon SIMON O'BRIEN replied:

I thank the member for some notice of the question.

(1) The breach occurred when a doctor did not follow established infection control practices and reused a piece of equipment.

(2) Yes, patient testing at the WA Country Health Service's Pilbara clinic commenced on Friday, 30 April 2010. The WA Country Health Service is advising patients that there is a 10-day turnaround for results.

(3) Nobody has been found to be infected to date. Treatment, support and counselling will be offered to all relevant patients.

(4) If patients are not contactable by phone, they will be sent a registered letter. If the letter is unable to be delivered, further attempts will be made to contact the patient through the patient's original referring doctor.

(5) The WA Country Health Service has always carried out best-practice infection control procedures. The same patient and staff safety and health standards and practices are used throughout all Western Australian public hospitals.

FREMANTLE PORT — LIBERAL PARTY VISION

228. Hon KEN TRAVERS to the Minister for Transport:

My question without notice is to the Minister for Transport because he was feeling so unloved!

Why has the minister abandoned the vision for the port of Fremantle that he released on behalf of the Liberal Party on 18 December 2007?

Hon SIMON O'BRIEN replied:

I thank the honourable member for his question and for making me feel loved and considered!

Hon Peter Collier: Take note, Ljil!

Hon SIMON O'BRIEN: Yes; and a few more.

Hon Ken Travers: She makes you loved every day, and you love it!

Hon SIMON O'BRIEN: Mr President, if I may, there is blushing occurring!

Hon Ken Travers: You're disappearing into your chair, minister.

The PRESIDENT: Order! If members want to kiss and make up, they should go outside and do it! We will hear the answer, I think, to the question.

Hon SIMON O'BRIEN: I will be staying here if that is the game!

Several members interjected.

Hon SIMON O'BRIEN: The vision for the port of Fremantle contemplated the future of container operations and whether they should be located in the inner harbour or shifted out of the inner harbour to another location; most likely the outer harbour or the Cockburn Sound part of Fremantle port. That was in recognition of the finding that typical late nineteenth century, harbour mouth, middle of urban area ports that exist around the world are increasingly moving from such locations to meet the demands of the maritime technology of today. I am referring to locations such as the middle of urban areas, with inadequate transport links in river mouths that need to be dredged and maintained and so on, in favour of modern facilities with deepwater, dedicated freight transport links and so on.

Alas, the reason why that is not current Liberal Party policy is, first, that it was about three leaders ago and there has been a bit of water —

Hon Ken Travers: It was only in 2007!

Hon SIMON O'BRIEN: Yes; we go through them pretty quickly from time to time!

Hon Ken Travers: Are you predicting another change soon then?

Hon SIMON O'BRIEN: No; we have had enough for the present and we are doing very well. However, what about the Labor Party?

Hon Ken Travers: So it is just Treasurers you'll turn over from now on?

Hon SIMON O'BRIEN: Please do not interject. This concerns the seat of Fremantle, which I know members opposite feel very upset about.

The fact of the matter is that prior to coming to government and having the resources of government and having assessed the position that we are at now in 2010, it soon became apparent that the time for examining and more closely pursuing the most desirable option has passed us by. It has passed us by for a couple of reasons. One reason is that the decision to pursue that line needed to be made about six or seven years ago, and at that time we did not have a government in this state that was capable of making those sorts of decisions.

Hon Ken Travers interjected.

The PRESIDENT: Order!

Hon SIMON O'BRIEN: We subsequently found that none of that work had been advanced sufficiently and the options were therefore not available. That is why we have some challenges ahead. But the fact of the matter is that for the foreseeable future—I would say at least 30 years—the inner harbour will remain a container port and indeed its throughput will double. That is why we are finding that we are having to invest because the options are simply not there in the time frame that would be suitable for the needs of Western Australia to do anything else.

CRIMINAL INVESTIGATION ACT — REVIEW

Question without Notice 222 — Supplementary Information

HON PETER COLLIER (North Metropolitan — Minister for Energy) [5.03 pm]: To further clarify a question asked earlier this afternoon by Hon Ed Dermer, the answer to the following parts is —

(4)–(5) After it has been to cabinet.

