

**TAB (DISPOSAL) BILL 2019**

*Committee*

Resumed from 21 August. The Deputy Chair of Committees (Hon Robin Chapple) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

**Clause 26: Application of proceeds of disposal —**

Progress was reported after the clause had been partly considered.

**Hon COLIN HOLT:** Before progress was reported, we were in the middle of a response by the minister to a question I had asked about the 35 per cent of the net proceeds credited to the racing infrastructure fund. I think the explanation was completely accurate. My clunky brain did not get around that part of the bill. I apologise for that and am more than happy to say that the minister has answered my question. As a follow-up, as soon as the 35 per cent is determined and transferred, will that money go to Racing and Wagering Western Australia and sit on its books rather than the government's books?

**Hon STEPHEN DAWSON:** That is correct.

**Hon NICK GOIRAN:** Continuing this examination of clause 26, I note that there is an interaction between clause 26 and clause 27. Has the fund account referred to already been created?

**Hon STEPHEN DAWSON:** No, it has not.

**Hon NICK GOIRAN:** Under what power will the fund account be created?

**Hon STEPHEN DAWSON:** I am advised that it will be created under clause 27 of the bill and section 88 of the Racing and Wagering Western Australia Act.

**Hon NICK GOIRAN:** In what way does section 88 of the RWWA act enable the creation of the racing infrastructure fund account?

**Hon STEPHEN DAWSON:** Section 88(2) of the Racing and Wagering Western Australia Act states, "RWWA is to maintain one or more accounts."

**Hon Dr Steve Thomas:** Honourable Deputy Chair.

**The DEPUTY CHAIR:** Sorry. Hon Dr Steve Thomas.

**Hon Dr STEVE THOMAS:** I am back here on the far right!

Very briefly, can the minister confirm that under clause 26(4) there is nothing to prevent the Treasurer from placing additional money into the special purpose account? Essentially, can the government top it up at any point it desires from the consolidated account or other sources of funding?

**Hon STEPHEN DAWSON:** I am advised that the normal budget process will apply.

**Clause put and passed.**

**Clause 27: Racing Infrastructure Fund —**

**Hon COLIN HOLT:** There has been quite a bit of commentary about what will happen with this fund. There have been different indications from the minister and the Treasurer in other debates and commentary. Let us clear it up once and for all. At one point it was said that disbursements for infrastructure would be out of only the interest. It has also been said that it will be up to the industry to decide whether it wants to spend a lump sum, only the interest, or manage it however it wants. Can we have some clarification so that people in the industry know exactly what will happen with the fund?

**Hon STEPHEN DAWSON:** The racing infrastructure fund will be administered by Racing Western Australia. The investment strategy and funding allocations will be approved by the Minister for Racing and Gaming, likely as part of the annual strategic development planning process. An assessment of priority needs and associated business cases will be undertaken by Racing Western Australia. There will be no requirement for RWA to allocate infrastructure funding out of only the interest on the money in the infrastructure fund. The principal can also be used.

*Sitting suspended from 1.00 to 2.00 pm*

**Hon COLIN HOLT:** We were in the middle of confirming that the Minister for Racing and Gaming will have the final sign-off on any infrastructure fund spend, so will he potentially have veto rights?

**Hon STEPHEN DAWSON:** Yes, the member is correct. The racing minister will have the final say in a sense, but Racing and Wagering Western Australia will make the recommendation to him. As I said previously, that will

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probably be done as part of its annual strategic development process. It may well provide advice on the annual strategic development plan and the minister will sign off on that.

**Hon COLIN HOLT:** Obviously, recommendations come from RWWA. Is the strategic development plan a private document between the Treasurer, the minister and RWWA; and, if that is the case, how will the industry know what its strategic infrastructure priorities are?

**Hon STEPHEN DAWSON:** RWWA will tell the industry. RWWA has regular communications with the industry, so it will advise the industry of its intentions for its spend for the year.

**Clause put and passed.**

**Clauses 28 to 34 put and passed.**

**Clause 35: No compensation payable —**

**Hon NICK GOIRAN:** The minister will note that clause 35 is entitled “No compensation payable”. It provides that no compensation will be paid by or on behalf of the state in certain circumstances. Clause 35(1) states —

No compensation is payable by or on behalf of the State —

...

(c) in connection with the disposal under this Act of a TAB asset.

Why is that necessary?

**Hon STEPHEN DAWSON:** The purpose of this clause is to protect the state from a cause of action based on something that is a consequence of giving effect to the legislation.

**Hon NICK GOIRAN:** Let us work through an example. Clause 35(1)(c) relates to no compensation being payable in connection with the disposal of a TAB asset under the legislation. Are those shops that we referred to earlier in the week the shops that the government does not intend to dispose of at the moment? Could they be TAB assets that could be disposed of under this legislation?

**Hon STEPHEN DAWSON:** I am advised that yes, they could.

**Hon NICK GOIRAN:** If one of those shops was disposed of under this legislation, does that mean that the state would not be responsible for any payment of compensation as a result of that disposal?

**Hon STEPHEN DAWSON:** I am advised that that is right.

**Hon NICK GOIRAN:** I understood that members were quite concerned about the possibility of these shops being scooped up in this disposal process and that the only circumstances in which the government could foresee that happening would be if a magnificent offer was made, and under no circumstances would that scooping up occur without the consent of RWWA. I think that is where we got to earlier with those shops. I would have thought that if RWWA were to give its consent, part of that might involve some compensation. I imagine that there might even be some consultation with the industry and the government might even say to the industry, “Even though the proceeds are supposed to be 35 per cent, because the deal is so good and because we are now going to scoop in these shops, we would like to give some compensation for that”, but this provision states that no compensation is payable. How does the government propose to deal with that scenario?

**Hon STEPHEN DAWSON:** No legal compensation would be payable in this case. As I mentioned previously, the state has an in-principle agreement with RWWA that those shops not be sold as part of the TAB sale. The only way that could happen, as I said previously, is if a fantastic offer was made by the purchaser of the TAB and for some reason they said that they would like these shops included in the deal. In that case, RWWA would have to consent to that happening. My advisers say that it is unlikely. The likelihood is that they would rather lease the shops from Racing and Wagering Western Australia in the first place. If, for some reason, the purchaser made a fantastic offer to include those shops, then, absolutely, RWWA would need to consent to that. Obviously, RWWA could expect to be recompensed for that, but RWWA would have to consent for that to happen in the first place.

**Hon NICK GOIRAN:** It is interesting that RWWA could expect to be compensated, despite the fact that the clause says that no compensation is payable. Can I ask the minister to advise the chamber whether clause 35, when read in conjunction with clause 11—the clause we discussed earlier that gives the minister the power to acquire land—allows the state to take land without compensation?

**Hon STEPHEN DAWSON:** I am advised that, no, it does not, because the taking of land by the state is covered by parts 9 and 10 of the Land Administration Act 1997. Clause 35, in conjunction with clause 11, does not override that regime.

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**Hon NICK GOIRAN:** Clause 11 states —

The Minister has all of the functions and powers that are necessary or convenient for the purposes of this Act, including the power to acquire land.

I had understood from our earlier discussion that clause 11 empowers the minister with carriage of the implementation of the proposed act to do various things. Clause 11 gives the minister the power to acquire land. It has nothing to do with another statute of Western Australia. Clause 35(1) states —

No compensation is payable by or on behalf of the State —

- (a) because of the enactment or operation of this Act or for the consequences of its enactment or operation; or

When we read those two things together, it implies that a minister has the power under clause 11 to acquire land, and under clause 35(1)(a) a minister does not have to pay any money for the taking of land. I recognise that when we were discussing clause 11, the minister said it was not the intention of the government to take any land as part of this whole process. However, despite the fact there is no intention, the minister pleaded with us not to delete that clause. He said that the government wants the clause to remain just in case there is a fence on the wrong side of the parcel of land that needs to be dealt with. The government is not aware of anything like that—it is doing due diligence at the moment—but, just in case, it wants that clause in. If the government were to come across that fence scenario, would clause 35(1)(a) enable it to simply sort that property law issue out by taking the land and not providing any compensation? I know the minister has already indicated that he does not think that is the case, but I would like to know whether this issue was actively considered by government during the drafting process of the bill, or is this the first time this matter is being considered?

**Hon STEPHEN DAWSON:** I am told that the issue has been considered by government previously, because this clause is also in the Pilbara ports legislation; it was considered in that bill at that time. Further, my advisers told me that they do not read those clauses together as providing for what the honourable member asserts.

