

Mr John McGrath; Mr Paul Papalia; Mrs Liza Harvey; Dr Mike Nahan; Ms Libby Mettam; Mr Sean L'Estrange;
Mr Peter Katsambanis; Mr Peter Rundle; Mr Zak Kirkup

LIQUOR CONTROL AMENDMENT BILL 2018

Consideration in Detail

Resumed from 15 March.

Clause 18: Section 36B inserted —

Debate was adjourned after the clause had been partly considered.

Mr J.E. McGRATH: We were on this clause before we adjourned the debate last week. I have a number of questions I would like to put to the minister so that we can get him on the record about some of the issues with this clause. Does the minister believe that there are already too many liquor stores; and, if so, how many is too many?

Mr P. PAPALIA: No, member.

Mr J.E. McGRATH: Does the minister believe that limiting the floor size will affect liquor pricing and liquor consumption?

Mr P. PAPALIA: No, member. We are not limiting the floor size. The amendment in the clause to which he refers provides opportunity for the director to determine whether there is a reasonable supply of alcohol to a particular part of the state and to make a deliberation based on that premise.

Mr J.E. McGRATH: Yes, minister, but also it will allow by regulation a limit of a yet-to-be-determined figure to be placed on floor size and a proximity limit to be placed on liquor stores of that floor size. On that subject, what process will the minister undertake to come to that determination, because he told us last week that he had not yet determined what it will be? Which stakeholders in the industry will he speak to before coming to that determination?

Mr P. PAPALIA: The consultation will probably reflect in many parts the consultation undertaken to prepare this amendment. We consulted widely with the entire community, not just those in the industry that will be affected by this amendment, but also the communities that will be affected by the amendment, advocates for harm reduction as a consequence of alcohol abuse in the community, police, local governments and the peak bodies for a range of industry players that will be affected by the amendment. I imagine that the consultation undertaken in deliberating on the regulations will reflect pretty much the same type of consultation.

Mr J.E. McGRATH: As part of putting these amendments in place, did the minister consult with two of the major players, Coles and Woolworths, which are the bigger operators in packaged liquor?

Mr P. PAPALIA: Yes.

Mr J.E. McGRATH: Will the minister have further consultation with them as he moves to put in these intended restrictions on the proximity of bigger liquor stores to an existing liquor store over a certain floor space?

Mr P. PAPALIA: I have to correct the member. We are not putting in restrictions; we are offering a range of criteria by which the director will be able to determine whether there is a reasonable supply of alcohol for the consumer in a particular geographical area. That is what we are doing. Yes, there will be consultation on the nature of those regulations.

Mr J.E. McGRATH: Will it be consultation with Coles and Woolworths?

Mr P. PAPALIA: Unlike the Liberal Party, it will not be solely with Coles and Woolworths; it will incorporate consultation with Coles and Woolworths and everybody else in the community affected by alcohol supply and consumption and the harm and the benefits associated with small businesses being able to ply their business in hospitality and liquor supply to the community. I indicated all those people who were given the opportunity to be consulted in the preparation of this bill. I imagine that pretty much the same list of people will be consulted, as will anyone else who seeks to make submissions to the department during that process.

Mr J.E. McGRATH: It is important that everyone is consulted. It is a broad process. I would just like to reaffirm that we are not here to support Coles or Woolies or anyone else; the policy and position of the Liberal opposition is that we believe in competition. We are not sure how all this will end up. How can the minister assure business and the community that this will not end up being prohibition by stealth, with the introduction of a test that will be impossible to satisfy?

Mr P. PAPALIA: I am not sure where the member is going. How does he contend that anything that we are advocating in this amendment is anything like prohibition?

Mr J.E. McGRATH: It is not so much in this amendment, but there is a public needs test —

Mr P. Papalia: No, there is not.

Mr J.E. McGRATH: We believe there is a public needs test.

Mr P. Papalia: You keep saying that, but there is not.

Extract from Hansard

[ASSEMBLY — Tuesday, 20 March 2018]

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Mr J.E. McGRATH: The director will be able to look at the needs of the public in a specific area when assessing a licence application. That is our view and it is also the view of others in the industry. Why was it considered necessary to add an additional test when the public interest assessment already considers existing liquor requirements? Someone applying now for a liquor licence has to meet a public interest assessment. Surely a public interest assessment would take that in. The director of Liquor Licensing would say, "There's 20 liquor stores here already. I don't think that this area needs another one because it would be an overkill." On top of that, the minister will bring in a public needs test. We think the test that is in place at the moment would still be a fairly big hoop for someone to get through to get an application approved.

Mr P. PAPALIA: There is no public needs test in this legislation. If the member believes there is, I would like him to explain to me which words in which clause indicate a public needs test. There is a range of criteria that enables the director to determine whether there is reasonable supply or opportunity for the consumer in a particular geographical area to be able to access a reasonable supply of alcohol or have reasonable access to alcohol. With respect to the member's contention that everything is hunky-dory, to quote the Leader of the Opposition, in respect of the current laws, I ask him to consider this particular case. In a case that the member for Maylands has been campaigning with the broad support of her community in regards to the supply of alcohol in her electorate, there are 13 liquor outlets within a three-kilometre radius and there is a proposal for a liquor barn to be established —

Mr J.E. McGrath: Which has not been approved.

Mr P. PAPALIA: It was rejected by the director and is now being appealed to the commission. Based on the current legislation, it is likely that that appeal will be successful. I do not know for sure—that may not be the case—but obviously the proponents believe they have a likelihood of success or they would not have appealed it. We are providing a more expansive set of criteria that will enable the director to recognise the views of the community and to acknowledge that there may already be an adequate and reasonable supply of alcohol for the consumer in a particular geographical region, particularly in areas where the Minister for Police is not opposing a Liquorland outlet and they do not have the likelihood of success or they do not have the opportunity, as the member has, to suggest that all of those sorts of facilities are located in a light industrial area. Many communities across the state right now are seeking other opportunities to be able to say there is enough supply already and that is being reflected in actions by a couple of local governments at least, which the member is familiar with, to seek to change planning regulations to prevent liquor barns coming into an area that already has a reasonable supply. We are doing the same thing with this legislation.

Mr J.E. McGRATH: This seems to be an attack on the size of the liquor barn. The Northern Territory government, as was pointed out during the second reading stage, repealed legislation that introduced the same floor size restriction that we are talking about in Western Australia. It has not been agreed to yet, but we are talking about 400 square metres. This followed a recommendation from the Northern Territory government's review of its liquor licensing regime. It found there was no clear relationship between the size of premises and any increased harm. I would think the Northern Territory would have a lot of pretty serious problems with alcohol. It has been a problem up there for a long time. Does the minister disagree with the research that underpins that recommendation; and, if so, on what basis does he believe those findings in the Northern Territory might be flawed? The findings indicate that even though a liquor outlet is bigger, it does not necessarily mean it will be selling more alcohol than a smaller liquor store. I ask the question because the minister seems to be basing his argument on the size of what have become known as big barns. I want the minister to comment on that finding in the Northern Territory, please.

Mr P. PAPALIA: It is interesting that the member raises it, but it is not what we are doing here. We are introducing a range of criteria—floor space or square metreage is yet to be determined. We are also introducing another criterion regarding the proximity to other packaged-liquor outlets of that sort of scale, which is yet to be determined, and a criterion that enables the director to determine whether there is a reasonable supply of alcohol. In conjunction with those other two criteria, the director will determine whether there is a reasonable supply of alcohol already within a particular area. With respect to the liquor barns, I have to reiterate that we are not shutting any. Not one liquor barn will be shut in Western Australia. For those who may be concerned about the vulnerability of Coles and Woolworths and the impact of this legislation, let me put on the record that there are already 21 Dan Murphy's and 11 First Choices in Western Australia. Not one of them will shut. None of the existing Coles and Woolworths liquor barns, which are pretty significantly spread across the state, particularly in the metropolitan area, will shut. Many of them far exceed 400 square metres. In fact, 38 of them exceed 600 square metres. I think I read this in last time I was talking —

A member interjected.

Mr P. PAPALIA: The member cannot speak while she is sitting there.

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Thirty-eight exceed 600 square metres and 16 exceed 1 000 square metres in Western Australia. None of them will be impacted in any way by this legislation. None of them will be shut and none will be diminished in their capacity to serve their current customers. There is no impact on them. This will enable communities across Western Australia to look at the supply of alcohol and have a say, and appeal to the director of Liquor Licensing based on a number of criteria on the grounds that perhaps they already have a reasonable supply in their community. They will be heard by the director. It does not mean he or she will determine for or against any proponent, but it gives them an additional set of criteria upon which they can deliberate.

Mr J.E. McGRATH: We are working on the premise that the proximity figure that the minister comes up with could be around five kays. What would happen if there were an application and the site of the proposed new venue was, say, 4.8 or 4.9 kays away? The minister said he has not decided yet whether it will be five or seven kays or whatever. Would the director be able to approve that application because it was just inside that five-kay boundary? It was raised during the debate how Perth is growing exponentially. A lot of apartments are being built near railway stations and things like that. If there were a massive surge in population and someone wanted to come in who was inside the five kays, but they were over the floor space that the minister designates, would the director be able to approve it?

Mr P. PAPALIA: With respect to the first question, that will be determined in the deliberations around the regulations, so I cannot give a specific answer about whether 4.8 or 4.9 kays might be rejected or approved. With respect to the second question—no. As I said before, these criteria do not determine whether the director accepts or rejects an application. This provides a set of criteria. It lays the framework within which the director can make a determination. It will always be an independent process deliberated upon by the director and with the guidance of criteria.

Sitting suspended from 6.00 to 7.00 pm

Mr J.E. McGRATH: Before the dinner break I asked, and the minister made some comments, about the flexibility of the licensing authority in the decision-making process. I asked: if someone applied for a liquor store that met the prescribed floor space but was just within the boundary, which will be determined by regulation, or if the population of the area has grown exponentially, would the licensing authority be able to override that proximity distance that will be put in place? Say it is five kilometres, and this application was within 4.8 kays. I ask that because proposed section 36B(4) states —

The licensing authority must not grant an application to which this section applies unless satisfied that local packaged liquor requirements cannot reasonably be met by existing packaged liquor premises in the locality in which the proposed licensed premises are, or are to be, situated.

Does that indicate that there is a bit of flexibility? There will be guidelines in the regulations that these premises cannot be within a certain distance or cannot be more than a certain floor space. Would the licencing authority have the power to approve an application based on the fact that existing packaged-liquor premises in the locality do not reasonably meet the needs of the community?

Mr P. PAPALIA: I am not sure that before we broke I was referring to flexibility; I think I was saying that the specifics will be determined during negotiations or consultation around the regulations. Proposed subsection (4) refers to the smaller ones. Proposed subsection (3) refers to the larger stores. They are prescribed. The size and range are yet to be determined—that will be determined following consultation and deliberations around the regulations. However, proposed subsection (4) refers not to those criteria but to whether liquor requirements cannot reasonably be met by existing packaged-liquor premises. It is a different criterion.

Mr J.E. McGrath: Is that for smaller stores?

Mr P. PAPALIA: It is with respect to the availability of a reasonable supply, so it is a different criterion altogether.

Mr J.E. McGRATH: I am going to ask a couple of questions, because other members have questions relating to this clause. I want to get this on the record. Can the minister explain how the harm-minimisation objectives of the bill will be measured after the act comes into operation? Once the act comes into operation and everything is in place—the regulations and all that—restrictions will be put on the bigger liquor outlets. How is the government going to assess whether the legislation has had an impact on harm minimisation?

Mr P. PAPALIA: As I indicated before, this is not going to shut any liquor store in the state—these laws do not do that. It is not appropriate to suggest that we might benchmark a particular area that is currently serviced by liquor barns and then draw a line and say that in two years' time we are going to measure whether that area has less harm imposed upon it through overconsumption or inappropriate use of alcohol, because that is not what this bill is doing. This bill is seeking to ensure that communities across the state can have their liquor requirements reasonably met through the provision of future packaged-liquor outlets. If the member is suggesting that this is our response to reduce harm, that is not what this is about. This is a broad spectrum of amendments, some of which

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are at the liberalisation end of the spectrum and some of which are at the harm minimisation end, but this is not the government's sole response to alcohol-induced harm. In fact, the department is preparing a response as part of the across-government response to the challenges in the west Pilbara that have been identified through child abuse in and around Roebourne. The government is working on a complete, across-government response to that challenge. As part of that, we are looking at potential new responses, with a specific aim to minimise harm by reducing the opportunity for people who use alcohol in a harmful manner to access alcohol. That is not what this bill is doing. This is part of the overall amendment.