GALLIERS HOSPITAL — PRIVATISATION OF SERVICES

Question without Notice 220

HON SIMON O'BRIEN (South Metropolitan — Minister for Transport) [5.04 pm]: In response to a question asked by Hon Linda Savage, which I deferred so that it could be considered, I now offer the following answers to the questions she raised —

(1) Three.

(2) As the expression of interest—EOI—responses are currently undergoing evaluation, probity advice is that the companies cannot be identified at this stage.

(3) The EOI validity period is for 90 days. During this time the state government will decide whether it wishes to progress any of the other submitted proposals.

(4) The Minister for Health has not provided me with plan B to table. I understand that the Armadale 1B business case and the associated planning are on hold until the outcome of the EOI process has been finalised.

ROAD TRAFFIC AMENDMENT BILL 2010

Committee

Resumed from an earlier stage of the sitting. The Chairman of Committees (Hon Matt Benson-Lidholm) in the chair; Hon Peter Collier (Minister for Energy) in charge of the bill.

Clause 6: Sections 79BCA and 79BCB inserted —

Committee was interrupted after the amendment moved by Hon Peter Collier had been partly considered.

Hon GIZ WATSON: Before we had questions without notice and other matters, the minister kindly provided us with an answer to a question that I asked. But, having now had time to read it, I do not believe it answers the question I asked. I will try again and see whether there is another answer. In clause 6 we were talking about the cancellation of a vehicle licence.

Hon Peter Collier: The suspension of a licence, not cancellation.

Hon GIZ WATSON: The suspension? Is there no capacity to cancel?

Hon Peter Collier: Section 79BD refers to suspension.

Hon GIZ WATSON: Yes. I guess, in effect, under that proposed new section a person's vehicle licence would be suspended. Has consideration been given to the consequences of suspending the licence? For example, one thing that happens to a person whose licence is suspended is usually the insurance for the car lapses, and that to me raises a number of questions. Have the consequences of that been considered when proposing that a vehicle licence be suspended?

Hon Peter Collier: I am sorry, are you referring to third party insurance?

Hon GIZ WATSON: I am asking whether consideration has been given to the fact that vehicles will be uninsured as well.

Hon PETER COLLIER: The government has considered the issue, and it is a deliberate move to deter people who fail to comply. I think that is quite evident. Third party insurance will have no validity while the licence is suspended.

Hon GIZ WATSON: Prior to that vehicle licence being suspended, is the owner of the car given any opportunity to be heard or does it just happen automatically?

Hon PETER COLLIER: To a degree this is already covered in the notes that I gave the member, and the consequence is clearly set out in the relevant notice that is provided to the owner of the car, and I should stress that it is given personally or by registered post.

Hon GIZ WATSON: Does the owner of the car have a right to appeal under section 79BD?

Hon PETER COLLIER: If a person does not want to surrender a vehicle, the avenue available is to establish that were the vehicle to be surrendered for impounding, it would be eligible for early release.

Hon GIZ WATSON: I am piecing this together. Could the minister elaborate on what the circumstance is for early release?

Hon PETER COLLIER: It is essentially what this bill is all about. It is under section 79D, which sets out clearly —

Hon GIZ WATSON: Is the problem that we have not actually got to that yet?

Hon Peter Collier: Yes; we have not got to it yet.

Hon KEN TRAVERS: I want to make one comment about this. I have been listening to the debate. I think Hon Giz Watson commented earlier in the piece that this is very complex because we have an amendment bill to amend a bill that was put through this house not very long ago. We now have amendments to that amendment bill moved by the government. I cannot remember who told me not so long ago that in the days of Charles Court, I think it was, if a minister brought a bill into the Parliament and then sought to amend it, it went to the bottom of the notice paper because the minister should have got it right the first time.

Hon Simon O'Brien: I don't know whether that was the case.

Hon KEN TRAVERS: That is what I understand—probably not for the Premier's bills but for everyone else's. I cannot remember who told me that, but that was the story that was recounted to me.

Hon Norman Moore: There aren't many around who were here when he was here.