**Hon NICK GOIRAN:** I will leave the issue of the Pilbara ports legislation to one side because, as I said, I think, last night when we were discussing this bill, it is not proper lawmaking practice to simply rely on a provision in another act that may or may not have been considered. The inclusion of the provision in another act is not a precedent that is sufficient to justify the inclusion of it in a future act. Has the government obtained advice from the State Solicitor's Office or the Solicitor-General about this issue; and, if not, will the minister defer consideration of clause 35 to obtain that advice?

**Hon STEPHEN DAWSON:** I cannot tell the member whether legal advice has been received because that would be privileged; however, I can tell the member that the issue has been considered by the State Solicitor's Office.

**Hon NICK GOIRAN:** Can the minister check that advice again, please? He cannot tell us whether he has obtained advice because that would be privileged. Just the mere request for advice and confirmation that advice has been obtained is now a new form of legal professional privilege in Western Australia! I have never heard of that before. I have certainly heard of legal professional privilege in the context that the minister might not like to provide, or may not wish to provide, the advice, but to utter to the chamber whether the minister has obtained or sought the advice, I am not aware of that being captured by legal professional privilege. I ask the minister to clarify that.

**Hon STEPHEN DAWSON:** Upon conferring with my advisers, I will seek to defer further consideration of this clause until the end of the bill.

**Further consideration of the clause postponed until after consideration of clause 161, on motion by Hon Stephen Dawson (Minister for Environment).**

**Clause 36: Regulations for the purposes of, or consequential on, section 8 disposals —**

**Hon NICK GOIRAN:** After we have dealt with this, I indicate that I do not have any further questions on any clause before clause 40. Can the minister indicate why it is necessary and appropriate to empower the possibility of regulations taking effect retrospectively?

**Hon STEPHEN DAWSON:** I am advised that this clause does allow limited retrospectivity, but regulations cannot commence prior to the effective day of the section 8 disposal order and they must not retrospectively prejudicially affect persons other than the state, the disposer or the acquirer—the parties involved in the disposal.

**Hon NICK GOIRAN:** Is it the government's current intention to bring into effect retrospective regulations pursuant to this clause?

**Hon STEPHEN DAWSON:** It is not the government's current intention.

**Clause put and passed.**

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**Clauses 37 to 39 put and passed.**

**Clause 40: Section 4 amended —**

**Hon STEPHEN DAWSON:** Because we are moving to a different part of the bill, I need to swap over my advisers. I ask that that take place before Hon Alison Xamon asks her question.

**The DEPUTY CHAIR:** We will pause momentarily.

**Hon ALISON XAMON:** I rise because I am obviously going to look at moving the first of what are intended to be multiple amendments to remove the capacity for simulated electronic racing to be part of the sale of the TAB. The amendment on the supplementary notice paper to delete the lines is one of a number of amendments, all of which are meant to effect the same outcome. I thought I would make it clear from the outset that the contribution I am about to make is all part of the same debate; I do not intend to revisit it with every proposed amendment.

On behalf of the Greens, I indicate that we are very concerned about the decision that has been made to include within the capacity to sell the TAB the introduction of simulated electronic racing. I listened with great interest to Hon Colin Holt's comments and his concern about consultation with the racing industry, and principally the industry's initial concern, as I understand it, about how the 35 per cent figure had been arrived at. I do not intend to revisit that debate, but I particularly note his concern that four of the key letters of support were very similar and looked as though they had almost come from a template letter. The minister's response—of course, I am paraphrasing the minister—was: no, they were from four different organisations that clearly have four shared positions on this matter. I note that that was considered to be an indication of a shared view among those racing industry groups about how those decisions were made. I make that comment because we are in a similar situation here. For a number of years the racing industry was consulted on a number of elements of the proposed sale of the TAB. However, it is very clear that the community sector is not of the view that it was well aware of the implications of what was to be included in the sale of the TAB. We have seen an almost last-minute range of concerns about the adverse impacts on the community from the introduction of electronic gaming in our suburbs and regions. I think that these concerns are significant. These organisations are of the view that they were not appropriately consulted and did not fully understand the implications of what was being proposed, at the same time that the racing industry was being consulted. I am, of course, talking about the Western Australian Council of Social Service, which is the peak body for social services in this state; the Financial Counselling Network; the Financial Counsellors' Association of WA; the Women's Council for Domestic and Family Violence Services; the Public Health Advocacy Institute of Western Australia; the Public Health Association of Australia; Anglicare, which has to deal directly with the impacts of problem gambling; and the Salvation Army. I have also more recently received communication from Communicare, Centrecare, the Youth Affairs Council of Western Australia, Save the Children, Shelter WA, Ruah Community Services and a number of individuals. I am talking about a significant number of organisations that deal with people within our community who are the most vulnerable and who end up with a range of problems. In this instance, all those groups have expressed specific concern about problem gambling and about how the changes proposed in this bill will adversely impact on our community.

I want to respond in particular to a comment by the minister, which sounded disparaging but which I am sure the minister did not mean because I know he works with many of these organisations and holds them in high regard. It is true that a lot of concerns that have been raised are written in a similar way because effectively these organisations feel as though they only had the opportunity to express their concerns quite late in the piece. As has certainly been relayed to me, they do not feel that they were adequately warned through this consultation process with the racing industry of the sorts of changes proposed here.

I also want to respond to another comment the minister made in response to a question put at clause 1. He made the comment that there had even been correspondence received from the Cancer Council saying that gambling caused cancer. I would like to clarify the record on that, because that is not what the Cancer Council said when it wrote to express its concern about this. The Cancer Council actually said that in its experience problem gambling leads to poorer health outcomes. That is well illustrated in all the evidence and data, and public health associations have talked about this as well. We know that poor health outcomes generally can be a precursor to cancer. That is very different from saying that gambling is a carcinogen. The Cancer Council did not say that. I think it is really important that we are very careful when we make these sorts of statements and start disparaging these highly reputable organisations, many of which people in this chamber will go out of their way to be associated with, meet with, take advice from and be involved with. Let us be a little bit more respectful of the concerns being raised.

I also point out that I have noticed that one minister from the other place took it upon himself to suggest that the concerns being raised were only being raised by me. I just want to call that out and say what a load of nonsense it is. Clearly, I am responding to the concerns raised by the community sector, and it is not a surprise for anybody in this chamber to know that I work very closely with these organisations and take the issues they raise and bring to my attention very seriously.

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Going back to the Cancer Council, I put on the record some of the comments it has made. It said there is a direct link between gambling and negative health outcomes, including increased risk of chronic cancers. The letter said —

Gambling can put people into a cycle of disadvantage, further exacerbating their social and thereby health outcomes. This can have negative consequences across the whole cancer spectrum—from prevention and diagnosis, to treatment, access to support services and palliative care.

The letter went on to say —

**Gambling addiction is one of the main drivers of homelessness. People experiencing homelessness are more at risk of chronic diseases such as cancer.**

It goes on to make a number of informed points about the correlation between poor health outcomes and problem gambling.

I suppose the first thing I would say to members is that I realise they have a wide variety of views about what it means to include Trackside in this legislation.

**The DEPUTY CHAIR:** Hon Alison Xamon.

**Hon ALISON XAMON:** I ask at the very least that people show some respect to those organisations that have raised, I think, quite genuine concerns. I stress from the outset that these organisations do not feel that they have been consulted, so this is very last minute for them.

I want to pick up on some of the other arguments that have been put forward. One of the most emphatic arguments put forward was that these simulated races are not pokies—that we are absolutely not introducing pokies. People have responded vehemently to concerns raised by the community sector that it will potentially lead to a pokies culture. I agree with their concerns. It is a recognition from those people who are so vehemently opposed that we do not want pokies here in Western Australia and that pokies have had a highly detrimental impact in the states where they exist. There is a higher per capita percentage of gambling and problem gambling in states with pokies. Pokies are associated with higher rates of poor health amongst people who, unfortunately, become problem gamblers. Quite frankly, pokies have also ruined a lot of pubs and clubs, which can now be pretty inhospitable to walk into. One of the things I have always really liked about Western Australia is that if I compare walking into a pub here—which I am quite happy to do, frequently!—with walking into a pub in South Australia, for example, the atmosphere is entirely different. I understand why people are so vehemently opposed to pokies and want to make sure that we never, ever go down that path. We should be opposed, because they have such a detrimental impact on individuals and communities, and are also culturally detrimental to places where people like to congregate.