Mr J.E. McGRATH: If it is not about minimising harm, what is the aim? Is the aim to restrict bigger liquor stores from coming into areas where they do not already exist? Is it to support small liquor stores? What is the aim of the legislation? Is the government saying that it wants to support small operators to continue operating or that it does not want bigger liquor barns cropping up all through the metropolitan area? If it is not to do with harm, what is behind this restriction? It is a restriction, which we believe will be anticompetitive and probably impact on the consumer. It could lead to a situation in which there is a monopoly. Someone who is already in a good spot with a big liquor barn, which could have a floor space of 1 000 square metres, will not get any competition if no-one can open up within five kilometres of them, so the government could be putting them in a monopoly situation. What is the main thrust of the legislation? The member for Maylands, whom I greatly respect, spoke about liquor harm. She talked about people getting takeaway alcohol and street drinking and things like that in her area, which she does not like. The minister is now saying that this bill is not about alcohol-related harm in the community but is for something else. Can the minister explain this, please?

Mr P. PAPALIA: I did not say any of that. I did not say that it was not about harm reduction; I did not say that it was about harm reduction. What I said was that this is a broad spectrum of responses to amending the Liquor Control Act, which at one end of the spectrum incorporates liberalisation to encourage innovation, diversity and vibrancy in the hospitality sector, and at the other end of the spectrum it includes some measures to assist with harm reduction, including things like laws to further empower the police to intercept sly groggers.

Whether the member likes it or not, or he thinks that it is unfair to Coles and Woolworths and he is advocating on behalf of Coles and Woolworths against the interests of small business, that is his business. People around the state, particularly those representing small businesses that operate in this sector, will be able to convey to their members that the opposition is advocating on behalf of Coles and Woolworths. Other members of Parliament will be able to convey to communities around the state that the opposition does not see any need to restrict the number of liquor barns that are proliferating—popping up like mushrooms—around the suburbs. That is fine. The opposition can take that stance, but we will deal specifically with the content.

Dr M.D. Nahan: What's your position?

Mr P. PAPALIA: Our position is that we are empowering communities to determine whether they already have adequate supply of packaged liquor and that they will have the opportunity to prevent further proliferation of liquor barns.

Mr J.E. McGrath: But what if they want one?

Mr P. PAPALIA: It is a different matter. It will all be determined by consultation with communities and industry players. We will determine the scale of floor space within the range, which will be determined, and those matters will be determined in the deliberations around regulation. They will be done in a consultative fashion. Communities are currently prevented from having a say on these matters, unlike the member for Scarborough who got her say as Minister for Police; she got to stop a liquor store in her electorate because she did not want it. This legislation is for those communities that do not have the opportunity to do that. This legislation will ensure that the law empowers communities across the state. I do not mind that Liberal members are going to advocate for Coles and Woolworths; I recognise that they need all the support they can get. The Liberal Party needs to attract any support it can possibly get. I understand that and I can see where members opposite are coming from, but, beyond that, I am not concerned about deliberating over whether in a particular suburb some sort of measure is at work, beyond empowering communities and enabling a set of criteria that allows the director of Liquor Licensing to determine whether there is a reasonable supply of packaged liquor for consumers in that particular area, or whether there are already enough liquor barns within a particular geographic area.

Mrs L.M. HARVEY: The minister has inferred that I somehow used my influence as Minister for Police to intervene in one of these applications, and that is not accurate. I want to correct the record on that. There was widespread community opposition to a liquor store opening in my area.

I would like to draw the minister's attention to a couple of things. First, the points raised by the member for South Perth are valid. The liquor store that the minister referred to in my electorate was opposed by the community and the application was rejected by the director of Liquor Licensing. I understand that the proponents appealed the decision and the commission upheld the director's decision under the current legislation. It had nothing to do with

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the size of the premises; it had to do with the level of community opposition. I supported my community in its views because of the specific issues related to that application. The existing legislation empowered my community through that process to put that case to the director and the commission, and, as I understand it, the application was refused. So, it is not accurate, and I take offence that the minister implied that somehow my position as Minister for Police had something to do with that particular determination, because I do not believe it did. I think it had everything to do with the widespread community opposition.

The other assertion that I take issue with is that somehow members of the Liberal Party in this place who are interrogating this legislation, as we are supposed to do, are somehow in the pockets of Coles and Woolworths. If the minister is going to make an assertion like that, prove it. Prove that we are in the pockets of Coles and Woolworths. Prove that there is some kind of benefit flowing to us because we are interrogating this legislation. To say that we have been bought out by some big company is a scurrilous accusation. I draw the minister's attention to comments made by the now Treasurer back in 2006, when he said —

I assume it is a progression to market caps for Coles and Woolworths. It is worth noting, at least for the record, that Coles is 91 per cent owned by Australians and Woolworths is entirely owned by Australians. We are talking about half a million shareholders in respect of Coles and Woolworths.

The actions the government is taking with this legislation—it has said that it is deliberately targeting the proliferation of big bulk liquor retail outlets that are predominantly owned by Coles and Woolworths—will have an impact on Australian shareholders of those companies, so we have every right to interrogate this legislation. I understand where the government is coming from with this legislation; there is a public health aspect and there is a market gerrymander, which is what the government is trying to achieve. We know that the government is trying to achieve that because we have seen evidence of that with comments from the Australian Hotels Association and the independent Liquor Stores Association of Western Australia on their consultation on this legislation. They are very happy. They have managed to achieve everything that they wanted to achieve. Earlier, the minister said that he had consulted with Coles and Woolworths. Could the minister please advise the house whether Coles and Woolworths flagged that they intend to launch a constitutional challenge on the basis of the anti-competitive nature of this legislation during that consultation, and whether Western Australian taxpayers may be exposed to considerable costs of the government defending a challenge like that? I have received some advice—not formal advice, but verbal advice—from individuals who work as lawyers in the liquor licensing space that they know that Coles and Woolworths, in particular, are gearing up for a legal challenge to this legislation on it being ultra vires to competition law in Australia currently. Could the minister advise the house whether that has been flagged in his discussions with Coles and Woolworths? Does the minister have any legal advice on whether a challenge like that could be successful?

Mr P. PAPALIA: No, they did not threaten us in those conversations. The Australian Competition and Consumer Commission's advice has been sought, and it indicates that what we are proposing is quite reasonable.

Dr M.D. NAHAN: I understand that the government will allow the director of Liquor Licensing to put a cap on the number of liquor outlets based on his assessment of whether a community has reasonable access to liquor outlets or can be reasonably serviced by existing outlets. What does that mean? What guidelines will be given to the director as to what is reasonable, what is adequate and what is surplus? Liquor stores vary a lot. A person can go to Dan Murphy's, which has a huge variety of south west Western Australian wines. Virtually all south west producers are sold in certain Dan Murphy's outlets. Will that be taken into consideration when one liquor outlet is compared with another one that does not have that range? If someone wants to specialise in drinking Western Australian wines and likes to try the varieties available, and only Dan Murphy's, let us say, has that range, will the director take that into consideration? Will price be taken into consideration? Will services such as delivery be taken into consideration? Only the director will decide what is adequate and what is reasonable—not with any response to the consumer, but with some other yet-to-be-specified criteria. What are those criteria? It is not good enough to say to us that that will be determined by regulations down the track. There is no legal precedent that I know of—but if there is, please tell me—and a bureaucrat will decide what is reasonable to service a community. We need some guidelines on what that will be.

The member for South Perth asked what the basis was for this legislation. I know that a bill has many reasons and justifications, but what are they for this one? Is it legislation to empower the community? If so, obviously, given the Scarborough experience, communities are already empowered in planning, in local government and under the existing legislation. How does this change it? It is not good enough to just say that a bureaucrat will come up and say that existing suppliers can service that demand, in his opinion. He or she has to be provided with guidelines, not regulations, on what the decisions will be. Is it just to protect the existing producers? Is that what the government is after? It sounds as though that is exactly what the government is going to do. Also, we asked the minister earlier on whether he had a regulatory impact statement. What is the impact on consumers in this? Is the

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government going to remove all their choices? Is it going to take away price competition or varieties? The minister has not even attempted to explain the very basis of this, the justification and how it is going to work.

Mr P. PAPALIA: I think there is a question there somewhere. It was a speech, and it was boring, but I think there was a question. The proposed subsection to which the member refers states —

- (4) The licensing authority must not grant an application to which this section applies unless satisfied that local packaged liquor requirements cannot reasonably be met by existing packaged liquor premises in the locality in which the proposed licensed premises are, or are to be, situated.

The bureaucrat to whom the member refers is the same bureaucrat who is currently making exactly the same type of determination under current legislation.

Dr M.D. Nahan: No.

Mr P. PAPALIA: They are making exactly the same determination. They are the ones who said it is not appropriate to put Liquorland in the member for Scarborough's electorate.

Dr M.D. Nahan: You're wrong.

Mr P. PAPALIA: Whether the member likes it or not, that is the fact; that is the truth. The determination of whether the requirements cannot be reasonably met will be made by the same person who makes deliberations about all liquor licensing right now. We are not going to magically create a new person; it is the same person. It is the same authority; it is just a different law.

With respect to the spurious suggestion that somehow this legislation is going to deprive the consumer of access to affordable alcohol, let me remind the member that there are 38 stores with floor areas greater than 600 square metres in Western Australia right now. That does not count all the stores with floor areas under 600 square metres. That is 38 above 600 square metres in floor area. Sixteen of them are 1 000 square metres or more. One of them is 1 480 square metres. None of them is being shut. There is no way that anyone will be deprived of the opportunity to drive and get some alcohol. This law does not do that. It enables communities to identify that they may already have a reasonable supply of packaged liquor, and draw that to the attention of the authorities, who, during the process of deliberation on whether they award a licence, will determine whether there is a reasonable supply. That is it; that is all this is doing. It is not shutting anyone down. If a greenfield suburb has just opened up and there are no liquor stores there, quite clearly people can apply to establish liquor stores. If a store is already over the size that is determined during the consultations about regulations, it does not preclude another packaged-liquor outlet operating. It does not preclude anyone making an application. It enables, potentially, smaller operators to operate within the range of that site. That does not give that person a monopoly. The suggestion that the only stores in Western Australia that sell Western Australian wines are Dan Murphy's is quite frankly laughable.

Dr M.D. Nahan: I didn't say that.

Mr P. PAPALIA: The member speculated that, for instance, there might be one —

Dr M.D. Nahan: No; they provide a full range.

Mr P. PAPALIA: The full range? Okay. I would argue that some small packaged-liquor outlets make the case that they supply a far greater range of Western Australian specialist wines than, for instance, Dan Murphy's or First Choice. They would make that case. In fact, I went to one in the electorate of the member for Maylands that took pride in its long history of supplying a really diverse range of specifically Western Australian specialist wines to its customers, having built up clientele for decades. That store's proprietor would argue that they provide a greater level of service and a greater level of selection of local wines than their competitors that open up big liquor barns. But that is not the point.

Dr M.D. Nahan: That is for the consumer, not you, to decide.

Mr P. PAPALIA: That is not the point. We are providing that the consumer is central to this legislation.

Dr M.D. Nahan: No, it isn't. The consumers are pushed out of it.

Mr P. PAPALIA: This is not question time. The member does not get to interject on me all the time.

I am saying that the proposed subsection states very clearly what the criteria are, and that is what we are proposing.

MS L. METTAM: The minister has already suggested that this legislation will not have an impact on existing liquor barns or larger liquor stores, but what would be the impact on existing suburban taverns or hotels—those that have an interest in redeveloping? What impact will this have on those existing, perhaps, family businesses that have an interest in redeveloping their sites?

Mr P. PAPALIA: Nothing at all. The existing packaged-liquor outlets, such as pubs, that the member is referring to are not constrained in any way by this legislation beyond the same rules about scale, floor area and the range of

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other such large stores. If the member is talking about the average pub with a drive-through bottle shop, no-one will stop them from expanding or growing their business.

Ms L. METTAM: If they have a current application for the expansion of a liquor store outlet that would fit into these guidelines, would that not have an impact on the value of their business or their ability to redevelop in the way they would like, particularly if it does not fit in with the proposals made in the legislation?

Mr P. PAPALIA: Member, if we wait until clause 44, which inserts new section 77A, it refers to established venues, and the amendments that apply to those applications. The member can talk about that then, if she wants.

Mrs L.M. HARVEY: I will take the example that the minister just gave, when he said that if a greenfield site opened up, and a liquor store went in there, there would be nothing to stop the director from viewing an application for a competitor to come into that greenfield site, and for another store to open up. That is what I heard the minister say. I draw the minister's attention to the legislation. Proposed section 36B(3) states

The licensing authority must not hear or determine an application to which this section applies if —

- (a) packaged liquor premises are situated less than the prescribed distance from the proposed licensed premises; and
- (b) the area of the retail section of those packaged liquor premises exceeds the prescribed area; and
- (c) the area of the retail section of the proposed licensed premises exceeds the prescribed area.