Hon KEN TRAVERS: My immediate thought was that it must have been the Leader of the House, but I do not remember ever having a conversation like that with him. To be honest, I think it highlights the problem that we have been facing. The interesting thing is that the opposition and our friends the Greens have been highlighting the problems with this legislation at every step of the way. There are flaws in it, and improvements and amendments need to be made. One of the problems that we now face is that we are in the situation of having to move amendments to amendments. Why they were not moved in the other place is beyond me.

Hon Alison Xamon interjected.

Hon KEN TRAVERS: That might have been why it was not done, but at least they are here now.

Hon Kate Doust: We are actually trying to fix up the mess that the police minister started when he didn't get it right. That's why we're here today, and I dare say we'll be back again.

Hon KEN TRAVERS: Our role becomes even more relevant whilst the current Minister for Police holds his office. The real problem is that he runs into this Parliament with legislation to get a media headline on issues, many of which the Labor Party would support if it were sound legislation. It is amazing that we are now seeking to amend a bill that was introduced and passed in this place only six months ago. An amendment bill was introduced into the other place and sent to this place, and now we are having to amend the amendment. No wonder it gets confusing for members in this place to follow the debate and to understand the explanations that are being given to us by the minister. With all due respect to the minister, I realise that he just drew the short straw when he got the job of representing the Minister for Police. To the minister's credit, I think he has tried, along with his advisers, to assist this chamber in the best way possible, but it is clear that the process has been appalling. I certainly ask the government to give an indication that it will make sure that in future when the Minister for Police brings legislation before the cabinet, it gets someone else to check it before it is sent off to be printed.

Hon Kate Doust: Maybe the government could give it to us to read.

Hon KEN TRAVERS: Yes. I am sure that our shadow minister would offer to sit down with the Premier and give him a hand on this sort of stuff.

Hon Giz Watson interjected.

Hon KEN TRAVERS: And even Hon Giz Watson, the Parliament's last unreconstructed Marxist, could give her opinions on it, and the legislation would have a better outcome as a result of that. We should not have to go through this nonsense of dealing with amendments to amendments to amendments to a bill that we have only just passed in the first place. Ironically, all this stuff that we are dealing with now has been highlighted consistently. It is not as though no-one picked it up at the time. It was known.

Hon Kate Doust interjected.

Hon KEN TRAVERS: Hon Kate Doust, the Deputy Leader of the Opposition, is absolutely right. This is probably a bill that would make a perfect case for referral to the Standing Committee on Legislation. I have no doubt that in previous Parliaments that is exactly what would have happened with this bill. However, we have a government that knows best and acts —

Hon Norman Moore: Yesterday your colleague was complaining that your amendments up here wouldn't be accepted, because he thought moving amendments in Parliament was a good thing. Parliament does make decisions about legislation, and now that we're amending it, you're complaining about it.

Hon KEN TRAVERS: No.

Hon Norman Moore: The other house said it had some concerns, and the government has taken on board its view.

Hon Peter Collier: Can I comment on that just before we —

Hon KEN TRAVERS: By way of interjection, yes. Does the minister want to actually respond? In fairness, because the minister has been helping us today, I am happy to give him the opportunity to respond before we break.

Hon PETER COLLIER: I have some sympathy for the sentiment expressed in the comments that Hon Ken Travers has made. I think it is a big ask to go through, essentially, nine pages of amendments, and I understand that they are pages of very complex amendments. I will take it on the chin. I think we probably could have done it better. That being the case, I think the amendments will improve the bill. We have listened to the suggestions from the opposition, and the amendments are actually accommodating the suggestions that were made by the opposition in the other place. Having said that, I appreciate that there is a great deal of complexity with these amendments. We have a week's break now. As always—I said that my office was in touch with all members' offices—we are more than willing to provide more comprehensive briefings. If any members want more comprehensive briefings, they are more than welcome to have them.

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

MINES SAFETY

Statement

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [5.20 pm]: Regrettably, I missed members' statements yesterday so I was unable to respond to some comments made by Hon Jon Ford. These comments related, in particular, to the death of a worker at the Leinster Perseverance mine. On two occasions now Hon Jon Ford has referred to this fatality and has drawn a conclusion that somehow or other the company is responsible for the death of the worker. I have refrained from commenting on that because the matter is subject to a coronial inquiry and it is not for any ministers to make comments about likely causes of death while that inquiry is taking place. I do not intend to make any comments or to suggest in any way that any particular person, company or circumstance is to blame for that fatality.