It is problematic to try to argue that electronic gaming has no connection with pokies whatsoever. I want to make a couple of points on that. Electronic gaming is by its very nature designed to be addictive; that is how people make money from it. It is designed to raise endorphins so that people just keep at it and keep trying. That is the nature of electronic gaming. I note also the spurious distinction people have tried to make between electronic gaming and keno. The previous government contemplated allowing keno and was smashed for it by the opposition; the opposition also at that point equated keno with Trackside. It has now been well canvassed in this second reading debate that the government has had a complete change of heart, and suddenly Trackside is now apparently not so much of an issue.

People have raised concerns that Trackside is problematic on two levels. It is potentially the thin end of the wedge; that is, if we introduce this form of electronic gambling, what restrictions will there be on introducing other forms of electronic gambling in the future? I listened intently to the questions asked by Hon Nick Goiran and I was left even more concerned after hearing the answers. It does not feel as though the door is going to be closed appropriately, other than through a verbal undertaking by the government that it might not be interested in expanding electronic gaming. Trackside is recognised as being a problem in its own right, and I will talk a little more about that in a moment.

Another thing to note is that there is nothing in this legislation that would mean Trackside is the only electronic gambling available. There is an option to expand the range of electronic gambling options, and that could potentially include pokies; that is what this legislation does, and I do not think we should try to pretend otherwise. I am greatly concerned about that and I do not feel that I can, in good conscience, stand here and pass a piece of legislation that will effectively change the landscape of electronic gambling in this state so that it is no longer limited only to the casino but will be broadly available in the regions and in suburbia.

I want to say something about the value of the TAB, which is also likely to be affected by this legislation. I want to make it clear: I am under no illusion that if we were to remove the capacity for electronic gaming and Trackside from this legislation, it would mean that the TAB would be sold for a lower price. I understand that. There are differing ideas about how much such a removal would impact on the price. Obviously, we could never arrive at a definitive amount, because we do not really even know how much the TAB will sell for. I have been told that

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the impact on the sale price of the TAB will be about three to four per cent. My argument is that I would rather take a lower amount from the sale of the TAB, and ensure that in our treatment of electronic gaming it is business as usual. However, if the government needs to invest in more services to support people who unfortunately are caught in the cycle of problem gambling, that will mitigate the overall profit from the sale of the TAB.

I recognise the huge appeal for the racing industry in maximising the profit that will ultimately be available from the sale. The industry will be given a flat 35 per cent of the overall sale price, as well as the attraction of ongoing revenue streams. Let us talk about those revenue streams. The reason those additional revenue streams will come through is that more and more people will spend money on gambling, and potentially on addictive electronic gambling. I reflect on the Treasurer's comment that if substantive changes are made to this legislation, the entire sale will fall over. With respect to the Treasurer, it is not his place to dictate how this Council chooses to respond to legislation. I will not cease putting forward amendments that I believe are important simply because that threat has been made. However, I hope that the amount of money we are talking about is not such that the government will need to abandon the entire sale.

I reiterate that the Greens are not opposed as such to the sale of the TAB. We believe an argument can be made that government does not need to be in the business of gambling. On the face of it, our position on this bill might have been entirely different had Trackside not been part of the legislation. The suggestion has been put to me—rather wryly—that one of the reasons we should support Trackside is that it would be a good substitute for those people who are concerned about the treatment of animals in horseracing. I do not think that the intention of introducing Trackside is that it will reduce the level of horseracing in particular. I reiterate that I would be happy if greyhound racing were banned. However, I note that no-one is proposing to introduce a greyhound Trackside so that the greyhound racing industry can be banned. It is a cute argument, but it is pretty disingenuous.

**The DEPUTY CHAIR:** Hon Alison Xamon.

**Hon ALISON XAMON:** Thank you. Trackside is not intended to replace live animal racing. The intention of Trackside is to ensure that more gambling is conducted through the TAB. Let us be clear about what it is.

I am concerned about the effect on the services that will need to be provided for problem gambling. I am very pleased that an amendment was successfully passed in the other place to provide for a review of this legislation after three years, to look specifically at the impact of Trackside, should that continue in its current form at the current TAB. However, I am saddened that effectively, in order to undertake that review, we run the risk that problem gambling will have escalated in that time. The government is proposing to introduce something that will potentially cause enormous harm to individuals. I am disappointed that we will need a review in three years to assess how much harm we have managed to wreak on the community with the introduction of Trackside.

The submissions we have received make it quite clear that people think that significant pressure will be put on the community sector to support people caught up in problem gambling issues. Bear in mind that agencies are dealing with not only gambling addiction, but also mental health issues, family and domestic violence, and suicidality, which members know I take particularly seriously, as I think every member does. I am not pretending for one second that I am the only person who cares about that—we all do. Because we all care about that, we need to take this legislation very seriously. In the same way that we do not see a stipulated percentage of the racing industry's 35 per cent share going to ensuring that the safety of animals is paramount, we do not see a dedicated commitment of moneys to be raised going to ensuring that we have the appropriate level of gambling and community supports to address any increase in problem gambling that might arise.

The argument has been put up that in other states the amount of money that goes towards Trackside gambling in particular is between only three to four per cent and, therefore, it is likely that we will see something equivalent in Western Australia. Members, Western Australia does not have anything else. Trackside will not be competing with keno or pokies; it will be only Trackside. At least that is the undertaking we have been given verbally by the government, although that is not in the legislation—I accept that. So, we could potentially be looking at a significantly higher percentage than three to four per cent. We cannot take the experience in other states and immediately assume that we will have the equivalent here.

I also want to raise the lack of protections around the introduction of Trackside. I raised this issue in my contribution to the second reading debate. Before this legislation came on for debate in this place, I sent a list of questions to the staff who briefed us about the connection between the introduction of Trackside and the national consumer protection framework for online wagering. From memory, the answers I received said that they would be correlated and therefore those protections would apply. When I asked about it further, it appeared that that is not the case; that the protection framework explicitly excludes Trackside and it does not apply. I am really concerned that when I started to raise the issue of protections, I was given these flippant answers, and when I started to look at it, I found the protections are not there after all. I am happy to hear from the minister if maybe I misunderstood that and, in actual fact, the national consumer protection framework for online wagering definitely

applies and was always intended to apply to Trackside. I think we have a dearth of recognised protections for how we will roll out Trackside.

I have maintained before, and will again, how disappointed I am that we are breaking the decades-long consensus we have held in this state not to have electronic gaming within our suburbs and regions. It has served us well as a state, and the community has been rightly proud of it. This legislation has now opened the door, and we will have a form of addictive electronic gambling within our suburbs and regions in a way that we have not had before. What is more, especially if we look at the Gunston report, we see it is quite clear that it was always the racing industry's intention to extend the options for electronic gaming beyond Trackside. The industry has made that very clear. I know why. Hon Dr Steve Thomas, in his contribution to debate on this legislation, stated that one of the things that he recognises the government has been trying to look at in the sale of the TAB has been to put in "sweeteners". "Sweeteners" is the word he used. I recognise that having Trackside as part of the sale certainly would raise more money, as well as provide ongoing revenue back to the racing industry, but, as I have said, the community sector and I believe that the price paid by the community is simply not worth those extra dollars, even though I recognise that it would be far more commercially appealing to include it in the sale.

We are obviously going to debate this issue. Although I recognise that people in this chamber have a strongly held ideological position, which I disagree with but respect, it is not up to the state to determine what sort of gambling options should be available for individuals. I believe there is a very strong role for government to ensure that it does all that it can to reduce the potential for individual and community harm. I would like members to contemplate my amendments and I will debate this further.

I move —

Page 28, lines 6 to 12 — To delete the lines.

**Hon Dr STEVE THOMAS:** I would love to be supporting Hon Alison Xamon's amendment that supports the idea that Trackside is not needed in the sale of the TAB. However, I stand by the words that I used during my contribution to the second reading debate: this is a sweetener to a sale. The previous government looked at a version of keno as a sweetener to the sale. The current government is looking at Trackside. It is unfortunate that any sweetener is required. From a purely economic perspective, the fact that a sweetener is required at all reinforces the view about the declining value of the TAB. If it were not a declining asset but a growing one, we would not be debating the need to sell it in the first place. For that reason, I accept that the deal requires some form of sweetener, which unfortunately makes it impossible to support this amendment.