Mr P. Papalia: When I said “greenfield”, I meant a new suburb where there are currently no liquor stores within a five kilometre radius.

Mrs L.M. HARVEY: That is exactly what I take issue with, because the minister said that there is nothing to stop a liquor store going into a greenfield site, but he also said that there is nothing to stop another application being heard for a second store.

Mr P. Papalia: Providing it complies.

Mrs L.M. HARVEY: But it cannot comply with this legislation. It can only comply if it is a smaller store.

Mr P. Papalia: That is because the criteria relate to floor size.

Mrs L.M. HARVEY: So, basically, once there is a big store in a greenfield site, the only competition to that big Dan Murphy's, or whatever it happens to be, can be a small liquor store. It cannot have competition from a bigger liquor store within a five-kilometre radius, no matter where it is. It says in the bill that a competitor that is of equal size cannot even make an application, and that application cannot even be heard, if it does not fit the criteria of whatever distance and size is placed as a limitation on the premises.

Mr P. PAPALIA: That is right. The intent is to stop the proliferation of large liquor barns across the suburbs.

Dr M.D. NAHAN: Let us say we have a greenfield site and there is no large 400 square metre liquor barn, as the minister calls them, within the prescribed limit and a store moves in and puts one in. That means it has, for that sized outlet and that character of outlet, a monopoly; is that not right?

Mr P. PAPALIA: A whole range of packaged-liquor outlets will not be affected by these criteria. They are referring to a specific size, a specific floor space and a specific range from other ones. Beyond that, a range of packaged-liquor outlets can supply alcohol to a community that could ensure that the requirements of the consumer are reasonably met beyond that one particular store, and they can still be completely unaffected by the criteria to which the Leader of the Opposition refers.

Dr M.D. NAHAN: Under the legislation, in a greenfield site a large supplier has certain characteristics. It is like large grocery stores versus small ones. Is it not the intent and effect of the legislation to give monopoly rights for large liquor outlets to the first mover? What impact will that have on the value of property and the value of the first mover? Does the minister not think that that monopoly right will be extremely valuable to the owner of the land, whether it be a large shopping centre or Coles or Woolies?

Mr P. PAPALIA: That is not the intent?

Dr M.D. Nahan: No, but it's the effect.

Mr P. PAPALIA: The intent is to stop proliferation of liquor barns across the suburbs and empower communities to determine whether there is reasonable access to liquor supply from packaged-liquor outlets. That is the intent.

Dr M.D. NAHAN: The road to hell is paved with good intentions. The effect of it, and I think the intent, is for the minister to give monopoly power to the existing players, who are the first movers, in greenfield sites. I put it to the minister that that is a highly valuable piece of protective legislation that will give huge benefits to Coles and

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Woolies in particular, as well as Stockland and other providers of shopping centres where most of these outlets go. That is what the bill is doing. Please describe something otherwise. Yes, they will have competition from the smaller ones—the non-barns, as the minister called them—below 400 square metres, but this bill is granting a monopoly right. In fact, in greenfield sites no-one can even apply, according to this legislation, to compete with the existing first mover. That is a huge monopoly right. I put it to the minister that that is worth millions of dollars. I do not care whether it is the intent. It actually has to be the intent of this, but it is the effect. That is what the minister has just told me. The question is: if you are giving someone a monopoly right, who pays for that? It is the consumers. There will be lack of choice and higher prices, obviously. Is that what the minister intends to do?

Mr P. PAPALIA: All I can say is that in light of the undoubted benefit that Coles and Woolworths are going to accrue as a consequence of the legislation according to the Leader of the Opposition, I look forward to their support for the legislation.

Mr S.K. L'ESTRANGE: I want to pick up on the points the member for Vasse and the Leader of the Opposition made about proposed new section 36B, which is clause 18. The minister said to the member for Vasse that for those looking to extend their property—let us say, they want to become a big liquor barn or —

Mr P. Papalia: It's a different clause.

Mr S.K. L'ESTRANGE: I get that.

Mr P. Papalia: We'll refer to it later in the bill when we are talking about that subject, so I don't think we should cover it now.

Mr S.K. L'ESTRANGE: That is okay, but I will just pick up on that point, because the minister referred the member for Vasse to clause 44.

Mr P. Papalia: I'm not going to engage in debate on that because it's another clause.

Mr S.K. L'ESTRANGE: That is okay. The minister was referring her to clause 44, or proposed new section 77A.

Mr P. Papalia: Not yet.

Mr S.K. L'ESTRANGE: I have looked at that clause and it is almost identical to proposed new section 36B(3).

Mr P. Papalia: As I said, member, we're dealing with this one; we'll come to that one.

Mr S.K. L'ESTRANGE: That is correct.

Mr P. Papalia: I think the Chair might indicate to you that that is the appropriate way of dealing with it.

The ACTING SPEAKER (Ms J.M. Freeman): Do not tell the Chair what to do, minister. Just ask your question, member for Churchlands, and then you can make your response, minister.

Mr S.K. L'ESTRANGE: Proposed new section 36B(3) is quite clear. It restricts the capacity for a new player or an existing player to be able to compete on a level playing field with existing other boxed retail outlets of a large size in that area. Fundamentally, the market economics will tell us that if there is an oversupply in an area, prices will drop and certain players will be excluded from the market.

The ACTING SPEAKER: Member for Churchlands, we are on clause 18.

Mr S.K. L'ESTRANGE: I am getting to my question.

The ACTING SPEAKER: Quickly then.

Mr S.K. L'ESTRANGE: I am dealing with clause 18.

The ACTING SPEAKER: You are dealing with clause 36.

Mr S.K. L'ESTRANGE: Clause 18 is proposed new section 36B. I am saying that once we start to impact on market supply, there will be an impact on prices. If we allow—which this legislation is not going to do—new boxed retailers to come into an area, if the market is oversupplied, one of those retailers is going to lose. We know that. Either another boxed outfit will collapse and one will succeed, or whatever. That is what the market will do to an area. What we are most concerned about is how this particular aspect of the legislation will distort the market and what are the second and third-order consequences for that distortion. My specific question about that is: have you completed an economic impact assessment on the liquor market based on clause 18?

Mr P. PAPALIA: No, member. The fundamental objective of this amendment and these particular components of the amendment is to empower communities to be able to identify whether they already have reasonable access to packaged-liquor requirements and in the event that there already is reasonable access, to have some recourse to prevent the proliferation of liquor barns in their communities.

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Mrs L.M. HARVEY: Earlier, when I was asking about the licensing authority must not hear or determine an application to which this section applies —

Mr P. Papalia: Which part are you talking about?

Mrs L.M. HARVEY: Earlier, the minister said that an application for a smaller liquor store could be considered within the prescribed distance provided the prescribed area was smaller than what is being proposed in this legislation.

Mr P. Papalia: It could be considered; it doesn't necessarily get approved.

Mrs L.M. HARVEY: That is not how this reads. Proposed new subsection (2) states —

(2) This section applies to an application for the grant or removal of any of the following licences —

That is including a liquor store licence. Then it states, subject to that application —

(3) The licensing authority must not hear or determine an application to which this section applies if —

(a) packaged liquor premises are situated less than the prescribed distance from the proposed licensed premises; and

(b) the area of the retail section of those packaged liquor premises exceeds the prescribed area;

That is actually saying that if in a greenfield site there is a big liquor store of 600 square metres, for example, there will be a five kilometre restricted area to which no application can be made.

Mr P. Papalia: No.

Mrs L.M. HARVEY: That is what it says.

Mr P. Papalia: No, it's not member.

Mrs L.M. HARVEY: It states that the licensing authority must not hear or determine an application to which this section applies. It does not say that it can hear and receive an application for a store that is below the prescribed area. It states here that it cannot within a five-kilometre radius, if that is what the prescribed distance is going to be, hear or determine any application. That is what this states.

Mr P. Papalia: No, it doesn't. Do you want me to respond?

Mrs L.M. HARVEY: Where does it preclude a liquor store of a smaller size from applying for a licence within the prescribed area if it is within the prescribed distance of an already established big-box retailer? It does not state that.

Mr P. PAPALIA: Member, both apply. That is why it reads —

packaged liquor premises are situated less than the prescribed distance from the proposed licensed premises; and

Then the next subparagraph reads —

(b) the area of the retail section of those packaged liquor premises exceeds the prescribed area; and

(c) the area of the retail section of the proposed licensed premises exceeds the prescribed area.

They all have to apply for them to be precluded from being considered.

Mr P.A. KATSAMBANIS: I have a number of questions on this issue, minister. I have been listening intently to the debate both last week and this week and unfortunately, from what I have heard, I have received fewer answers that I expected; in fact, it has raised more questions than it has answered. So I seek the minister's clarification, because this is really important. We have been pursuing the interaction of the proposed new sections 36B(2), (3) and (4), and they are, effectively, the operative provisions of this new section. Can the minister first confirm that this proposed section will apply to every single hotel licence without restriction, tavern licence, liquor store licence, and special facility licence of a prescribed type, irrespective of size or distance from any nearest competitor? I refer to proposed new subsection (2).

Mr P. PAPALIA: Member, no. The criteria listed in proposed new subsection (3) are very specific. They relate to scale of floor space within a certain prescribed range and proximity to others. So that is it. They apply to those scale of buildings, and all those other outlets to which the member referred are just the nature of the type of licences that can be sought. They will be impacted by proposed new subsection (4), which is the one that seeks to determine —

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Mr P.A. Katsambanis: Who will be impacted by proposed subsection (4)?

Mr P. PAPALIA: — whether consumers' requirements cannot reasonably be met by existing outlets.

Mr P.A. KATSAMBANIS: The minister's answer adds rather than removes confusion. Proposed new subsection (2) is very, very clear, as far as I am concerned. The bill states that the proposed new subsection —

... applies to an application for the grant or removal of any of the following licences —

Proposed new subsection (2) applies to all four types of licences in there. It does not read “subject to subsection (3)”. It does not read, “if they fit the criteria of subsection (3)”; it reads that it applies to all of them. Then proposed new subsection (3) states that if there is one of these types of applications, the authority cannot even hear it.

Mr P. Papalia: Yes. You nailed it.

Mr P.A. KATSAMBANIS: It cannot even hear it if —

- (a) packaged liquor premises are situated less than the prescribed distance from the proposed licensed premises; and
- (b) the area of the retail section of those packaged liquor premises exceeds the prescribed area; and
- (c) the area of the retail section of the proposed licensed premises exceeds the prescribed area.

So those are all knocked out. An application has been made under proposed new subsection (2), but it does not meet the criteria, so the application is knocked out.

Mr P. Papalia: If they are over the prescribed floor space within the prescribed range of another one, yes.

Mr P.A. KATSAMBANIS: Yes, that is right. So the only premises that proposed new subsection (4) can apply to—we can call it whatever you want; we call it the needs test.

Mr P. Papalia: It's not, but you can call it whatever you want.

Mr P.A. KATSAMBANIS: The minister can call it whatever he wants, but whatever the minister wants to call it, the only premises that proposed new subsection (4) could possibly apply to are those premises that tick off on the prescribed requirements.

Mr P. Papalia: No.

Mr P.A. KATSAMBANIS: Yes. Read it, and seek advice if you need to because —

Mr P. Papalia: Who do you think wrote it? Do you think we sought advice?

Mr P.A. KATSAMBANIS: — proposed new subsection (2) does not say “This section applies to an application for the following types of licences which are those licences that do not meet the criteria of proposed new subsection (3)”. It applies to all licences under those headings.

Mr P. Papalia: I have no idea what you're talking about.

Mr P.A. KATSAMBANIS: That is how I am reading it.

Mr P. Papalia: It's not correct.

Mr P.A. KATSAMBANIS: Can the minister convince me that that is not the case? Convince me that someone who applies for a 100-square-metre retail shop selling packaged liquor will not have to meet the test in proposed new subsection (4).

Mr P. PAPALIA: No, I was not saying they would not have to meet the test in proposed new subsection (4); everyone would. No, that is a reasonable observation. Yes, everyone would have to meet the test in proposed new subsection (4). I was not sure where the member was going with it. I could not understand what the member's point was.

Mr P.A. KATSAMBANIS: Yes. So anyone who wants to apply for a liquor store licence, whether 10 square metres, 100 square metres or 1 000 square metres will need to satisfy this needs test. The minister might not agree that it is a needs test, but we in the opposition believe it is. Okay. So we will move on. That clarifies it.

Mr P. Papalia: Can I respond to that? You have called it a needs test, and I need to respond.

Mr P.A. KATSAMBANIS: I do not want to reopen that debate. I thought we had already had it.