I will go through what has occurred at that mine site since that fatality. After notification of the fatal accident, a prohibition notice was put in place stopping all mobile equipment operations at or near stopes or such openings where there was potential for equipment to fall into a void. Subsequent to this, the company has conducted a risk assessment of such operations and is satisfied that operations at tip heads where an engineered stop and grizzly is in place can be conducted safely. Tipping at such locations has recommenced. Operations at locations similar to where the accident occurred are still prohibited. Operations such as backfilling at locations similar to where the accident occurred will only recommence when provision is made that will ensure there is no possibility of the equipment falling into a void.

With respect to the concerns raised by Hon Jon Ford that this mine should not be open, I indicate that particular practices that may have led to that fatality are still prohibited on that mine site. I raised a rhetorical question with

the member. If he believed the whole mine should be shut down, he should say so publicly because people need to understand that that is what he thinks should happen. I can assure him that any activity at that part of the mine or any part of the mine where a similar incident could occur is still prohibited.

TOURISM WA

Statement

HON LJILJANNA RAVLICH (East Metropolitan) [5.23 pm]: I wish to speak about the future of Tourism WA. I do so because there has been speculation about a restructuring of Tourism WA for months and there are serious concerns about what the government may be proposing for the future of Tourism WA. Members may be aware that a series of questions about tourism have been asked in this place. I have got up on numerous occasions and spoken about what has happened to tourism events, what has happened to the declining level of investment in tourism, what is happening to tourism reports that the minister has sat on and so on. Today I asked a question of the minister about the proposed structure of Tourism WA, because up until now there has been total denial of a restructure or, indeed, wholesale changes. Clearly, something is in the pipeline. I understand it is currently before cabinet. It is about a substantial change to the way that Tourism WA operates.

I believe that the Minister for Tourism, Liz Constable, must reveal her plan for Tourism WA, particularly for the Tourism WA regional offices, and put the fears of the regional office staff and their clients to rest once and for all. We have seven regional Tourism WA offices. They are in Broome, Port Hedland, Carnarvon, Geraldton, Bunbury, Albany and Kalgoorlie. The word on the street is that because the industry development division within Tourism WA will probably be abolished, consequently, unfortunately, the future of the regional officers who come under the industry development division is less than certain. They have key responsibility for developing product with local tourism product suppliers. They are the interface between local regional tourism operators and Tourism WA. They do a fantastic job in the regions.

It was announced earlier in the year that a decision about a restructure of Tourism WA would be made in February this year but the current delays are causing some severe pain. There is no doubt that the tourism sector in Western Australia is currently directionless under the stewardship of a minister who is, in large part, missing in action and has very little interest in the tourism industry and very little interface with it.

The tourism industry strongly suspects that the industry development division will be the first to face abolition, given that a funding commitment has not yet been made to those regional officers who focus on the industry and product development side. Although the five regional tourism organisations have been funded to undertake marketing for Tourism WA, the industry development division and those regional officers have not been funded to undertake the work that they do. It is very, very important work. They focus on destination marketing, infrastructure investment and strategic policy. They provide operator support and education and they involve themselves in strategic and planning issues. There are regional managers and product development managers in each of those seven offices. In some cases it could be one and the same person.

We can talk all we like about tourism and we can have as many taxi rides going around in circles around the state from Perth up to the Pinnacles, but if we do not have the service providers on the ground where they are needed and we do not have someone pushing along and assisting the industry to develop the local regional product that has a unique flavour, the simple fact is that people will not want to go out there. In my view, there is no doubt that the regions will suffer as a result.