I will make a couple of comments on behalf of the opposition. There is no doubt that the impact of problem gambling is significant. It has a major negative impact particularly on the families of those people who deny that their gambling is problematic. This then comes back to the question: why is a government in the business of running a gambling institution in the first place? As I said during my remarks in the second reading debate, historically this occurred because governments stepped into a place that, for a large part of society, was filled with illegal activity. We understand how it eventuated. I would have been very interested to hear the conversation about the cost to government for stepping into the space. I am very saddened that the government has not yet got those figures. I hope that one day we will get those details. The reality is that the government stepped in to legalise the process, and, obviously, as governments do, make a profit in the process. It is sad that a sweetener is required to make this business deal attractive. I am sure that all members of the chamber would love to be able to say that the profitability of the TAB is such that on its own it is a valuable asset.

Then we can debate quite happily the ideology of whether governments should be in the business of gambling. My personal view is probably more closely aligned to that of Hon Aaron Stonehouse, in that I do not think governments should be running gambling, and probably would have no real problem in privatising it anyway, depending on the exact deal that was put together. However, the situation in which we find ourselves is that some sweetener is required. Of the various sweeteners looked at, in terms of practicality, I am of the belief that Trackside is amongst the least worst evils in the process, and there were others that might have been potentially more problematic. As I have said previously, I personally am no fan of artificial racing. I like to look at horseflesh and tracks. I do not want to watch the roadrunner and the coyote and try to gamble on who gets there first—it is always the roadrunner—or Tweety and Sylvester. I am probably more frustrated by Tweety and Sylvester; I would love to see the canary get eaten occasionally, but that is a whole different process.

I am no fan of the artificial racing proposal, but I think for a number of reasons it is ostensibly one of the least worst options, accepting that it is, in my view, a form of electronic gambling. I do not equate it to pokies, and I hope that we never have pokies widespread in Western Australia, but it is a form of electronic gambling. It is in the form of an artificial race every so many minutes, and gamblers will have to go through the process of placing a bet, as they would do otherwise. Whether problem gamblers place additional bets on an increased number of races or place a larger bet on a smaller number of races, the opportunity will be there for them to lose as much

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money as they are capable of, in any form, whether at a standard service level 1 TAB or a PubTAB. I expect to see more of these Trackside monitors placed in PubTABs, to broaden the experience—I get that—but I remind members that it exists in Western Australia at the moment. It is at the casino under licence, and the casino turnover, as I understand, since its introduction, and people getting used to it, has reduced by half to two-thirds. The gloss is off, as it were, and I think that will stay in place. Although it will look a bit exciting initially, I am hopeful that people will stay dedicated to the pure and honest—as much as we can say it is honest—art of racing; that is, with animals on a track, rather than having it determined by a randomiser and being vulnerable to being pre-programmed for certain outcomes. I do not like it, but it is a necessary evil.

The opposition acknowledges that gambling is a significant issue, and it behoves me to mention again the “there will be no electronic gambling under a government I lead” comments of the now Premier—what I like to think of as the Julia Gillard moment of Hon Mark McGowan, who said, some years ago when in opposition, and I think we should remember these comments —

Now the Government is talking about expanding gaming machines out into the broader community. All that will mean, is more people pour their money into those machines, more people particularly those on pensions, and those who can least afford it, will lose money ... It is a very, very disturbing development and I oppose it absolutely.

That is the Julia Gillard “there will be no electronic gaming” moment of the Premier of the day. We should remind him of that quite frequently, irrespective of our position on gambling, because the double standard is important, and I think we should be honest about how we move forward. We accept that the government is applying a double standard, but we accept, as we did under the previous government, that the sweetener is necessary to make sure that the industry is supported into the future. As much as the opposition would like to support Hon Alison Xamon’s amendment, particularly if we could say that a sweetener was not necessary, the reality is that if it was not necessary, I suspect we would not be debating the bill in the first place. For those reasons, the member will, hopefully, understand that the opposition is unable to support the amendment today.

**Hon STEPHEN DAWSON:** Honourable members, obviously the government will not support the amendment standing in Hon Alison Xamon’s name. However, in putting the case for why we will not support it, I want to respond to some of the questions or comments she made earlier. In relation to the correspondence I have received from a number of community services sector organisations, I did not at any stage disparage any of those organisations, nor did I comment on the form letter nature of them. I certainly did not make any comments about that. I am very thankful that we live in a democratic society in Western Australia. People are all very welcome to provide comments about legislation or consultations. I want again to point out that on 29 June 2018, the consultation proper on this legislation started when a discussion document was circulated. At that stage, a press release was put out by the then acting Minister for Racing and Gaming, Hon Bill Johnston, MLA, and the Treasurer, Hon Ben Wyatt, MLA. That press release garnered some media attention that day and, indeed, over the next few weeks, including from the ABC. At that time in an article, Jessica Strutt talked about simulated racing or electronic gaming machines. This was not a surprise to people. This consultation happened over a year ago, so members cannot say that people secreted this information and it went only to the racing industry. That is not correct. A media statement was released. There was discourse in the media and anyone could have made submissions to the discussion paper process. In fact, I think 107 submissions were received, from not just racing clubs but also all sorts of groups and individuals.

I mentioned the Cancer Council in my second reading reply. Again, I did not make any disparaging comments but I said that from my reading of it, the Cancer Council’s letter indicated that gambling causes cancer. It is fair to say that from the two lines of the letter that Hon Alison Xamon read out, the letter contained words to that effect. There were numerous places in the letter in which it talked about getting from there to there, but, essentially, it says that gambling can cause cancer. I placed on the record that that is what the Cancer Council is saying.

The bill does not authorise other forms of electronic gaming. It authorises only simulated racing. Any other form of electronic gaming would require legislative change. To be clear: if this bill is passed, it will authorise only simulated racing; it will not authorise any other form of electronic gaming. Legislation would be required to change that and, of course, an agreement may well need to be struck with Crown casino, obviously, because Crown casino is the only place that runs keno at the moment. There would be the threshold of passing legislation and because of the state agreement, Crown would need to agree to that.

I want to make the point again that we said at the last election that we would listen to industry about this bill. Although comments have been made historically by a number of people about this, during the last election campaign, we said that we would listen to industry and that is what we have done, honourable members. We have listened to industry. We put out a discussion paper seeking feedback and we have listened to industry. If people have changed their mind about similar legislation over the years, we went to the last election saying that we would do this and that is what we have done.

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**Hon Dr Steve Thomas** interjected.

**Hon STEPHEN DAWSON:** I cannot comment about Julia Gillard; she is not in this place and, indeed, this has nothing to do with any legislation she may have or have not brought forward, but I can comment about Western Australia and this government. We said we would listen to industry and that is certainly what we have done.

The national consumer protection framework applies only to online wagering operations. Proposed section 10I of the Betting Control Act will also have application to retail betting. The new wagering licensee will need to meet the requirements of the national consumer protection framework as well as providing its consumer protection policy for the retail network. At the moment, Racing and Wagering Western Australia's "Responsible Wagering Code of Practice" provides that all wagering venues are to display responsible wagering information; form guides are to contain a responsible gambling message per edition; racing radio is to provide periodic messaging, detailing the available help services; advertising and promotions are to be delivered in a responsible way; all TAB agents must undertake responsible service of gambling training—the training module has been developed with the assistance of Centrecare, which provides the Gambling Help WA face-to-face counselling service for the Problem Gambling Support Services Committee; and all wagering venues must assist patrons seeking to self-exclude from betting agencies. Therefore, it is expected that, as a minimum, the new wagering licensee will maintain the same standards for consumer protection.

There were comments about the turnover. As I have said previously, based on the performance in other jurisdictions, betting on simulated racing is expected to represent about three to four per cent of the TAB's turnover. Although this amount is modest, it is expected to have a material impact on the sales proceeds. That is because the private TAB operator will be required to continue to pay the current level of TAB profits to the racing industry, meaning that the government will be effectively selling a zero-profit business. Additional value is created in this deal through the synergies an operator is likely to achieve by incorporating the TAB into its existing business, and also stronger revenue growth potential into private ownership and the additional revenue stream of betting on simulated racing. It is the same as other states; we anticipate that three to four per cent figure, but it will make a material difference to the income of the TABs that operate in Western Australia.