Mr P. Papalia: I will say what they have to satisfy.

Mr P.A. KATSAMBANIS: The minister can say it in his response because I actually want to keep going.

Mr P. PAPALIA: Proposed new subsection (4) states —

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The licensing authority must not grant an application to which this section applies unless satisfied that local packaged liquor requirements cannot reasonably be met by existing packaged-liquor premises in the locality in which the proposed licensed premises are, or are to be, situated.

That is the criterion applicants must meet. In any event that an applicant is applying to establish a premise that is a packaged-liquor store outlet of whatever type, in an area that the director deems is already reasonably supplied or the community or the consumers' requirements are already reasonably met, then, no, they will not be able to. But that is a quite reasonable criterion when we consider that we are talking about alcohol here. We are not talking about fruit and veg; we are talking about alcohol.

Mr P.A. KATSAMBANIS: So the issue is locality in relation to that.

Mr P. Papalia: The issue is reasonable access.

Mr P.A. KATSAMBANIS: The proposed definitions section reads —

local packaged liquor requirements, in relation to an application to which this section applies, means the requirements of consumers for packaged liquor in the locality in which the proposed licensed premises are, or are to be, situated;

A similar term is used in proposed new subsection (4) —

... local packaged liquor requirements cannot reasonably be met by existing packaged liquor premises in the locality in which the proposed licensed premises are, or are to be, situated.

So there is the concept of locality. I seek clarity from the minister on the definition of locality. Is it the suburb the proposed outlet is to be located in? Is it the street it is located in? Is it the municipal district it is located in, or is the catchment area of potential customers who could come from significantly further than just the immediate locality, especially if the proposed liquor store is close to or part of a regional centre?

Mr P. PAPALIA: Member, locality is a term already applied by the director. It is not defined in the bill. The director's policy on public interest assessment submissions contains a locality guide that sets a two-kilometre radius for the inner metropolitan area, and a three-kilometre radius for the outer metropolitan. In country cities, towns or communities, unless remotely located or the licensing authority determines otherwise, the locality is a three-kilometre radius. That is how it is applied by the director under current legislation. It is a term that has meaning; it is not defined in the act.

Mr P.A. KATSAMBANIS: When a distance is prescribed for the purposes of this proposed section that is greater than the guidelines the minister has read out—say a five-kilometre or 10-kilometre radius prescribed distance under this proposed section—will the prescribed distance be the definition of a location or will the two or three-kilometre guidelines that the minister has read out be the marker of location?

Mr P. PAPALIA: These are not guidelines; these are currently policy as applied by the director. They are not defined in the act. They are not guidelines; they are policy. Future prescribed distances, floor space and the like will be determined in regulations and they will be prescribed.

Mr P.A. KATSAMBANIS: I understand that. We have been through that a lot. In the case of a conflict, what will apply in relation to what a locality is? If the director's policy is two kilometres for inner city and three kilometres for outer areas and the prescribed distance in this proposed section is different—that is policy; this is regulation—what will apply?

Mr P. PAPALIA: In specific response to the member's question, the definition of locality will be the extant policy under proposed section 77A(4). That is whether the requirements cannot reasonably be met by existing packaged-liquor premises in the locality; it is with respect to our extant policy.

Mr P.A. KATSAMBANIS: There is an added distance test here.

Mr P. Papalia: No; it is already in place. It will not change.

Mr P.A. KATSAMBANIS: The strict prohibition will be what the minister prescribes. The strict prohibition will be, let us say for argument's sake, five kilometres. That is what all the industry is telling us it will be, but I will get onto that in a minute. Let us say we have a five-kilometre catchment area distance from another store. But in proving up the requirements of packaged liquor in that locality, if we are in the hipster zone, it is only two kilometres and if we are outside the hipster zone, it is three kilometres. Why are we setting up this extraordinarily complex set of tests? What is the rationale for having one distance in policy from the director and another distance prescribed in regulations?

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Mr P. PAPALIA: They are not; they are completely separate clauses. They have different criteria applying to measurements and in this case, proposed subsection (4) to which the member is referring has the same criteria for locality as is extant. Nothing will change.

Mr P.A. KATSAMBANIS: The proof of the pudding will be in the eating. I highlight it, minister, because I think it is a major failing and it will lead to significant argy-bargy, debate and discussion. That, as we know, adds significant costs to people making applications. It is a good segue to get into the area of prescribed distance. The minister keeps saying it has not been determined and will be subject to further consultation. Anyone who has an opinion on the subject tends to suggest that the prescribed distance will be around five kilometres in the metropolitan area and the prescribed area will be around 400 square metres. Irrespective, what consultation period does the minister intend to undertake between the passing of this Liquor Control Amendment Bill and the enactment of any regulations? How long does he think that consultation is likely to take?

Mr P. PAPALIA: There is no deadline on that; we will pursue it as rapidly as we can, but we want to ensure there is adequate consultation and that, in particular, the peak bodies of the players affected most by any regulation will be able to contribute, as will communities through their local government associations and, potentially, other players, such as advocates for harm minimisation, to give them all an opportunity to contribute. I was trying to illicit from my adviser how long it took when the last amendment was made in 2013—or was it 2012?

Mr J.E. McGrath: No, a bit later.

Mr P. PAPALIA: No, they did not get that one through, but the one that was passed was in 2012, I think.

Mr J.E. McGrath: Yes.

Mr P. PAPALIA: I do not know, but I imagine it would not be more excessive than that because the scale of the amendment as far as sections go is not dramatically different. We are talking about some specific sections that will, obviously, excite some interest and that is where most of the consultation will focus. I imagine the proposed section we are discussing right now will be of interest to a lot of players, in which case I would not like to predict how long that will take. There will be a finite time and then we will pass it. We want to pass it as soon as we can because, clearly, there are a series of both liberalisation and harm-minimisation components to it that are being eagerly sought by the industry, the community and other players waiting to see us get it enacted.

Mr J.E. McGrath: You said it's not about harm minimisation.

Mr P. PAPALIA: I said that about the whole amendment, not this particular proposed section. There is a component of harm minimisation here, but the whole amendment has the full spectrum. People are waiting at both ends of the spectrum for us to implement this amendment, so we will do it as fast as we can.

Mr P.A. KATSAMBANIS Proposed subsection (5) states —

Regulations made for the purposes of the definition of *prescribed distance* in subsection (1) may prescribe different distances in relation to packaged liquor premises in different areas of the State.

I have a number of questions on this. I understand the logic and rationale of being able to prescribe different distances, particularly in a state the size of Western Australia, so I am not disputing the need to have a section such as this. I am just trying to get a handle on the practical application. By including proposed subsection (5) and restricting it to “prescribed distance”, can the minister confirm, firstly, that prescribed area, as in prescribed area of retail premises, will be one prescribed area across the whole of the state, whether it is 400 square metres or otherwise?

Mr P. PAPALIA: Yes.

Mr P.A. KATSAMBANIS: Is there any intention that the framework contained in the policy from the director of Liquor Licensing that the minister read out earlier may apply where the inner city has a different limit from other parts of the metropolitan area? In other words, is there any intention to have differential prescribed distances within the Perth metropolitan area?

Mr P. PAPALIA: No. It is entirely focused on enabling potentially bigger distances in the regions.

Mr P.A. KATSAMBANIS: I thank the minister for clarifying his intention. Would the minister concede that, as drafted, this clause will allow the minister or another minister to have a prescribed distance for some parts of the metropolitan area that are different from other parts?

Looking at my patch—the electorate of Hillarys and the City of Joondalup—does the minister concede that it is possible that a future minister could make the requirements for the City of Joondalup different from those of the City of Stirling, the City of Wanneroo and the City of Mandurah, for that matter?

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Mr P. PAPALIA: I place on *Hansard* for the purposes of anyone deliberating over this sort of detail in the future that the intent is that this clause will enable different distances to be defined for the regions, not the metropolitan area. The intent is that there is one distance and one prescribed scale within the metropolitan area. I reiterate that the scale of the floor space is to be uniform across the state.

Mr P.A. KATSAMBANIS: That is another helpful segue into the definition of “retail section” in proposed section 36B(1). For most applications, particularly historically, the ability to define a retail section that is selling packaged liquor has been pretty simple—here is a standalone bottle store or here is the bottle shop component of a hotel. With emerging new trends—I think this applies equally to retailers as it does to people who are primarily running a hotel and who sell packaged liquor at the same time—what we have seen in the last few years, particularly with the entry of Aldi into the state, is that they do not define or section off a particular section of their retail space. Rather, they offer their goods on the shelf, not far away from other products, such as coffee or tea. In the case of retailers such as Aldi, and any other competition that might come in—Lidl, Costco or any of those businesses that incorporate the offer as part of their general store—how would the minister separate “retail section” for the purposes of packaged liquor from the rest of the store?

Mr P. PAPALIA: Aldi has to have a separate area for the sale of alcohol. It is not allowed to place its alcohol in amongst, for example, the fruit and vegetables; it has to have a separate alcohol display area. With respect to the other premises to which the member referred—pubs and the like—there is a specific definition of “retail section” under proposed subsection (1) to which the member referred earlier, and the parts of premises to which this applies is pretty clear.

Mr P.A. KATSAMBANIS: The other area I want to touch on is how the prescribed area under this clause will interact with any specific policies or determinations of local government authorities. We spoke about the member for Maylands’ work in prescribing the size of premises within the City of Bayswater. I think South Perth has a prescribed area. I think the prescribed area in both cases is 300 square metres. There might be other municipalities in the metropolitan area or other places that have prescribed an area that is different from the area that will be prescribed after the government’s extensive consultation period. As we have said, already the scuttlebutt in the industry is that it will be 400 square metres. If the new prescribed area is different from the prescribed areas in local government by-laws and regulations, how will that play out and what will have precedence?

Mr P. PAPALIA: If they do not get planning approval, they will not be applying for a licence.

Mr P.A. KATSAMBANIS: Again, this is just one more layer.

Mr P. Papalia: No, it is already in place, member. That is what happens today. If you don’t get planning approval, you can’t apply for a liquor licence.

Mr P.A. KATSAMBANIS: It is another piece of red tape in what is already a very, very complex area. As the minister for liquor licensing, amongst other things, I understand why the minister or any minister in his position might want to say, “I wash my hands of the planning; leave that to the planners.” That makes some sense because planning is a minefield. However, the people who just want to get on with doing business—the small business people in our community and medium and large businesses—do not really look at it and say, “Planning, liquor”. They want a way to seamlessly work through this process. Why would we have a different area for the purposes of planning that is determined by local government authorities and a different prescribed area for liquor licensing purposes? Is that not reregulation, further regulation, and making things tougher for legitimate businesses to set up and compete with the big players?

Mr P. PAPALIA: Planning approval is a fundamental requirement of the process. It is the same process that was in place under the member’s government and previous governments as far back as probably the establishment of the department of planning. People have to get planning approval first. If they do not get planning approval, they will not get approval for a liquor licence; indeed, they will not be able to apply for one. That is the nature of the process. One of the reasons I am keen to get this legislation through is that part of what we are doing is removing the public interest assessment for what is deemed to be a low-risk application, a low-risk licence proponent for a low-risk venue, such as a small bar, potentially a sporting club and maybe even a race club, particularly in the regions but anywhere really, because race clubs might have a long history of safe activity without any evidence of being high risk. If as a result of this bill going through, the public interest assessment process is removed from the application for all those, they will very likely get a faster and far less onerous process. We are doing a lot to amend the constraints for low-risk proposals. What we are not doing is overriding planning requirements, which are quite legitimate and reasonable and operate in the same way as they did under the member’s government. If people want to build a liquor store or open a liquor store, they need planning approval from their council. That is part of the process, which was refined under the member’s government with the implementation of joint development assessment panels and the like, and that resulted in some streamlining. As I understand it, there are moves by the Minister for Planning and the Minister for Local Government to refine those processes further, but ultimately that

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is an obligation that people will have to confront if they seek a liquor licence. It means fundamentally that if people do not get planning approval—if they do not meet the criteria set by the City of South Perth—obviously they will not apply for a licence.

Mr P.A. KATSAMBANIS: I noticed that the minister made reference to low-risk applications and removing the public interest test. Can the minister confirm that the removal of the public interest test or any other test will not apply to any packaged-liquor outlets, even if they are small and pose no risk?

Mr P. PAPALIA: At this stage, I cannot confirm whether any packaged-liquor outlet will be subject to that liberalisation in the form of the removal of the public interest assessment. I am inclined to think that an outlet the nature of which was championed by the member for Perth and drew some public attention might be one that we could ultimately deem as not being high risk and, therefore, we could remove the onerous obligations of a public interest assessment for an outlet such as that. However, I cannot confirm that at this stage. We will generally be looking at small bars when we refine the definition of “low risk”. In that case, it was a small bar but it was also a packaged-liquor outlet, so I am not sure. At this stage, I cannot give the member an answer.