The loss of the industry development division will be a cruel blow to regional tourism. Regional tourism offices are the face of tourism in WA and they are responsible for regional tourism policy planning and product development. The services that they provide are the most needed by industry and include destination and product development, operator support and education, advice on infrastructure and investment, and the strategic policy area. Many local tourism operators, as well as prospective operators, will struggle without this specialised support, assistance and professional advice. At a time when regional tourism needs support, this minister and the Barnett government are turning their backs on tourism. The impact of this tourism restructure on regional tourism will be devastating. I can tell members what has happened already. We have lost the chief executive officer, Mr Richard Muirhead. He walked out of Tourism Western Australia not long after the Minister for Tourism picked up that portfolio. We have recently lost the executive director of the industry development division. I asked a question during question time about Ms Jennifer Duffecy, who saw the writing on the wall in relation to what is possibly going to happen to her division. She also chose to leave. The people who work in the industry development area of Tourism WA are very concerned. The regional officers are very concerned. They were advised that they would know their fate by February. Many months later, they still do not know, and today I got a response from the minister indicating that we will find that out in the budget process.

In addition, the word on the street is that there will be further wholesale changes to anything to do with tourism planning—that is, planning for tourism product infrastructure such as hotels, resorts and so forth. There has always been a division within Tourism WA that has made comment on and had input to the development of

those aspects of tourism. I asked the minister whether she had made some decisions about accommodation development and about the review of tourism accommodation development that she had commissioned. That review was funded to the tune of $150 000. It made many recommendations, and the industry has for the past 12 months waited for the implementation of that accommodation review. In response to a question that I asked in Parliament, the minister said that she could not answer any of my questions in relation to accommodation because that is a matter for the Minister for Planning. The only thing I can conclude is that as part of the restructure, anything to do with planning and tourism in the future will be shifted out of Tourism WA and will go across to the planning division. Anything to do with the establishment of enterprises et cetera will probably go to the regional development corporations or, alternatively, it may go to the development commissions; I do not know. Clearly, we are looking at a wholesale restructure of Tourism WA as we know it. This is about cost cutting. This industry has gone through very difficult times due to the global financial crisis. One need look only at the key indicators of the industry to recognise that it is in a parlous state. Quite frankly, it is not good enough for this minister and this Premier, at a time when the industry needs it most, to turn their backs on an absolutely critical industry in contributing to this state's economic wellbeing. It is a major contributor to gross state product.

BROOME AQUACULTURE CENTRE — BARRAMUNDI RELEASE

Statement

HON KEN BASTON (Mining and Pastoral) [5.32 pm]: I rise tonight to bring to the attention of the house a worthwhile event that I was invited to attend in Broome last Saturday. It was the release into Dampier Creek of 500 juvenile barramundi that are about 30 centimetres long. These fish were bred at Kimberley TAFE's Broome Aquaculture Centre from stock that came from Dampier Creek; hence, they are of the same genetic stock. The Kimberley TAFE aquaculture centre has produced thousands of fingerlings. Most of those have gone to Marine Produce Australia at Cone Bay, which I believe is quite a successful aquaculture project.

Hon Norman Moore: And growing.

Hon KEN BASTON: Yes, and growing; the Leader of the House is right.

The 500 one-year-old barramundi were surplus to requirements, and it was felt by the TAFE college that since the original breeding stock had come from Dampier Creek, it was quite a good thing to restock the fishery with these 500 one-year-old fish. Bearing in mind that the fish have lived all their life in a tank about five metres in length, it was quite daunting for them to be released into the wild. Their artificial diet was cut out and they were fed baitfish, which they would have to live on in Dampier Creek. Interestingly, I am told that by Christmas these fish will be 55 centimetres in size, so we can see advantages for the future if this project is successful. This is one of the first projects in which fish have been released north of Shark Bay, so it is quite a historic occasion. These fish were not tagged; it was deemed unnecessary by the Department of Fisheries. However, in any future releases, the fish will be tagged so that the efficiency of the release can be monitored and its success can be evaluated.