I will deal with the problem gambling help services that exist currently. The Problem Gambling Support Services Committee provides support for persons affected by gambling-related harm. The committee was established with the support of the Gaming and Wagering Commission. Membership consists of representatives from the Gaming and Wagering Commission, the Department of Communities, Racing and Wagering Western Australia, Crown Perth, Lotterywest and the WA Bookmakers' Association, which provide voluntary annual contributions. The committee contributes about \$757 000 per annum to organisations that provide free help services to people affected by gambling issues. This amount is distributed to Medibank Health Solutions to provide a 24-hour problem gambling helpline; Centrecare, to provide a face-to-face counselling service to its Gambling Help WA counselling service; and Gambling Help Online, which is a 24/7 online assistance program through live chat or email counselling. All three service providers do not have any waiting periods for people to access the services. I am advised that they have sufficient capacity to address any increase in service requirements within the current funding levels. During 2018–19, the committee spent approximately \$250 000 promoting these services. An annual appropriation of \$500 000 is also provided by the WA government to the financial counselling services program to assist persons who experience financial hardship as a result of problem gambling.

I was going to make the comment again about the difference between electronic gaming machines and simulated racing, but I have made the point before. These electronic gaming machines are very different from simulated racing. I have said it numerous times during the debate, so I will not say it again; but I have made that point a couple of times. This is not one of the same. I appreciate the consideration that Hon Alison Xamon has given this legislation. The member has obviously spoken to a number of stakeholders. We, too, have spoken to stakeholders, and the advice I have been given is that services are available to problem gamblers. This is the legislation, though, that the industry supports, and including simulated racing in the package will likely increase the amount that the state receives from the sale, should the sale go ahead if this bill passes this place.

**Hon COLIN TINCKNELL:** I indicate that Pauline Hanson's One Nation will support this amendment. Hon Alison Xamon has highlighted many important facts and the areas in which simulated racing will have an effect. If this sale is sweetened, which will improve the opportunity for a sale, it will make more money. It will make more money by adding to problem gambling. That is a fact and the way that it will be. The government cannot deny that.

I have had a look at simulated racing, and I am not overly impressed by it. I do not think most of the people who use it will be newcomers. I think they will already be, unfortunately, problem gamblers and will be given extra opportunities to gamble. In this chamber it has been said that there will be 200 extra opportunities a day. I am not sure whether that figure is exactly right, but that was the number mentioned. That will be every day! That is a lot

**Extract from Hansard**

[COUNCIL — Thursday, 22 August 2019]

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of extra opportunities for a problem gambler to gamble when racing is not on, which is not very often. Problem gambling leads to homelessness and many problems, and it is getting worse, not better. We do not need this. I do not believe this must go through no matter what or otherwise the sale will fall over. The sale would probably still go through, but it may not get as much money as we might wish. But if it does not get the amount of money that we want, maybe the government should look at the percentage of the sale that will go back to the industry. That is another reason I think the percentage should be raised. However, if we do not get as much as we would like out of the sale, that is not the most important thing. Our number one responsibility is to the Western Australian public—not just the gamblers, but everyone. This will add to homelessness and gambling problems. I do not see it being a plus for the state of Western Australia. I cannot see that supporting this amendment will be a major problem for the sale. I think it will cost a bit of money, but the sale will still possibly go through. I have looked at simulated racing; I agree that it is not like pokies, but it is simulated and will give people more opportunities, so it will add to problem gambling. One Nation and I will be supporting this amendment.

**Hon CHARLES SMITH:** I rise to offer a few words of support for this amendment. This bill should be viewed with a healthy dose of cynicism. It seems to indicate that the Labor Party thinks it is okay if it does something in government, but it was not okay back then because the Liberal Party wanted to do it. That sums up what I am hearing about this bill; it is okay because Labor is doing it. My position echoes the one we have just heard from the Greens. I will not tire the house with a repetition of what we have already heard, but suffice it to say, I support what the member has said and the amendment. I cannot in all good conscience support the bill with simulated racing attached to it.

**Hon COLIN HOLT:** I stand on behalf of the Nationals WA to say that we will not support the amendment. The decision should balance what this bill will deliver and the risks. The industry's returns are undoubtedly diminished, which is why we are in the position of trying to sell the TAB to a new operator that might be able to generate more income for the industry. If the government had been more generous with its up-front payment to industry, there might have been the potential to not have the risk of simulated horseracing. But, as it is, I think the balance is the best balance we are going to get. I agree with Hon Dr Steve Thomas; it is probably the lesser of the worst evils in that sense. It will be a highly regulated environment. I am encouraged that every operator and agency will have to have a responsible gambling service certificate. Maybe that will need to be revisited in the new regulations with the introduction of simulated racing. With those few words, the Nationals WA will not support the amendment.

**Hon AARON STONEHOUSE:** In considering the inclusion of simulated racing in this bill, we have to consider what is, in my view, an extension of a very strict monopoly on simulated racing. For that reason, I have some sympathy for the amendment, but perhaps for completely different reasons. It is not that I think people should be protected from gambling, but that the idea of extending exclusive rights to provide simulated racing to whoever buys the TAB is far too narrow a restriction on commercial activity and gambling in this state. Currently, only Crown Perth can offer simulated racing in WA. I think that is an absolute tragedy. Anybody exercising their own free will should be able to gamble on whatever they like. It should not be restricted to a gambling monopoly, be that Crown casino on Burswood Island or whoever buys the TAB. Unfortunately, that is not really the subject of this bill. As I understand it, the exclusive right to provide simulated racing is secured in a state agreement enshrined in the Casino (Burswood Island) Agreement Act 1985, so it is not within my power to tear up that exclusive right to provide simulated racing. The extension of that right to another operator that can compete with Crown casino in that simulated racing space—in this case, whoever buys the TAB—might be seen as a removal of that monopoly to some extent. But that is still not far enough. Rather than a monopoly situation, it is sort of an oligopoly situation—almost a cartel of two entities entering into a commercial agreement to share that exclusive access and excluding anybody else from competing in that space. The government should not be in the business of picking winners and losers in the market; the government should be playing the role of independent umpire, rather than an active competitor.

That brings me to gambling in the state as a whole. I have said this before and it was mentioned by Hon Dr Steve Thomas and alluded to by Hon Charles Smith: we have this attitude in Western Australia that gambling is bad and wrong, unless it is the state government that does it. Of course, the government has the monopoly on lottery gambling. In fact, the government will move quite aggressively to protect that monopoly by outlawing, if it needs to, synthetic lotteries and to exclude any other competitors from competing with the state government-run monopoly on lottery gambling. For a very long time, there has been a state-run monopoly on retail betting on racing through the TAB. We are correcting that situation somewhat with this bill, which is good, but it shows a level of hypocrisy. When money is to be made by the state government, gambling is okay, but when it is not, gambling is bad.

There are members opposite who are not that hypocritical and who oppose gambling in most forms, and their consistency is commendable. But the way that the state government manages and responds to gambling is very hypocritical. As I said, the exclusive rights to simulated racing are not addressed in this bill; there is merely an

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authorisation to carry out that practice if a commercial agreement can be reached between the purchaser of the TAB and Crown casino.

Moving away from the monopolistic nature of simulated racing to the evils of gambling as a whole, we need to consider a very serious ethical question: to what extent should the government protect people from wasting their own money? Gambling can be addictive, I suppose, and maybe that sets it aside from other forms of money wasting. I wonder how many members have ever been to a Timezone or an amusement arcade.

**Hon Alison Xamon:** Not since the 1980s.

**Hon AARON STONEHOUSE:** They are still around and a lot of fun. The games that can be played at a Timezone are almost indistinguishable from gambling machines. People do not put gambling chips into a machine; instead, they insert tokens or, with modern arcades, they may get a little card to put money on and scan it. It is really indistinguishable from putting coins into a machine. Games can be played by putting coins into a machine and people try to knock a shelf of tokens over. There is a little bit of skill involved but that seems more like a rationalisation, if anything. I am sure that people who play the pokies probably convince themselves that there is a skill involved and there is a technique to winning.

**Hon Darren West:** What about the clowns?

**Hon AARON STONEHOUSE:** The clowns are a good example. If people ever go to a country fair or royal show, there are all these games available—supposedly games of skill. Perhaps some of them are rigged; who knows? There is always an element of chance involved. People put down their money. They may or may not win anything but there is fun involved in just taking that risk in the first place. Surely it would be inappropriate for the government to regulate people wasting their money on these frivolous activities.

What about other money-wasting exercises such as the collection of Ooshies or Coles minis? They are like Beanie Babies. There is no intrinsic value in these things. It is merely the subjective value that people place on collecting them to get a full set. There is something desirable about it. It almost creates its own little market.