Mr P.A. KATSAMBANIS: Perhaps the minister may be able to clarify before the consideration in detail stage is over or during the third reading debate.

Mr P. Papalia: No, because I expect that that sort of specific detail will be arrived at during the consultation that leads to or defines the regulations. Does the member want me to stand up?

Mr P.A. KATSAMBANIS: Yes.

Mr P. PAPALIA: I am not referring to small bars that sell packaged liquor for takeaway, but I view small bars, sporting clubs, producers, small restaurants—or even large restaurants, potentially—and race clubs as low risk. I expect that they will be accommodated through the removal of the public interest assessment, but the specific detail around whether something such as a small bar that also sells packaged liquor is accommodated through the removal of the public interest assessment will be determined during the discussions on regulations.

Mr P.A. KATSAMBANIS: As I tried to point out to the minister, he is championing the reduction of regulations and red tape in the area of small bars and I welcome and support that.

Mr P. Papalia: And restaurants.

Mr P.A. KATSAMBANIS: However, it is clearly not going to flow through to the packaged-liquor sector, which, really, for the consumption of alcohol in Western Australia as a percentage is far more predominant than sales made at pubs and restaurants and small bars.

Mr P. Papalia: Yes, I concede that. I do not agree that we should liberalise that, though.

Mr P.A. KATSAMBANIS: I want to clarify a couple of other things. The minister indicated earlier—I think it was in reply to the member for South Perth’s questions, but I apologise if I have the member wrong—that he sought advice from the Australian Competition and Consumer Commission about compliance with competition law. Is the minister able to table the advice that he received from the ACCC; and, if not, why not? Separate to the ACCC, has the minister sought advice from the State Solicitor’s Office on the constitutionality of these provisions? If so, can the minister please table it; and, if not, why not?

Mr P. PAPALIA: We do not table legal advice from the State Solicitor. Yes, obviously, we have sought advice on the constitutionality of the legislation. My staff verbally sought informal advice from the Australian Competition and Consumer Commission.

Mr P.A. KATSAMBANIS: Who was the ACCC officer who gave that verbal advice or, at least, which section were they from? To me, a letter from the ACCC or a flow of correspondence from the ACCC would give me significantly more confidence than some verbal advice. In relation to not tabling advice, I note that on a number of occasions since the election last year, the Attorney General has kindly tabled the State Solicitor’s advice and other advice that he has received, and that has aided and assisted the house when considering the legislation that was before us. When the minister says that we do not table State Solicitor’s advice, is it a government policy? Is it a policy of the minister or of his department, because clearly the Attorney General was happy to table it?

Mr P. PAPALIA: Look, I am not going to table it. If the member wants to make that my policy, he can make that my policy. With respect to the intent of this legislation, I am quite happy to place on the record that we are confronting a proliferation of liquor barns through our communities at the behest of our communities. Members of our government, and I am sure opposition members, have been approached by many people who believe that there is already reasonable access to packaged liquor in their communities and that the further proliferation of very large, what they term, liquor barns is in the best interests of no-one but the people whose business model relies upon building very big liquor barns. We are responding to the community. We are empowering the community.

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A natural consequence is that we are also standing up for small business. I concede that the Liberal Party has abandoned small business and that is fine.

Several members interjected.

Mr P. PAPALIA: We have it all out on the table now. I am the Minister for Small Business standing with small business. The Liberal Party is so desperate for friends that it will befriend anyone regardless of what its communities want, and that is fine by me.

Mr P.A. KATSAMBANIS: I thank the minister for that interesting contribution that did not answer the first part of my question. Who was the ACCC officer who gave verbal advice? What section or department were they in? Did they give that verbal advice after looking at the legislation or when they received a description of it from the minister's departmental staff who contacted the ACCC?

Mr P. PAPALIA: I am not going to tell the member. Quite frankly, it is none of his business. With respect to —

Dr M.D. Nahan: It is our business.

Mr P. PAPALIA: No, it is not, because we have not sought approval from that officer to release their name. Besides, it was informal advice so it would not be binding with any legal —

Dr M.D. Nahan: What do you mean? Advice is not binding.

Mr P. PAPALIA: Exactly. It is not binding. Therefore, there is no point in telling members an individual's name. We have sought informal verbal advice. We got that advice, but our motivation resides entirely with empowering communities. That is what we are doing; we are empowering communities. The Liberal Party is advocating for Coles and Woolworths. That is a simple proposition for the public of Western Australia. Might I add, it is a simple proposition for the crossbench in the upper house.

Mr P.A. KATSAMBANIS: To round off on this matter, the minister suggests that we on this side are somewhat in cahoots with Coles and Woolworths. I made it clear in my second reading contribution—I think everyone else did too—that we are supporting small business to grow to give people the opportunity to compete with Coles and Woolworths and, hopefully, one day —

Mr P. Papalia: How is small business being impeded in any way?

Mr P.A. KATSAMBANIS: A great Western Australian company such as Bunnings started very, very small. I described the growth of Dan Murphy's empire, if you like, in my second reading contribution; he started extremely small and grew. He benefited from being able to compete against his father and then his son benefited from being able to compete against Dan Murphy—all of that is precluded here. We champion small business, but we also champion competition and consumer choice and the rights of consumers to exercise their consumer vote through their preferences. I do not say that members opposite do not share that, but I think that quite clearly we place a different priority on it.

In relation to the verbal advice, I still do not have an answer about whether the verbal advice from the officer at the ACCC, of all people, was after that person had seen these clauses or simply in response to a verbal question from the minister's office or the minister's department. We will let that be, unless the minister actually wants to give us an answer. I have very grave reservations about this clause. Listening to the debate on this clause during consideration in detail, and in the contributions I have made, I think it has raised more questions than it has answered. I put it on record that I do not think this clause is going to help Western Australian business or Western Australian consumers, and it is highly likely to end up in a protracted legal dispute to start with, at great expense to the state. It is going to discourage small business from aiming to grow and it is going to place unnecessary restrictions on responsible consumers of alcohol across the state, particularly in areas outside the hipster belt—areas that unfortunately, mainly because of geography, do not get to enjoy the small bar and walk home. They want to have packaged liquor available to them, close to home, with the greatest amount of choice and the best possible price competition.

Mr P. PAPALIA: I am going to say one thing in response to that contribution. I ask members opposite to name a suburb in the metropolitan area of Perth that is not within five kilometres of a liquor barn. I also ask them to name a suburb in the outer suburbs—where there are apparently no hipsters—where people apparently do not like small bars. Apparently only people in the centre of the city are entitled to small bars; people in the suburbs, according to the member for Hillarys, do not like small bars. Tell me one suburb that does not already —

Mr P.A. Katsambanis: I didn't say that. You're verballing me again. I said because of geography it's too hard. They've got to drive to these places.

Extract from Hansard

[ASSEMBLY — Tuesday, 20 March 2018]

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Mr P. PAPALIA: I can tell the member that I could throw a rock from the front door of my electorate office and hit three liquor stores. They are within a confined area and they are surrounded by suburbs, in Secret Harbour. Tell me the suburb, member, that does not already have two liquor barns within a range of five kilometres. Tell me that suburb, because I would like to know. The member is fighting for the right to have a proliferation of liquor barns across the state. Tell us which suburb is deprived of the right to have two liquor barns within five kilometres. Can the member for Dawesville tell us which of his suburbs does not have two liquor barns within five kilometres? I would like to know, because I do not believe that there is one. I do not believe that there is such a suburb in the city. I know members opposite are searching for a reason at the moment; it is a meandering search for a reason, and I understand that, but it is undeniable that the vast majority of suburbs in Perth are already within five kilometres of at least one liquor barn and probably two, if not more. That is a consequence of so many of them having been established in the last few years. There are 38 above 600 square metres. How many are there above 400 square metres? I have no idea. It would be an extraordinary number, potentially. None of them are going to close; not one of them will close. Nothing in this bill will impact on the God-given right of the constituents of members opposite to shop in a liquor store! Members opposite are starting to sound like the Second Amendment guys! Freedom of access to more than enough alcohol than you could ever possibly consume—that is what they want! That is fine, but we already have that in the metropolitan area. All we are trying to do is to empower communities so that they have the ability to identify that there is already a reasonable supply and that their needs as consumers can already reasonably be met.

Mr P.J. RUNDLE: I think I will give the minister a break from the intense questioning of the member for Hillarys. I have gone on record with my concerns about the survival of small liquor stores and with my regional hat on I would like some clarity from the minister in relation to prescribed distances in regional cities. I think it is appropriate that Hon Colin Holt, member for South West Region, is in the gallery. I would like the minister's opinion of the likes of Bunbury, Albany and Geraldton and how he sees the prescribed distance test working there.

Mr P. PAPALIA: I thank the member for that question. That is why that proposed section enables different prescribed distances to be determined in different locations—so that we can accommodate the regions and ensure that whatever criteria are applied to specific regional areas are suitable for the purposes of empowering those communities to ensure that they are not oversupplied with alcohol while the needs of consumers for reasonable access to packaged liquor are met. That will not stop people from applying for a liquor licence in the event that they are not already deemed by the director to be met, but it will be determined with respect to each of the communities that the member has described, through the consultation process. I do not intend to drive it here by making an observation, because I would not be clear enough on the specific circumstances associated with each of those towns or cities.

Mr P.J. RUNDLE: Just one more, minister, with more of a suburban hat on. Is there a population test? We have heard from the member for Maylands about 17 stores in the space of four kilometres. Let us say we compare that with Willetton or wherever, which might have 12 in the space of four kilometres —

Dr M.D. Nahan: One.

Mr P.J. RUNDLE: Thanks, member.

Is there a combination of population as well as density of liquor stores to be considered in your regulations?

Mr P. PAPALIA: The applicable subsection is the one regarding consumers' requirements being reasonably met. That would always apply with respect to the determination by the director and whether or not consumers' supply requirements can be reasonably met. That might shift, which is why we wanted it in regulations. If density concentrates and becomes higher in a specific geographical area, one might make the case that there could be greater supply needed to meet the reasonable demands of that population. I believe that proposed subsection meets the requirement by the nature of its wording.

Mrs L.M. HARVEY: Just a quick question on this one. From my days as Minister for Police, I know that there are some significant alcohol-related issues in a number of particular regional communities and areas. With regard to this regulation, would it be possible to have a prescribed distance pretty much encompass the entire boundary of one of these regional towns? In a town like Broome, where there have been issues from time to time, could the prescribed distance be from a central alcohol retail outlet in the town and extend to the furthestmost point of development and pretty much preclude the development of any other stores in that zone? I expect there would be some towns that likely would welcome this type of regulation—towns that are besieged with alcohol-related injuries and harm. For example, Geraldton, Kalgoorlie and Esperance could be the same, where we could end up with a prescribed distance that could pretty much encompass the entire footprint of the town and preclude any big-box retailer from entering into that space.

Mr P. PAPALIA: That issue would not be addressed through this part of the Liquor Control Act. Section 64 enables a restriction on alcohol within a prescribed area. Section 175 enables the minister, at the request of the

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community, to effectively ban alcohol within a prescribed area. These amendments are adjusting some of the powers associated with that type of response through targeting sly groggers and enabling the reach to extend beyond those prescribed areas. The communities to which the member mostly refers under section 64 would be bigger towns like Kununurra or Broome. A ban comes under section 175 and tends to involve smaller communities like Kalumburu, where we recently banned alcohol at the request of the community. I do not view this as being the response to that issue. This would be a different matter. In the event that we had enacted a ban under section 175, there would not be any liquor stores in that community—they would not be able to operate, because that is already precluded. What we are doing through other parts of this amendment is to empower the police to reach beyond those prescribed areas and intercept alcohol as people attempt to bring it into the region from outside. I would not see this proposed section applying to that sort of situation.

Mr S.K. L'ESTRANGE: I refer to proposed section 36B(5), which reads in part —

Regulations made for the purposes of the definition of *prescribed distance* in subsection (1) ...

The minister said in an earlier answer to the member for Hillarys that prescribing different distances in relation to packaged-liquor premises in different areas of the state relates only to rural and regional Western Australia. Can the minister confirm that it definitely does not apply to metropolitan Perth?

Mr P. PAPALIA: I thought I had already stated that. For people in the future who will potentially wish to trace the intent of the bill and the amendments by reading through *Hansard*, I indicated earlier and will reiterate that it is not our intention to apply different prescribed distances within the metropolitan area.

Mr S.K. L'ESTRANGE: If the population of people living in the City of Perth were to increase substantially over the next five to 10 years—let us say, hypothetically, if it were to double—would this proposed section still apply?