I congratulate all those involved in this project, in particular Jeff Cooper, the aquaculture and marine coordinator at Broome TAFE. I also thank the volunteers and staff he organised for donating their boats to deliver the fish to the creek. Jeff Cooper is also the president of the Broome Fishing Club. The boat that I was assigned to was very aptly named *Quick Release*. It was owned and skippered by Rob Gray. The fish were quite slippery little things. We had some practice beforehand in how to release a fish. As a keen fisherman, minister, it was quite a lesson for me in how to release a fish. I am used to catching, keeping and cooking them! On this historic occasion of releasing these fish into the wild, these gentlemen took the opportunity to show me the disadvantages of launching and retrieving a boat on the boat ramps of Broome. Of course, I should say that people do not launch a boat of some five or six metres without at least one person getting wet above the waist! I thank Jeff and his team for a very successful launch. His dedication comes through loud and clear when I talk to him. I think this project will be the start of sustainable fisheries in recreational areas. I commend the aquaculture centre for its work.

TOURISM WA

Statement

HON ADELE FARINA (South West) [5.37 pm]: I, too, rise to express my serious concern about the way the government has handled the restructure of Tourism Western Australia. It has been shrouded in secrecy right from the start, and every effort to get any information about it has hit a brick wall. Industry has not been consulted on this restructure, despite assurances from the Minister for Tourism and the Premier that that has been the case. Industry definitely has not been consulted about the closure of regional Tourism WA offices or about the removal of the planning, development and investment arm of Tourism WA, which the industry considers absolutely critical and vital to the long-term sustainability of tourism. I have real concerns about this matter for a number of reasons. Firstly, tourism is an important economic driver in the South West region. Clearly, the loss of the Tourism WA office and all it brings to the industry in the South West region would be a huge blow to the

south west tourism industry. When we were in government, I chaired a ministerial task force on tourism planning, and through that process we developed an extensive framework for tourism planning in this state that had not been in place previously. That framework has raised the profile of tourism planning in this state and brought it to the attention of local government, and has required it to be addressed in local planning schemes and in strategies prepared by local governments.

The result of closing down those offices and removing funding to that arm of Tourism WA will have enormous consequences right across the board. Local government relies on the expertise in those offices to do the work they need to do for their local planning strategies and future planning, which is all very critical for the development of the industry and its long-term sustainability. Operators also use the services of those offices to determine their future investment opportunities and the development of new facilities. It beggars belief that this government could drop that off in such a cavalier fashion without understanding the consequences to the tourism industry and regional communities in this state. This government holds itself up as the protector and advancer of the interests of the regions, yet it has for months been negotiating behind closed doors for the closure of Tourism WA offices in regional towns. There will be jobs lost as a result of that, and I think that is disgraceful.

The other thing that concerns me greatly is the fact that an undertaking was given to Tourism WA staff—who have been understandably very nervous about the future and stressed about this issue for quite some time—that the restructure would be announced in January 2010. That did not happen, and it has been continually pushed out, month after month. This uncertainty about the future has been very difficult for a number of staff to deal with. The minister gave an assurance to the staff that, once the restructure had been determined by cabinet, they would be the first to know about the outcome of the restructure. As I understand it, cabinet has made a decision about the restructure. Regional Tourism WA staff were advised to make themselves available and to get themselves to Perth on Tuesday, 4 May, for a staff meeting at which all the details of the restructure would be announced. They were also told that a major restructure had been agreed upon, with significant ramifications for the organisation and for staff. On Monday, 3 May, they were advised that the meeting had been cancelled and that they would be provided with advice about the restructure at the end of the month, which, interestingly, is after the state budget is announced. In consideration of the response the minister gave to the question asked of her by Hon Helen Bullock during question time today, in which she said that answers to questions about the Tourism WA restructure will be provided during the state budget, it appears that the minister does not give any weight at all to the assurances that she gives people. Clearly, the staff are not going to be the first to learn about the implications for them of the restructure; they will learn about it at the same time as everyone else in the state learns about it—when the budget is handed down in a couple of weeks. I think that that is a pretty disgraceful way for the minister and the government to treat members of the public service, or anybody else. It is also pretty disrespectful to the industry to not provide some information about what is happening.

There has been a lot of discussion about the prospect of this role being picked up by another organisation. The reality is that this role sits within Tourism WA because it has the knowledge and expertise to take it on. Other agencies do not have the knowledge and expertise to take over this role; nor do they have the capacity, unless the government is going to provide some additional funding and resources to the Department of Planning, for example. The bottom line is that the Department of Planning does not have the expertise to handle this role, and it is absurd to think otherwise. However, if the government were to deliver additional funding to the Department of Planning, it may very well be able to employ the people who are likely to lose their jobs as a result of the Tourism WA restructure.