**Hon Martin Aldridge:** Wait until you have children!

**Hon AARON STONEHOUSE:** Yes. From a rational perspective, to an outside observer, surely they are a complete waste of money. I hope no-one is proposing that the government step into this space and regulate what little plastic toys people can waste their money on. I am talking about all forms of collectables. People may argue that that behaviour may not be addictive but it is certainly obsessive to an extent.

Let us consider stories on *A Current Affair* and *Today Tonight* about suburban mums fed up with their children's addiction to the *Fortnite* video game. I do not have children so maybe I cannot relate to this so much but, supposedly, these games are addictive. Kids get that instant reaction. They complete a task and there are some bright colours on the screen, and some bells jingle. There is immediate reward. They do something and they get a reward. It is that same dopamine kick that people might get from gambling and feeding coins into a machine, with all the bells and lights going off and the promise that if they keep doing it, they will get a reward—they will get some money out of it. We could look at the design of mobile games. We have to wait until a timer goes down unless we purchase some currency. With real money, we can purchase some in-game currency to shorten that time. Again, it is rather obsessive behaviour—perhaps even addictive—but treated very, very differently from gambling.

What elevates gambling that makes it so much more harmful than these other obsessive behaviours that we need special prohibitions around certain types of gambling? I gave the example earlier of alcohol and tobacco. They are very tightly controlled things and they cause quite a few externalities and quite a lot of harm in the community when misused. When problematic alcohol or tobacco use becomes prevalent, there can be a very large impact on the community. Wherever possible, there are normally targeted approaches, such as the responsible service of alcohol. It is recognised that most people can enjoy alcohol without being an alcoholic. Therefore, alcohol is not prohibited writ large. There may be some exceptions to that in certain communities, but that is a separate matter, I would think. Even in those cases, it is still targeted to a geographic area or a certain demographic, perhaps; but the rest of the people in the community who enjoy alcohol, and it is not causing widespread harm, are not necessarily prohibited from accessing alcohol or tobacco. It is reasonable for us to assume that informed adults exercising their own free will should be free to make certain decisions that may otherwise be harmful to themselves. A really good example might be voluntary assisted dying. The arguments around voluntary assisted dying are certainly to do with autonomy, consent and personal choice. A person has the right to take control of their own body and their own destiny, essentially, and decide on what terms they end their life.

**The DEPUTY CHAIR:** Hon Aaron Stonehouse.

**Hon AARON STONEHOUSE:** I can think of no greater harm one might do to oneself than ending one's own life. Members may argue that other harms, such as lingering pain and suffering, are worse, but we are really

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sweating the small stuff. We are talking about somebody taking their own life, ultimately. We are really at the thin end of the wedge there. Despite that harm, advocates of voluntary assisted dying recognise that that decision ultimately rests with the individual. They own their own body, they have control over their own body, and they have their own autonomy. If they are exercising their own will, if they have capacity, if they consent and they understand what they are doing, they are merely exercising their own free will and they have a right to do that. Although others may protest, ultimately it is their own decision to make.

Why do we treat gambling differently? It may be argued that gambling has externalities. People who gamble do not only cause harm to themselves, they also cause harm to their friends and family. That argument can also be flipped around when it comes to voluntary assisted dying. A brother's decision to access voluntary assisted dying may cause harm to his siblings, his parents or his children. At least as I understand the arguments for voluntary assisted dying, the family do not get to veto that decision; ultimately, it is still that individual's right to make that decision.

I hope I have not gone too far off track. The point I am trying to make is that when it comes to autonomy and personal choice, what is it that sets gambling aside from all other activities in society? Why is this one thing—putting coins into a machine and bells ringing as a result—so much worse than everything else that someone might do to themselves of their own free will? I am not saying that somebody who is suffering from a crippling addiction should be left to their own devices. There is obviously a need for some intervention at the stage that somebody is no longer able to exercise their own free will in those instances. But does that necessitate a wide, broad ban on all simulated racing products; or is that, rather, the role for a more targeted response—a scalpel rather than a sledgehammer? If problem gambling is identified, there can be some level of intervention, perhaps by the state, to assist those individuals who need that help, but the rest of us, who are exercising our own free will, who can enjoy gambling without it becoming an addiction or a problem, can be left to continue having fun without unnecessary government intervention. That is what I would like members to think about.

I will not be supporting the proposed amendment. I look forward to comments from other members.

**Hon ALISON XAMON:** I have some questions for the minister, please, arising from some of the contributions just then. The minister said that 107 submissions were received. Did anyone raise concerns around problem gambling and a potential increase in the rates of problem gambling in any of those submissions?

**Hon STEPHEN DAWSON:** The answer is yes, the issue was raised in some of the submissions.

**Hon ALISON XAMON:** Were those concerns raised by individuals or by organisations? If they were raised by organisations, would the minister be prepared to advise the chamber which organisations raised those concerns?

**Hon STEPHEN DAWSON:** This issue was raised in the submissions from UnionsWA and the Community and Public Sector Union—Civil Service Association of WA.

**Hon ALISON XAMON:** That was in addition to the organisations that have subsequently raised concerns, although I recognise that the organisations I mentioned before had not put in original submissions. I remain concerned about the lack of preparation that has been undertaken around how to regulate the issue of problem gambling. I would like to know what will be done to pre-empt any concerns that may arise from the rollout of Trackside. Bear in mind, as I mentioned already, that when I asked questions prior to this bill being debated, I specifically asked about the “National Consumer Protection Framework for Online Wagering in Australia—National Policy Statement”. The response I got was that the wagering licensee will be required to comply with the principles outlined in the national consumer protection framework and that this will be a condition of the wagering licence, yet we have been told subsequently that it does not apply—it applies only online. Another member asked whether any reviews were intended around the responsible service of gambling guidelines. In addition to increased levels of services that may be required as a result of increased availability of electronic gambling in the community, is there any intention—if so, what is it—to review any of the standards, regulations or processes to address problem gambling?

**Hon STEPHEN DAWSON:** In relation to that last bit, that can be addressed as part of a review. In the lower house, amendments were made to the bill and the government committed to undertake to table in Parliament a review of the post-sale arrangements, including any impacts of simulated racing. This is provided for under clause 161. The government will also continue to ensure that problem gambling support services are well funded. I will not go over the current arrangements. The arrangements will not change as a result of the sale of the TAB to a private operator, and funding arrangements for the Problem Gambling Support Services Committee will be annually reviewed in light of any increased levels of demand for support services. There is a commitment to an annual review of the legislation, and to monitor it. The commitment is not only to review it, but also to table that information in Parliament. Members of this chamber can be aware of the review, the implications and the actions that need to be undertaken as a result of it.

Back to the question about the national consumer protection framework: as I said, that now applies only to online wagering operations; however, proposed section 10 of the Betting Control Act will also have application to retail

betting. I will say it one more time: the new wagering licensee will need to meet the requirements of the national consumer protection framework as well as provide its consumer protection policy for the retail network. I went over that. Racing and Wagering Western Australia's current responsible wagering code of practice will remain in place. It is expected that, as a minimum, the new wagering licensee will maintain the same standards of consumer protection.

**Hon ALISON XAMON:** A lot of what has been said is that the current protections and guidelines will pretty much be business as usual, but the government will assess and report. I was asking whether there would be scope to pre-empt the level of harm that could potentially occur and do a review beforehand. This could potentially mitigate some of the worst impacts of problem gambling. The question I asked was whether there was any intention to undertake a review of those protections and potentially strengthen them.

**Hon STEPHEN DAWSON:** No, we do not propose to do any work before the passage of the bill, but we certainly have made commitments to do a review post the sale. I also mentioned in a previous comment that there is latent capacity within existing gambling services.

**Hon Alison Xamon** interjected.

**Hon STEPHEN DAWSON:** There is capacity at the moment. The strongest commitment I can give the member relates to clause 161, in which we have committed to annually reviewing this legislation and tabling the results in Parliament, and to ongoing monitoring. Should further changes need to be made or further funding need to be provided, obviously, the decisions will be made at that time. I have referred previously to the three to four per cent turnover figure for Victoria and New South Wales, but, in all honesty, we do not know what the figure will be in Western Australia. In fact, there may well be a novelty factor early on in Western Australia—people will try it and then it might wane. We are not in a position to do work before the sale and before the introduction of simulated racing in TABs, but we are certainly committed to ongoing monitoring and for the results of any monitoring to be tabled in Parliament.