Mr P. PAPALIA: I imagine that any government of the day would respond to such an enormous growth in population over such a short time frame and would, as necessary, apply rigour to amend the legislation to accommodate that challenge. I do not think it is a particularly relevant question or hypothetical example. If we snapped our fingers and the population doubled overnight, then, yes, the law would obviously apply. However, I doubt that a future government would be constrained in any way by what we are doing here, because most governments respond to such things as the doubling of the population in five years.

Mr S.K. L'ESTRANGE: What the minister is basically saying is that if population density were to increase in metropolitan Perth, proposed section 36B(5) would not apply because it applies only to the regions. Does the minister agree, then, that this is clearly a protectionist policy for existing boxed retailers in the City of Perth?

Mr P. PAPALIA: No.

Mr J.E. McGRATH: The minister talks about the aim of restricting the number of what we are calling big barns, and giving communities an opportunity to have some say in it. Can the minister give us any information on the number of applications for big barn liquor stores in Western Australia that are now going through the process?

Mr P. PAPALIA: No. We are not responding to the proponents of liquor barns. The motivation is not to respond to those proponents; the motivation is to respond to the communities that have brought to our attention their concerns regarding the proliferation of such outlets. That has been the motivation. I do not know how many are under consideration or have been submitted at this stage.

Mr J.E. McGRATH: Surely the minister's department would be able to provide information on how many applications have been received. This legislation is being portrayed as something that will have a huge impact on our community. The government of the day wants to protect our communities. Those communities are saying that we have an oversupply of these liquor barns, so we need to take some action. It would be enlightening for the Parliament to have some idea of how many pending applications are out there. I know of two—one in Maylands and one in my electorate at the Como Hotel—but I do not know of any others. Is there a big bank-up of applications for these stores in the metropolitan area, the country or wherever? It would be good information for us to get while we are dealing with this legislation.

Mr P. PAPALIA: The number that might be under consideration and the number that might have been submitted will not impact on our intent to pursue this legislation. I have repeatedly told the member that there are 38 premises in Western Australia above 600 square metres in size. I have no idea how many there are between 400 and 600 square metres, but I do know that there are 16 premises over 1 000 square metres. The government is responding to the community's desire to stem the proliferation of these stores. If the member wants to ask Coles and Woolworths how many applications they have running, he can do that; I am sure he is closer to them than I am.

Mr J.E. McGRATH: The minister is the minister; I would have thought that he would have that sort of information. His staff would be able to find that out very quickly. Existing applicants made their applications under the current law and regulations. When these amendments go through the Parliament—I assume they will—what will happen to those applicants who made an application under the existing —

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Mr P. Papalia: Are we talking about this clause now?

Mr J.E. McGRATH: Yes; clause 18.

Mr P. Papalia: Where does that relate to this clause?

Mr J.E. McGRATH: There does not seem to be anything in this proposed section to provide existing applicants with any right of appeal. I do not know whether there is any reference to a right of appeal in the amendments. The government is bringing in changes. When the changes take effect, someone will already have an application sitting there to be looked at by the director general, who will then have a different set of guidelines when he makes his judgement on whether that application will be successful. What happens to that applicant? Can they go away and come back? How is that going to be treated?

Mr P. PAPALIA: I will find out for the member how many are in train or being considered. I will ask whether we can do that, bearing in mind that some might have moved on from the department and be before the commission, in which case I may not. With respect to the ones before the department and the director, I can get that number for the member.

The status of applications before the director at the time this legislation passes, is enacted, receives royal assent and the like, will be determined by the director. If at that point they have not yet been considered, and the act comes into force, and clearly if they do not meet the criteria or if they are subject to the proposed section that we are discussing now, and they now exceed the floor space or they are within the range within which it is prescribed there shall be no other building of that size, then they would be rejected by the director, I imagine, but that would be the determination of the director, not me. With respect to what would then happen to their application if they were to be rejected, I am advised that they would have to meet that first criterion. If they fall within the first criterion, and their application is rejected for some other reason, as determined by the director, then they could appeal to the commissioner, but if they fail to clear the hurdle of the criteria that we have been discussing, they would be rejected.

Mr J.E. McGRATH: Would the application fee, or whatever fees they have incurred in making that application, be refunded?

Mr P. PAPALIA: If that were to occur now, their fee would not be reimbursed, but we can ask that the director consider it, noting that we are changing the criteria. At this stage, if it were under the current circumstance and the current law, they would not have the fees refunded, because it is a fee for service.

Dr M.D. NAHAN: I want to give a practical example and get some feedback. In my electorate there are two large liquor stores. One is a Dan Murphy's and the other is a First Choice. The Dan Murphy's is in Stockland Bull Creek, a shopping centre at the intersection of South Street and Kwinana Freeway. Across a kitty-corner from that is the Murdoch precinct, which, according to the government's material, will shortly have 35 000 people working in it, educational facilities for 44 000—Murdoch University, like all the universities, is building a large amount of accommodation on campus to house students—and 22 000 residences. It is going to have a very large intensification of people working and living in that area. That is within the five-kilometre catchment of that Dan Murphy's. The minister is saying that that Dan Murphy's, under his legislation, will have a monopoly in providing big-barn liquor services to all those people. That is what the minister is saying. Is that not correct?

Mr P. PAPALIA: I would have to check the distance, once it is prescribed, and the square metreage, once that is prescribed, and determine whether those two things conflict with the clauses that we have been discussing. Beyond that, the suggestion is that somehow that will be the only packaged-liquor outlet, because it is over there in Stockland, and that is the closest one to Murdoch, and therefore it is going to get some competitive advantage. I would question the member's logic, because I would suggest that someone might come and make an application for something smaller than whatever the prescribed floor space is and establish themselves right smack in the middle of the 40 000 people to whom the member refers, who will not instantly be there, but the area will grow over time. Beyond that there might be multiple outlets, because we might find that there might be variants of the different types of licences available in such a large and densely populated or densely occupied area, as described in proposed subsection (2).

Dr M.D. NAHAN: The areas in metropolitan Perth are going to be subject to a single prescribed distance. We understand that that will be five kilometres. Stockland Bull Creek is within three kilometres of the Murdoch activity precinct. This is not a hypothetical; this is the reality. Three blocks have been sold, and apartments will shortly go up. I understand that under the government's Metronet policy, it is going to build these centres all around the metropolitan area. I assume that over the next four years the government will get on and meet the Metronet targets that it has stated for itself. Obviously, other densification and infill projects will be built around Perth that will substantially enhance the densities and increase the population from the existing level. My concern

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is that the government is going to give the existing owners of large barn facilities—sure, the government will allow smaller ones to come in—access to optimal locations. There will not be a shopping centre in the Murdoch precinct. There might be a few retail outlets, but there is not a shopping centre—I have looked at the zoning—and therefore Stockland Bull Creek will service it. My point here is, why would the government give Dan Murphy's at Bull Creek a monopoly of that type of big-barn liquor service over that area? Why would it not have some kind of flexibility in the zoning? There is usually some flexibility in zoning, but the minister has told us that there will be one geographic dimension for the area, under the act, and at the same time, in this case, three kilometres down the road from Bull Creek, the government is building a major densification of not only job creation, with a hospital and a university, but also 22 000 residences, and the developments are underway right now. The government is going to give a monopoly to Dan Murphy's at Bull Creek. Why would it do that? The minister might not agree with it, but the people from Dan Murphy's will have smiles all over their faces. I do not know who owns the land under that outlet—it might be Stockland, I do not know—but whoever owns the land will have a monopoly, under the government's act at least, to provide those big-barn services to an additional 44 000 people in the area. I am just trying to understand why the government would do that.

Mr P. PAPALIA: We are not doing that.

Dr M.D. Nahan: Well, you are.

Mr P. PAPALIA: No, we are not, because with respect to one-dimensional thinking, a three-kilometre circle from the members particular Dan Murphy's reaches out to Murdoch. If we hit Murdoch and extend another three kilometres to the north, there is a First Choice in Cockburn, on Jandakot Road, within the three-kilometre circle.

Dr M.D. Nahan: No, there's not.

Mr P. PAPALIA: Yes there is; there is a liquor barn—I am trying to remember the name of the road where the Minister for Transport is trying to build a big bridge across the Kwinana Freeway. Heading towards the east, on the left-hand side, there is a First Choice liquor barn. I drive past it quite regularly on my way to see my mum down south, where I go onto the freeway. That is within the same sort of range as the Dan Murphy's on the other side of the proposed densification that the member is referring to. That means that there is choice. There is a First Choice and there is a Dan Murphy's, and they are both within five kilometres of this particular site. I would speculate that if we go the other way, down the road to the east, and we go to Bull Creek, we might find another one. If we go west, towards Fremantle, and we do not get quite to Fremantle because we do not have to go that far, we will find one within three kilometres. There is a shopping centre just down the road from Murdoch University, heading towards the electorate of the member for Fremantle on the right-hand side as we come up to Stock Road—Kardinya shopping centre. Is there a liquor barn in Kardinya shopping centre? I guess there might be. The member might find, within that five-kilometre circle of the densification of people, whose right to the overconsumption of alcohol the member is trying to defend, that there are four liquor barns, at least. Remember that, beyond liquor barns, I am talking about only 38 above 600 square metres. Who knows how many there are over 400 square metres within that five-kilometre circle? Do not think one-dimensionally, Leader of the Opposition. If he thinks at least two-dimensionally, he will find that a five-kilometre circle extends in all directions around the particular site that he is referring to. I have no doubt that a consumer of alcohol will have more than adequate supply and more than reasonable access to packaged liquor. Beyond that, we are talking about only liquor barns. As I indicated before, there will be no constraint on someone saying, as I indicated before, to planning authorities—a council—“There's about to be a bigger population here and there's bound to be people looking to recreate and enjoy hospitality in this location. Is it possible for me to establish a restaurant, a small bar, potentially even a tavern?” Any number of those types of facilities might be authorised under the legislation and regulations we are proposing. We are not denying anybody the right to reasonable access to packaged liquor. What we are doing is stopping Dan Murphy's or First Choice Liquor or any other liquor barn from establishing on a particular site because there are already enough in the area.

Dr M.D. NAHAN: The distance is not three kilometres; it is actually 11.

Mr P. Papalia: It depends whether the crow is flying that way or you're driving!

Dr M.D. NAHAN: It is along the Kwinana Freeway. The minister is basically saying in his anecdotal information—he is putting into law—that there is enough access to existing liquor outlets in the area I represent and that is based on the essential element that liquor requirements can reasonably be met by existing packaged-liquor premises. Please tell me: what is the criteria for reasonably met? We are here, regulating. I suppose the director of Liquor Licensing will determine that, but the minister must provide guidance; he cannot just hand it to somebody outside Parliament to determine. He is putting into law something that says that it cannot be reasonably met. He has to say why—on what basis? What is reasonable and what are some of the criterion that the minister thinks the director of Liquor Licensing will use to justify whether there should be another large packaged-liquor outlet?

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Mr P. PAPALIA: Leader of the Opposition, I do not have to give you what I think, because it is a determination for the director of Liquor Licensing in exactly the same fashion as is applied as a criterion. The reasonableness of access to packaged liquor is determined under the current laws by the director of Liquor Licensing. All we are doing is applying additional criteria. The reasonableness factor—reasonable access to packaged liquor; that is, whether the supply to a consumer can be reasonably met—will be a determination of the director of Liquor Licensing.

Dr M.D. NAHAN: The minister is introducing new criteria about whether there should be additional limits. The minister is applying a new needs test. He might not want to call it that, and he did not want to call it that because in 2006 his leader strongly argued against it. In fact, he moved it. The minister is putting in this needs test and it is going to geographically limit the competition between large packaged-liquor outlets. We want to know upon what basis that is reasonable. It can be given over to the director of Liquor Licensing, but he is the minister and we are the regulators, and we want to know some of the criteria —

Mr P. Papalia interjected.

Dr M.D. NAHAN: No; he does not just make it up. If the minister is including a regulation like this, he should give some indication of the criterion he wants to apply. The minister cannot just handball it to the director and let him do it. There has to be some basis for it.

Mr P. PAPALIA: Leader of the Opposition, the director of Liquor Licensing makes such determinations right now.

Dr M.D. Nahan: Not in this.

Mr P. PAPALIA: It may be a different law, but the director of Liquor Licensing conducts an independent process right now to determine whether there is reasonable access to any type of liquor outlet in accordance with current legislation. The director makes that determination. That is his role. It is an independent process—*independent of us*. We are applying a different set of criteria; we are amending the legislation. The director will then craft his responses accordingly.