As a result of this decision, tourism operators who would normally go to regional Tourism WA offices to avail themselves of the expertise and assistance they need will now have to go to the private sector and employ expensive private consultants to provide the same advice. In many cases, we are talking about small businesses that can ill-afford the sorts of expenses they will incur if they have to engage private consultants. This is from a government that holds itself up as the protector of the interests of small business. It is simply a disgrace.

This decision has been very poorly thought out and very poorly handled. I really think that if a decision has been made—as we know it has—the government should get on with the job of announcing the decision so that the industry knows what is happening and, most importantly, talking to the staff of Tourism WA, extending them some respect and giving them some idea about where their future lies. As a person who has a very keen interest in tourism planning, I would like to know how the government intends to deal with the issue of tourism planning after the closure of those offices and the loss of those positions in regional WA and the Tourism WA office in Perth.

REVENUE LAWS AMENDMENT BILL 2010

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Helen Morton (Parliamentary Secretary)**, read a first time.

Second Reading

HON HELEN MORTON (East Metropolitan — Parliamentary Secretary) [5.46 pm]: I move —

That the bill be now read a second time.

This bill seeks to make amendments to the Duties Act 2008 and the Duties Legislation Amendment Act 2008 to make a minor change to the superannuation provisions of the Duties Act; to close a potential loophole in the entity restructuring provisions of the Duties Act; and to delay the abolition of transfer duty on non-real business assets until 1 July 2013.

Part 2 of the bill contains minor amendments to the Duties Act relating to the superannuation and entity restructuring provisions. The Duties Act came into operation on 1 July 2008, replacing the outdated stamp duty arrangements of the Stamp Act. Since that time some minor anomalies have been identified that require amendment to ensure that the legislation operates as intended. The amendment to the superannuation provisions of the Duties Act corrects an oversight that allows the sale of a property from the trustee of a superannuation fund to a member of the fund to be assessed for nominal duty. Following the amendment, a nominal assessment will only be available for such a transfer where there is no consideration paid. Amendments are also proposed to the duty exemption for transactions involving the restructure of certain connected entities.

The first proposed amendment ensures that the exemption does not apply more broadly than intended. The connected entity exemption applies to certain transactions between members of a family. A family consists of entities that are related as parent entity and subsidiary. A parent entity is one that holds at least 90 per cent of the shares or units in another entity and controls at least 90 per cent of the votes that may be cast at a general meeting of that other entity. It has become apparent that the relevant provision inadvertently has a wider application than was intended, as it does not require the party from whom the interest was acquired to be a family member, and, therefore, could provide a duty exemption for arm's length acquisitions. To date, there have not been any arms-length transactions lodged with the commissioner that have relied on this provision. It is proposed that the relevant provision be narrowed in its application with effect from the date that the bill is initially second read into the Parliament, to ensure that the provision cannot be utilised from that day forward. This will prevent advantage being taken of this loophole prior to the amendment being passed by Parliament.

Part 3 of the bill contains amendments to delay the abolition of transfer duty on non-real business assets until 1 July 2013. This measure was announced by the government as part of the midyear review of the 2009–10 budget. It was intended that duty on non-real business assets, such as goodwill and intellectual property, would be abolished from 1 July 2010. Provisions to effect the abolition from this date were previously included in the Duties Act and the Duties Legislation Amendment Act. The proposed abolition date of 1 July 2013 is still consistent with the requirements of the Intergovernmental Agreement on Federal Financial Relations, and will result in additional estimated revenue of $325 million over three years. An explanatory memorandum has been prepared containing further detail on the amendments.

I commend the bill to the house and seek leave to table the associated explanatory memorandum.

Leave granted. [See paper 2015.]

Debate adjourned, pursuant to standing orders.

ADJOURNMENT OF THE HOUSE

Special

On motion without notice by **Hon Norman Moore (Leader of the House)**, resolved —

That the house at its rising adjourn until Tuesday, 18 May 2010 at 3.00 pm.

House adjourned at 5.50 pm