**Hon ALISON XAMON:** I thank the minister. Obviously, the concern I have is that, by then, the cat will be out of the bag. I want to ask about the potential to wind back these provisions in the future, if it is found that they are causing more harm than is considered tenable by the community. Just as it has been said that we are not going to be able to look at the wholesale rollout of other forms of electronic gaming without coming back to Parliament, would it be the case that if we found that electronic gaming was causing too much harm, a legislative change would be required to actually wind back the introduction of Trackside?

**Hon STEPHEN DAWSON:** I am told that it would be in the Gaming and Wagering Commission's power to tighten the regulations around it. I will go through a hypothetical example. If at some stage Centrecare came to the Problem Gambling Support Services Committee and said that it was seeing an increase in problem gambling as a result of Trackside, the problem gambling committee could go to the Gaming and Wagering Commission and raise that issue. At that stage, the commission could provide extra support to Centrecare and other agencies that undertake counselling services, or it could tighten the regulations around it.

**Hon ALISON XAMON:** I note that Centrecare was one of the organisations that wrote to all members saying that it was opposed to the introduction of Trackside.

**Hon Stephen Dawson:** You have made that point already.

**Hon ALISON XAMON:** The minister is right. There is one thing I would like to ask. I am trying to get an idea of how much this could be wound back by regulation, or even just by the commission itself, without having to go through a parliamentary process, should it emerge that the harms are considered to be untenable.

**Hon STEPHEN DAWSON:** I am told that under proposed section 10Y, the commission can direct the new operator on its consumer protection policy. Under proposed section 4C of the Betting Control Act, the commission may approve rules for the conduct of betting on a race, event or simulated race. The rules must specify contingencies relating to races et cetera. That can happen at any stage. Therefore, although it can sign-off on the rules at the very beginning, it can also seek to change the rules during the course of the game. After the sale has happened, it will be able to also change the rules in the future should it see the need to do so.

**Hon ALISON XAMON:** I want to confirm, for the record, that the contract that will be engaged in for the purpose of sale will not lock in contractual arrangements in the delivery of Trackside, which will also lock in the existing regulatory regime as it is?

**Hon Dr STEVE THOMAS:** While the minister is discussing that, can I suggest something? I think that the reality is that a future government and a future Parliament may change the whole process. The reason that there is a payout to Crown casino in this process is that the existing arrangements are being changed by government by legislation. The same would occur if a future government decided that it had to get rid of artificial racing for some reason. I see nothing constitutionally that would prevent that from happening, with the exception that there would be a compensation mechanism because the government would have come to an agreement in advance. The minister

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may be able to justify and/or alter what I think is the situation, but, as I understand the constitutionality of this, there would be nothing to prevent a future government from removing Trackside with a deal done with the purchaser as long as a compensation package was agreed to. It could also do it unilaterally, but that is a more complicated and technical issue. However, it is not ruled out under the Constitution.

**Hon ALISON XAMON:** I want to clarify part of what I was asking. I wanted to know whether Trackside could be banned despite the fact that it is in the future, but I also wanted to know the degree to which it could be regulated and clamped down on, if you like, if it should be found that it is causing untenable levels of damage?

**Hon STEPHEN DAWSON:** I am told that the sale transaction documents will not impede or limit the commission's ability to regulate. The Gaming and Wagering Commission can decide in the future to pare back to change the rules around simulated racing—I will not use the word "Trackside", because that belongs to a company and it is not what we will have in Western Australia. The sale transaction documents will not impede or limit the commission's ability to regulate. If extreme changes were made in the future as part of the legislation to go through Parliament, there could well be the risk of a need to make a payout to an operator, but certainly as it stands now, the sale transaction documents will not impede or limit the commission's ability to regulate.

**The DEPUTY CHAIR (Hon Matthew Swinbourn):** Hon Alison Xamon has the call, but I remind her and others that we are dealing with the amendment on the supplementary notice paper. This discussion has been very broad, but the specific question is that the words to be deleted be deleted.

**Hon ALISON XAMON:** I indicated to the chamber that I intended to complete the debate on this amendment, so we do not have to revisit it on every amendment on the supplementary notice paper from here.

**The DEPUTY CHAIR:** I understand, member.

**Hon ALISON XAMON:** If it is the view of the Deputy Chair that we need to revisit the debate on every single amendment, which was not my intention, that can be accommodated.

I would just like to make one more comment. People are now talking about the nature of the product likely to be on the market, but I am aware that the gambling industry is clever and there is always much development around the way that addiction can be promoted, if you like, through various neurological processes, particularly as we learn more and more about the way the brain and addiction work. One of the concerns I have is that although members in this chamber may right now simply be contemplating a particular product in a particular form that they view as not overly problematic, I am aware of the potential scope for other similar products to be developed that fall within the definition and that may prove to be extraordinarily harmful and addictive. One of the issues I have is that we want to ensure that future Parliaments, commissions or someone are able to keep up with developments in technology as they become more opportunistic, so we have the capacity to wind back emerging harms if they occur.

**Hon STEPHEN DAWSON:** I again make the point that this bill does not authorise any other forms of gambling other than simulated racing. The commission will have wideranging powers to regulate, and if something sneaky—I think they were probably the member's words—was done by the gaming industry in the future, the commission would have the power under the Gaming and Wagering Commission Act 1987 to deal with that issue and make changes at that stage.

*Division*

Amendment put and a division taken, the Deputy Chair (Hon Matthew Swinbourn) casting his vote with the noes, with the following result —

Ayes (7)

Hon Robin Chapple  
Hon Tim Clifford

Hon Diane Evers  
Hon Robin Scott

Hon Charles Smith  
Hon Colin Tincknell

Hon Alison Xamon (*Teller*)

Noes (23)

Hon Martin Aldridge  
Hon Jacqui Boydell  
Hon Alanna Clohesy  
Hon Peter Collier  
Hon Stephen Dawson  
Hon Colin de Grussa

Hon Sue Ellery  
Hon Donna Faragher  
Hon Laurie Graham  
Hon Colin Holt  
Hon Alannah MacTiernan  
Hon Michael Mischin

Hon Simon O'Brien  
Hon Martin Pritchard  
Hon Samantha Rowe  
Hon Tjorn Sibma  
Hon Aaron Stonehouse  
Hon Matthew Swinbourn

Hon Dr Sally Talbot  
Hon Dr Steve Thomas  
Hon Darren West  
Hon Pierre Yang  
Hon Ken Baston (*Teller*)

**Amendment thus negatived.**

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**Hon ALISON XAMON:** I rise to indicate that I will not be moving any of the further amendments standing in my name on the supplementary notice paper, for the reason that they all relate to the issue we have just debated, and the will of the chamber has been made clear. It would be a nonsense to try to move the rest of the related amendments.

**Hon COLIN HOLT:** I have a couple of quick questions for the minister. Are there any estimates of revenue to the state government and the industry from simulated racing?

**Hon STEPHEN DAWSON:** I am advised that we will get point-of-consumption tax revenue from simulated racing. There has been some work done. If this bill passes, we will be going out to market, so it is probably not best that we indicate what we think might come in from a potential inclusion of simulated racing because there are people watching and it may impact on the sale. If we were to disclose that, it could push the price down.

**Hon COLIN HOLT:** Is the minister able to tell me at what rate simulated racing will be taxed? Will it be similar to the taxation rate experienced at Crown casino, or will it be more closely related to taxation on some of the other wagering products or racing in general?

**Hon STEPHEN DAWSON:** I am told it is similar to the rate at Crown casino, when we include the Burswood Park levy.

**Hon Colin Holt:** What is that rate?

**Hon STEPHEN DAWSON:** I am told it is just shy of 15 per cent.

**Hon COLIN HOLT:** I know the language has been all over the place around simulated racing products and Trackside, and potentially Trackside could be a different product, because Trackside is licensed to a particular company. My question is: will the negotiation with Crown be for Trackside or simulated racing? I would have thought Crown has the licence for Trackside, but not necessarily for simulated racing. It would be good if the minister could clear that up.

**Hon STEPHEN DAWSON:** No. It is simulated racing. Crown Resorts has a licence to operate Trackside, but its licence with Tabcorp is not exclusive. This bill will allow for simulated racing.

**Hon COLIN HOLT:** That is because that allowance for simulated racing would be contained within the Casino (Burswood Island) Agreement; is that correct?