Dr M.D. NAHAN: If he applies it now, the minister should be able to give us a whole range of examples of how he applies it to the laws that exist today. If we talk to an adviser in this area, he or she will be able to tell us that, given these conditions, this is what the director of Liquor Licensing does when determining what is reasonable. That is good. That is the existing law. We are asking for the minister's views on what criteria reasonably would apply to this proposed new section. We need some guidance on that. What does that mean? What is reasonable? Is it access to within metres of a certain packaged-liquor outlet? Is it access to large outlets? What does the minister mean? What is the criteria he would use?

Mr P. PAPALIA: The objects of the Liquor Licensing Act provide some guidance to the director. For things such as that, the act states —

- (1) The primary objects of this Act are —
 - (a) to regulate the sale, supply and consumption of liquor; and
 - (b) to minimise harm or ill-health caused to people, or any group of people, due to the use of liquor; and
 - (c) to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.

It provides pretty reasonable guidance. The director of Liquor Licensing conducts such deliberations right now under the same legislation, which is being slightly amended in this case. He or she will apply themselves seeking guidance from the primary objects of the act and applying the criteria that we are passing and ultimately arrive at a determination on what is reasonable supply or access to packaged liquor.

Dr M.D. NAHAN: This is a new issue—new to the act. That is why it is being included here. It basically provides that someone cannot open another new packaged outlet unless the director of Liquor Licensing thinks that supply cannot be met by existing outlets. What does the minister mean by “met”? Is it access to alcohol or access at night? Is it a variety? There are many dimensions to what consumers want from a packaged-liquor outlet. If we are putting it in this new section, the minister should have given thought to what “met” means. If the director of Liquor Licensing does not make this determination by himself or herself, but because of feedback from the community, whatever it is, there must be some guidance for that also. What does the minister mean by liquor requirements cannot be reasonably met by the existing ones? Is it based on number per capita, a variety, the volume or whether they are open at night? What does the minister mean?

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Mr P. PAPALIA: Right now the director of Liquor Licensing applies the act by seeking guidance from the objects of the act. As I said, the primary objects of the act are —

- (a) to regulate the sale, supply and consumption of liquor; and
- (b) to minimise harm or ill-health caused to people, or any group of people, due to the use of liquor; and
- (c) to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.

The director does all that without me specifying the meanings of each of those words and the specific extent to which I expect the director to analyse, interpret or apply any of those words. The director does that right now. To ask that they, therefore, apply not a different set of criteria but a related set and make the determination of whether an individual consumer's packaged-liquor requirements can reasonably be met by existing packaged-liquor premises is not a big stretch. I am comfortable that the director of Liquor Licensing has the capacity, and I am convinced that whoever ultimately serves in that role will have the capacity, to make such determinations with the guidance they currently have. Should they need further guidance or specific insight into our intent, they can read the *Hansard* and it will become self-evident. They will be able to therefore —

Several members interjected.

Mr P. PAPALIA: — solve their insomnia problems, but also apply the law.

Mrs L.M. Harvey: You are the elected member, not the director.

Mr P. PAPALIA: Member, seriously, they do it right now. It is not as though this is any great stretch. It is not a significant shift with respect to the determination of reasonableness of supply. We are not talking about the changes to the prescribed distances and floor space. Those are specific things, and we are being very clear about them. They will be determined and arrived at through deliberations and consultation. But for this specific proposed subsection I think the director is capable of making a determination based on the guidance that is received through what is written there, but also through the objects of the act and any debate they wish to assess.

Dr M.D. NAHAN: Our discussion on this has been long and wideranging. What I take away from it—could the minister comment on this?—is that the minister thinks that in most areas in the metropolitan region there are enough existing large packaged-liquor outlets, and therefore if the director of Liquor Licensing reads this debate, he or she will decide that enough is enough. The minister has made it clear in our debate about Stockland Bull Creek shopping centre that there are enough around there. Is that the minister's view? Enough is enough, unless we go to greenfield areas where no-one is living and there is not an existing one? Enough is enough in most of the metropolitan areas, according to the minister's view.

Mr P. PAPALIA: My response to the member's Stockland and Murdoch precinct scenario was just to point out the fact that in that particular site there are many packaged-liquor outlets the member is not considering. As to the suggestion that we might somehow be providing a monopoly or depriving some community of their God-given right to access a liquor barn, my intent was to demonstrate that I do not think that is a legitimate argument. I do not think it is a really reasonable—speaking of the word “reasonable”—approach to take to the proposed subsection we are discussing.

With respect to whether there are enough in the metropolitan area, that is irrelevant. We are not talking about a number in the metropolitan area. The shape of the constraints on square metreage and within geographical range of other such outlets will be determined through consultation in the crafting of the regulations. That has not yet been determined, but it will be done in consultation with everyone who will be impacted and affected by the changes. It will enable interested parties to make their contribution. Clearly, I would not say what the member claimed I was saying. That is not what I would say. We are enabling and empowering communities with an avenue to identify that there is already a reasonable supply of alcohol, and if that is the case as determined by the director under the amended act, the proponents will be prevented from making an application or, if they are smaller than those particular floor sizes, of course they will still be subject to the determination by the director as to whether there is reasonable access to packaged-liquor outlets.

Dr M.D. NAHAN: I know the member for Maylands had some issues with—the minister has stated this—the proliferation of packaged-liquor outlets in general, and specifically a large liquor barn, but in my area I have not received a single complaint about large or small ones. A new First Choice Liquor store has opened up, replacing an existing one. But the minister will apply these restrictions that have been gleaned from concerns in Maylands to my electorate, and I want to know the basis for that. Has the minister received complaints more generally about their proliferation? Is the minister going to say to different areas, “It's up to you to choose. If you don't want one,

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like Maylands doesn't, great"? I understand South Perth has some problems. But the minister has not done that. He has basically said, "We're going to take a model, based on certain areas' complaints." Maylands is going through a huge densification in terms of apartments and whatnot; it is really a rapidly changing place. But the minister is going to apply it in my area, where there have not been any complaints. I do not know whether there is a proposal for another big barn. I have no idea; I have not heard about one. But there could be, and I do not think anybody would complain if another one opened at, let us say, Southlands Boulevard. I do not think there would be a complaint. Competition is good. But the minister is saying my community cannot have that because of some fixed restrictions. There is a whole range of smaller ones out there. They actually serve a different niche than the big barns. The minister says there could be small bars and whatnot; I hope small bars do spring up in the suburbs—I think they will at Murdoch precinct—but that is a completely different venue and service. People go there to drink wine in most cases, I guess, but people go to Dan Murphy's to get their bulk alcohol for Christmas, Easter and longer periods. If people are going to a party, they buy a bottle of wine or a carton of beer, I guess, and they go to the small ones. They are different services.

Ms L.L. Baker: That's not right.

Dr M.D. NAHAN: Yes, it is. So the minister has gone out and said that a problem in Maylands is a problem for everyone. What is the basis for the minister's decision to, effectively, not allow any large liquor outlets in suburbs from which the minister has not received a single complaint? There are plenty of small liquor outlets operating, but they serve a completely different niche to the large ones. I just want to understand why the minister is imposing these restrictions on my electorate and my consumers.

Mr P. PAPALIA: Fundamentally, member, it comes down to the fact that we are talking about alcohol here, not fruit and veg. We are not talking about tennis balls, we are not talking about shoes, we are not talking about shirts, trousers, underwear; we are talking about alcohol. I think in the course of someone's contribution during the second reading debate—it may have been the member for Hillarys—they talked about the regulation of alcohol since the first settlers arrived. There was someone anyway —

Mr P.A. Katsambanis: No, it wasn't me.

Mr P. PAPALIA: Someone had done some research and referred to the very first days of the Swan River settlement and needing to get a ticket every six months, I think it was, to keep selling —

Several members interjected.

Mr P. PAPALIA: Was it the member for Burns Beach? Okay. I found that an interesting story.

Alcohol has been regulated ever since we were colonised, and there is no need to suspect that we are about to stop regulating it, unless that is what the opposition is advocating. If the party of conservatism wants to advocate for the complete deregulation of alcohol, its members should do it down at the Peppermint Grove Liberal branch and see how they go. Go and test it out in the Peppermint Grove branch, I say. Do not come in here and throw around suggestions that somehow we are constraining consumers' rights to access liquor barns. Seriously? Unless it is right next door, people will drive there. They are mostly within five kilometres. Throughout the city and the metropolitan area one can be found within five kays.

Dr M.D. Nahan: They compete with each other.

Mr P. PAPALIA: We would have to work hard. The Leader of the Opposition now wants two within five kilometres. Where does it end? How many liquor barns is the Liberal Party arguing for within a five-kilometre radius? How many liquor barns would the Liberal Party be satisfied with? What number within a five-kilometre radius satisfies the Liberal Party of Western Australia?

Mr P.A. Katsambanis interjected.

Mr P. PAPALIA: Are they allowed to be near a school? Not if we are in the member for Scarborough's electorate.

The ACTING SPEAKER (Mr R.S. Love): Minister, come back to the point.

Mr P. PAPALIA: I am entirely on the point, Chair. I was asked: do I believe there are enough liquor barns in the metropolitan area? It is irrelevant because it is not what we are doing here. We are providing the director of Liquor Licensing with some guidelines to enable that person to determine whether there should be another liquor barn within a certain geographical area. That is what we are deciding with this proposed section.

Some of the discussion around this proposed section has wandered far and wide. I think we have come to the point at which we understand where the WA Liberal Party lands. It lands against small business. That is undeniable. We understand that and I have conceded that from the start. I am not disputing that. Members opposite are against small business. Beyond that, the Liberal Party of Western Australia has not yet set its criteria for how many liquor

Extract from Hansard

[ASSEMBLY — Tuesday, 20 March 2018]

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barns it stands for within a five-kilometre radius. That is something the people of Western Australia might be interested in. How many would members opposite be satisfied with? Members opposite ask me questions about density. I want to know how many liquor barns they would be happy with. Do we have to concede that there should be five within five kilometres? Does the member for Hillarys know how many packaged-liquor outlets he has in his electorate? He has seven packaged-liquor outlets within his electorate. How many does the member for South Perth have?

Mr J.E. McGrath: About 10.

Mr P. PAPALIA: He probably has a lot more, I would contest, with hotels et cetera

The ACTING SPEAKER: We are degenerating into an argument between various members and the minister. If the minister can respond in silence, you can have another go.

Mrs L.M. Harvey: We ask the questions.

Mr P. PAPALIA: You ask the questions! I have done resistance to interrogation training; members opposite have no chance! I think we will ultimately disagree on this proposed section because I concede members opposite have a different point of view and I will not relinquish our intent, which is to provide the communities of Western Australia with the power to stand up and say they have enough packaged-liquor outlets.

Dr M.D. NAHAN: We are trying to find some logic for this process. We suspect it is the minister trying to limit competition. He says the government is doing this because it is liquor and it has always been regulated. Fair enough; it has to a great extent, and at some time it was prohibited. On the one hand, the minister is seeking to significantly deregulate access to alcohol. That is part of the intent of this legislation. Indeed, since Mark McGowan's legislation of 2006, 118 small bar licences have been issued, providing increased capacity for 10 000 customers a year. That is a very large increase—very big liberalisation. I understand that by eliminating the interest test, he will allow further liberalisation. On the other hand, the government is significantly—we support it—liberalising access to one section of the alcohol industry.

Mr P. Papalia: The low-risk section.

Dr M.D. NAHAN: I am not sure whether it is more risky to buy liquor at a small bar or a pub than to buy bottled wine at Dan Murphy's. The minister has not made that case.

Mr P. Papalia: I don't have to; we've got the numbers.

Dr M.D. NAHAN: In one instance, someone can go to a small bar, and if they have to drive, that is an issue.

Several members interjected.

The ACTING SPEAKER: Ministers, please.

Dr M.D. NAHAN: Excuse me!

The ACTING SPEAKER: Just keep going, Leader of the Opposition; it is up to him whether he listens.

Mr D.A. Templeman interjected.

Dr M.D. NAHAN: Excuse me, Acting Speaker.

The ACTING SPEAKER: Leader of the House, you are not in your chair and you will not speak so loudly that you can be heard right across the chamber.

Dr M.D. NAHAN: I am not speaking to you.

Mr P. Papalia: He was talking to me, not you. I was seeking advice about strategy.

Dr M.D. NAHAN: The minister indicated that he was unsure the packaged-liquor outlet section of the industry would lower harm and he would lower the private interest test. He is implying that large liquor barns are a specific and higher risk to the community than smaller package outlets and small bars. Can he describe the evidence for that?