**Hon STEPHEN DAWSON:** Yes.

**Clause put and passed.**

**Clauses 41 to 46 put and passed.**

**Clause 47: Part 1A inserted —**

**Hon COLIN HOLT:** This is a really big clause, so I will try to fast-forward to the specific proposed sections. Proposed section 10H, “Racing Industry Agreement”, is probably one of the most important proposed sections in the bill. The minister has indicated that if the racing industry does not agree to the industry arrangements, the bill will not proceed, so all the things we are talking about will not happen. Who will be official signatories or official parties to the acceptance and sign-off of the racing distribution agreement?

**Hon STEPHEN DAWSON:** It is likely to be the RWWA CEO and someone else from the RWWA board. We do not know the names of those individuals, but that is the likelihood.

**Hon COLIN HOLT:** I know this question will be tricky, but what consultation is required within the industry before that document is signed off?

**Hon STEPHEN DAWSON:** I am told that RWWA is continuing to meet with the industry on this issue, but this needs to be balanced against the negotiation of the agreement. At the end of the day, the RWWA board will make the decision, which will then authorise the CEO and another board member to sign off on the agreement.

**Hon COLIN HOLT:** Once the agreement is agreed to and the document is provided to the minister, will it become a public document?

**Hon STEPHEN DAWSON:** I am told, no; they are very closely held by the racing industry in other states and I dare say it will be the same in Western Australia.

**Hon COLIN HOLT:** I refer to proposed section 10L, “Minister’s power to amend, suspend or cancel wagering licence”. Obviously, that would be a fairly drastic thing to happen. I do not need to know when that would happen or how it might occur, because that is hypothetical, but if a new wagering operator’s licence were cancelled, what would happen to the business of wagering in Western Australia and how would it continue to deliver industry distributions? Who would take over the licence if that happened?

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**Hon STEPHEN DAWSON:** I am told that under proposed section 10O, there is an ability to appoint a temporary licensee, and that could happen under a fast-tracked process. It is very unlikely; it would be an extreme situation. Proposed section 10O(3) states —

The provisions of this Act ... apply, with the necessary modifications, to the temporary licensee as if the temporary licensee had been granted a wagering licence under section 10A.

Proposed section 10H requires that a racing industry arrangement be in place before the temporary licensee could take over the suspended licence.

**Hon Colin Holt:** Can that happen quickly?

**Hon STEPHEN DAWSON:** I am advised that the process can be fast-tracked, but it would obviously involve negotiation with industry.

**Hon COLIN HOLT:** A feature of the racing distribution agreement is the commitment to no-worse-off funding for three years. Why was that time frame chosen?

**Hon STEPHEN DAWSON:** It is about commercial realism; we were not likely to get more than three years. Certainly, in the market soundings that have taken place, there seems to be agreement on three years. The last Victorian licence had a guarantee of three years, so it is commonplace.

**Hon COLIN HOLT:** A question was raised in the second reading debate about what will happen at the end of the agreement, in 25 or 40 years, and whether the two-year clause will continue. I asked whether there would be something for the industry the next time the wagering licence is negotiated. I will reflect on the Victorian experience. When its wagering licence came up for renegotiation not very long ago, it renegotiated a range of new benefits for the industry. Why are they not included in this enabling bill?

**Hon STEPHEN DAWSON:** It comes down to what is in it for the industry. Proposed section 10H requires the licensee to have in place and give effect to a funding agreement with Racing Western Australia. With any new wagering licence there is an opportunity for RWA to renegotiate the funding arrangements.

**Hon Colin Holt:** Is the minister saying that it is implicit in the legislation?

**Hon STEPHEN DAWSON:** Yes, and a licence could not go ahead without that racing industry agreement being in place in the first instance.

**Hon NICK GOIRAN:** When we were considering clause 1, the minister indicated that he could answer my questions under clause 47. We were looking at the issue of keno, as far as I can recall from our earlier dialogue. The minister indicated that it would be ruled out because of the insertion of proposed section 6(1) by this clause. It has been a couple of days since the passage of that dialogue, but can the minister confirm that that is the case and that because of proposed section 6(1), there is no capacity for keno to be provided alongside Trackside?

**Hon STEPHEN DAWSON:** Yes. Proposed section 6(1) outlines the betting products that the wagering licensee may offer, and keno is not one of them.

**Hon NICK GOIRAN:** The genesis of that discussion was dialogue that took place in an exchange between us about the patent document. Has someone in government now had an opportunity to review that patent document?

**Hon STEPHEN DAWSON:** I am advised that the answer is no. It relates to Trackside so no-one has looked at it.

**Hon NICK GOIRAN:** I do not understand why no-one has looked at it if the reason is that it relates to Trackside, when clearly it is intended by government—I have been away on urgent parliamentary business but I understand that there has been some discussion about Trackside being used as a sweetener in the deal. I would have thought that if the government's intention were to include it as a sweetener in the deal, the minister would want to be familiar with the terms of the patent. If no-one from government has had the opportunity to read the patent or they do not think it is sufficiently important to be across the detail of it, be that as it may. I reiterate that the patent indicates that it is preferred that the racing game is run in conjunction with the keno game. That is what has sparked this dialogue, and the minister's confirmation that clause 47, and in particular the insertion of proposed section 6(1), rules out firmly the possibility of that happening, is welcome, and I thank the minister for that assurance. The minister also indicated in that dialogue, under clause 1, that, for keno to run simultaneously with the simulated horseracing game, legislation would need to be changed. Can the minister indicate which acts would be required to be changed for that to happen?

**Hon STEPHEN DAWSON:** I am advised that the Casino (Burswood Island) Agreement Act would need to be changed, but also an authority would need to be inserted into another act to issue a keno licence to operate. That could be the gaming and wagering act or the Betting Control Act. It would be another act for the keno licence to operate and also the Burswood Island agreement act.

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**Hon NICK GOIRAN:** Is that the Casino (Burswood Island) Agreement Act 1985? I am happy to take that by interjection.

**Hon Stephen Dawson:** Yes.

**Hon NICK GOIRAN:** And is it also the Gaming and Wagering Commission Act 1987?

**Hon Stephen Dawson:** It could be, noting that I said that second change could happen in another act. But certainly, it could be one of the acts that you just read out.

**Hon NICK GOIRAN:** The Casino (Burswood Island) Agreement Act 1985 is Western Australian legislation that definitely would need to be amended and agreed to by this house if keno was to be made available. A second piece of Western Australian law would also need to be amended, but we are not 100 per cent sure which one it is. It could be the Gaming and Wagering Commission Act 1987, or it could be another act.

**Hon STEPHEN DAWSON:** Yes, or it could be a new act. I do not have the Casino (Burswood Island) Agreement Act 1985 in front of me, but certainly that would need to be amended, but another act, whether it is the Gaming and Wagering Commission Act 1987 or the Betting Control Act 1954, would also have to be amended. It has to be the Burswood act, a change to one of those other two, or it could be included in a new Western Australian act of Parliament.

**Hon NICK GOIRAN:** I have one last question on this. What criteria would the government consider before making a decision to change those acts?

**Hon STEPHEN DAWSON:** Obviously, it would need to come forward, and a cabinet decision would be needed to allow keno to operate, and certainly the indication from the government is that we do not support keno being undertaken by the new TAB owner, so a policy decision would have to be made by a future government, and the whole process would need to be gone through at that stage.

**Hon NICK GOIRAN:** The minister is saying that the government has decided that keno will not be operating. Is it a whole-of-government decision that has been actively made during this fortieth Parliament?

**Hon STEPHEN DAWSON:** The decision was made in this term of government that we would not progress with keno.

**Hon NICK GOIRAN:** I have a final question. Is that decision by the government in this fortieth Parliament as certain and as sure as the statements made by Hon Mark McGowan previously, when he said that there would be no introduction of keno, but he also said that there would be no introduction of Trackside? Can we give the same weight to that commitment?

**Hon STEPHEN DAWSON:** Any future decision relating to keno would need to go to cabinet. Although comments may have been made over a number of years, a commitment was given to the community at the last election that we would have a dialogue with the community, and if it supported the sale of the TAB, we would look at that issue, and that is what has happened. The consultation process happened as a result of that. Certainly, in relation to keno, the decision has been made by the government not to proceed with keno.

**Clause put and passed.**

**Clauses 48 to 66 put and passed.**

**Committee interrupted, pursuant to standing orders.**

[Continued on page 5899.]

*Sitting suspended from 4.15 to 4.30 pm*