Mr P. PAPALIA: As I indicated a moment ago, we will not agree on this. I have a motivation; it is different from that of the Leader of the Opposition. Our intent is clear. If members opposite do not agree with it, I think we might end up dividing on this clause. Unless they have an amendment or something of that nature, we are not contributing any more through this discussion. I will not agree with the Leader of the Opposition's suggestion that the sale of liquor should be deregulated and provided in an unfettered manner to the population of Western Australia. We have always made the observation that the amendment is about a full spectrum of response. At one end is liberalisation and at the other end is harm minimisation. There is a bit of a balance, and ultimately, members opposite will not agree with this clause.

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Mr J.E. McGRATH: I will speak on a point to the minister and then the member for Dawesville has a question. My problem is that I have an issue with what the minister says are the objectives of what he is trying to achieve. The minister says this is all about enabling communities to stand up against big-barn liquor stores. As far as I know, there are two communities—the community of Maylands, represented by the member for Maylands, and my community with a group that is very strongly against a Woolworths big barn coming into the Como Hotel site, which Woolworths does. I have made submissions opposing the big barn, not because of the supply of alcohol but based on the fact that it is a site on the busy intersection of Canning Highway and South Terrace. I think it will be very problematic with cars getting in and out. I want to know where other communities are that the minister will enable. He will not enable them at all. He is seeking to create a restriction, but is saying we will help by allowing big barns to be established every five kays. The community will not make that decision; the government will make it. I agree with the minister that if the people of a local community got together and said, “We’ve got enough liquor stores; we don’t want any more”, and came to him as the government, that would be fine. But I do not have any evidence that people throughout the suburbs are telling the government that they do not want any more big liquor stores.

Mr P. Papalia: I am not responding. I think we have dealt with this already.

Mr P.A. KATSAMBANIS: I do not think the minister meant this in a nasty way. He said there were seven packaged-liquor barns, but there are eight. Four of the eight are owned by Woolworths and one of them is owned by Coles.

Mr P. Papalia: I know, I had the list; I did not count them properly.

Mr P.A. KATSAMBANIS: There are two packaged-liquor providers attached to local hotels—Craigie Tavern and the North Shore Tavern—and one privately run Celebrations liquor store in the Hillarys shopping centre, which is a very good liquor store. All of them are good; they are all responsibly run.

Since the minister keeps raising the issue of who does not have access to a liquor barn, none of those outlets are anywhere near the size of 400 square metres. They service the local area. In fact, many parts of my electorate—from Hillarys through to Kallaroo and perhaps into Craigie—do not have access to a store bigger than 400 square metres within five kilometres, the nearest being First Choice Liquor in Duncraig, which is about 5.4 kilometres from the marina and probably close to seven kilometres from Kallaroo.

Mr P. Papalia: What about Karrinyup?

Mr P.A. KATSAMBANIS: Karrinyup is further away from Hillarys than Duncraig. As I said, people in Padbury and in the eastern parts of Sorrento would be within the five-kilometre limit of First Choice Liquor. But the fact is that this makes a mockery of these restrictions. If someone had a proposal to set up a large liquor barn, whether it be Dan Murphy’s, First Choice Liquor or a privateer who wants to go into competition with them, and they meet the planning requirements, they could set one up in Westfield Whitford City. They could set one up next door to the existing BWS in Kallaroo. They could set one up at Hillarys Boat Harbour if they met the planning requirements. I am not necessarily sure that that would be a good commercial choice, because as an old publican once explained to me, “Seagulls don’t drink” and I think that applies just as much to hotels as it does to packaged liquor. That is one example in which the five-kilometre limit could easily be met, especially at Whitford City. I have no problem if someone wanted to set it up, but the minister has challenged us to find areas in the metropolitan area in which a five-kilometre radius would apply. He did that about 20 minutes ago.

Mr P. Papalia: I know! Why are you doing this now? What is the point?

Mr P.A. KATSAMBANIS: The point is: why should someone need an argument that an area is not well serviced for liquor to set that up, be it a small or big store? I think my community is very well serviced. Yes, they might have to drive to Duncraig, the Dan Murphy’s in Balga, which a lot of people visit, or the one in Joondalup or Currabine. That is all well and good. When the minister throws out those challenges, he should first do his maths before he refers to some parts of the southern suburbs —

Mr P. Papalia: Member, you are being pedantic.

Mr P.A. KATSAMBANIS: I might be being pedantic, but it proves the point that these arbitrary limits, be they as the crow flies, as a person drives a car or walks along the paths or whatever, cause more harm than good. I do not necessarily think that this proposed section will fix anything to give comfort to those people who are legitimately aggrieved by the poor behaviour of people consuming alcohol in their local area. It will set up unnecessary restrictions that large corporations will drive trucks through. They already have.

Mr Z.R.F. KIRKUP: I have a couple of questions for the minister. If I have listened to the minister correctly in the last hour and a half, am I right to understand that the purpose of this amendment is to stop the prevalence of big barn outlets, in effect?

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Mr P. Papalia: It is to empower communities to be able to say that within their community, they have a reasonable supply of packaged liquor.

Mr Z.R.F. KIRKUP: Sure. The minister is quite right. The quote from before was to enable and empower local communities.

I am curious to understand this part of the process. In the Maylands example that we have been citing and a number of other ones, all this could have been largely resolved through planning mechanisms. Indeed, issues in the State Administrative Tribunal and now the Supreme Court have been resolved through a planning mechanism. Is there any particular reason that the government did not proceed with that as an option given that most planning legislation in Western Australia does exactly that—it enables communities to decide what they want in their own community?

Mr P. PAPALIA: As I understand it, with regards to the Maylands example, for instance, that has not been the case. The community was not able to seek the opportunity to prevent a liquor barn from being built in their area through planning mechanisms alone. I understand that the determination was made in their favour by the director of Liquor Licensing and it is currently being appealed before the commission.

Mr Z.R.F. KIRKUP: I appreciate that, minister. I wish that the member for Maylands was here so that she could yell across the chamber, but I thought that the fresh appeal was based on the fact that the local government had moved the town planning scheme that barred a liquor outlet.

Mr P. Papalia: I do not know the details.

Mr Z.R.F. KIRKUP: I suppose that is where I am going. I am questioning, together with the opposition's concerns, why we do not look at a planning mechanism.

Mr P. PAPALIA: We are looking at both. I am sure that the Minister for Planning is cognisant of what we are doing here and our intent in her deliberations around the planning act.

Mr Z.R.F. KIRKUP: I note the restrictions that have been put in the bill. I appreciate the work that has been done this evening and up to this point, but is there anything in the bill that will stop any outlet, large or small, from delivering within an exclusion zone? I will use the Maylands example.

Mr P. Papalia: No, there is not.

Mr Z.R.F. KIRKUP: Does it cause the government concern that there is nothing like that? Is the government comfortable that liquor can be delivered from, say, a Dan Murphy's or the like?

Mr P. PAPALIA: No, member. As I think we confirmed, people generally drive to these places unless they are within walking distance. Most people seek to access them by driving, so they will be travelling. With respect to our concerns about the delivery of alcohol, it relates to ensuring that whoever orders and receives the alcohol is 18. That is our focus.

Mr Z.R.F. KIRKUP: I appreciate that. Given that we in the Liberal Party understand supply and demand a bit more, we think that the restriction of a big barn outlet might result in a rise in the prevalence of internet deliveries, but we will see how that bears out. As part of the consultation process for this amendment, I am curious to understand whether the minister engaged in any consumer consultation; and, if so, what was the result of that?

Mr P. PAPALIA: If the member is talking about consumer surveys or something of that nature, no. But if the member is talking about consulting the community, clearly we did. We talked to the Western Australian Local Government Association representing local governments. We talked to various peak bodies representing the businesses that will be impacted by this activity and, of course, we talked to advocates for harm minimisation. We also talked to a significant number of smaller peak bodies that represent other players in the liquor consumption space.

Mrs L.M. HARVEY: I know that the minister is frustrated with us for labouring the point, but the frustration is felt on our side too, because the minister is not taking on the issue that we are raising. It is basic retail economics that a bigger floor space means that retailers can get economies of scale, they can get a higher throughput through their business using fewer staff, they can purchase in larger amounts, which gives a bulk discount opportunity with the suppliers of alcohol or whatever product goes into a store, and they gain an advantage over small retailers. If there is an exclusion zone around a large retailer of any sort, be it liquor or anything else—I understand that alcohol is a specific case—as a retailer, given that that is my background, I would look at the areas of high growth, for instance, the Murdoch centre, and identify areas that fit within the prescribed size that has been nominated. We would see a proliferation of smaller-sized Dan Murphy's and Liquorland within a precinct, but there would still be the market dominance of the big two and the smaller stores would be able to use their bulk purchasing buying power through the larger retailers to provide those goods cheaper. The minister is saying that the intent of this is to stop the big-box liquor barns, and then there was an argument about protecting small business.

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Mr P. Papalia: I said that is a natural outcome.

Mrs L.M. HARVEY: The minister said to us that we are not supporting small business.

Mr P. Papalia: I did say that.

Mrs L.M. HARVEY: If the minister has said that by not supporting this clause, we are not supporting small business, clearly he is protecting small business by putting in this clause. He cannot have it both ways.

Mr P. Papalia: I can. I can have it as many ways as I want.

Mrs L.M. HARVEY: He cannot accuse us of being against small business and then deny that this protects small business. I understand the intent of that. I am a small business owner. I would love it if the government made it illegal for any retailer in my area of retail to open a store with a floor size bigger than my store's floor size. I would know then that my store had the biggest footprint. I could buy goods at the highest volume. I would get more foot traffic through my store. My average overheads would be less. I could employ fewer staff to run the store. I would have the advantages of economies of scale and have the best prices. If we put a circle around that store and said that no-one can come within that vicinity—guess what? I would win. I would get market dominance. Nobody could get within cooee of me. I would be the biggest shot. I would have the biggest buying power and then I could open lots of little satellite stores, combine my buying power and get the cheapest alcohol through a proliferation of smaller liquor outlets under my name. I would make a motza. I would love it. That will be the next strategy of the very people whom the minister is trying to get out of the industry because he does not like their market dominance and he is trying to protect small business.

Mr P. Papalia: Does that not undermine the member's argument?

Mrs L.M. HARVEY: Does the legislation preclude a big box retailer opening a smaller store within a prescribed zone?

Mr P. Papalia: No.

Mrs L.M. HARVEY: There is no provision for that?

Mr P. Papalia: No, they have to meet the requirements of the clauses that we have been talking about.

Mrs L.M. HARVEY: For example, Dan Murphy's, which is the brand name that people are using, could apply for 10 outlets of 450 square metres within that five-kilometre prescribed zone. That could happen in an area such as the Murdoch precinct, where there might be 44 000 people to service. Is there nothing in this legislation to stop Dan Murphy's from doing that?

Mr P. Papalia: Yes, there is. Proposed section 36B(4) determines that an application must not be granted unless packaged-liquor supply cannot be reasonably met by outlets already there. It may well be; it may not be—but that criteria applies.

Dr M.D. NAHAN: We are coming to the end of this, I think. We have a fundamental difference from the government.

Mr D.A. Templeman: Go a couple more hours!

Dr M.D. NAHAN: It is important. Please comment on this matter. I went through the Freemantle review that was done by the Carpenter government. It may have been started by the Gallop government. The Labor Party's now leader introduced small bars on the basis of that review. The overwhelming criteria for that was to assist consumers both in access to variety and competition to supply liquor, but it also involved safety issues. We are not arguing about that. At that time, there was also a big debate about restrictions on the opening hours for liquor stores and packaged-liquor outlets and, of course, the pubs and whatnot were open. The Liberal Party at that time arrived at protections. I am not sure whether the minister was in Parliament at that time.

Mr P. Papalia: Neither were you. I was alive; it is all right.

Dr M.D. NAHAN: I know that but I was working for the Chamber of Commerce and Industry of Western Australia. I was promoting the small bars. That is why they exist.

Several members interjected.

Mr P. Papalia: You were at the IPA. Are you taking credit for the small bars legislation now?

Dr M.D. NAHAN: I was working for the Chamber of Commerce and Industry of Western Australia at the time, specifically on the deregulation of this. Nonetheless, the minister can take that. There was an issue and the minister's leader and Treasurer were very critical of the Liberal Party for proposing exactly what the government is doing now.

Mr P. Papalia: That is not true.

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Dr M.D. NAHAN: Yes, it is. They were critical of exactly what the government is doing now.

Mr P. Papalia: No, they were not.

Dr M.D. NAHAN: Yes, they were, because it harmed consumers' choice. We read it out.

Mr P. Papalia: That was in completely different circumstances.

Dr M.D. NAHAN: The now Treasurer and now Premier put forward regulations that the government is building on now and we support where it is going for most of those, but it is also re-regulating for reasons that we have not been able to determine.

Ms J.M. Freeman: Public health.

Dr M.D. NAHAN: We identify that Maylands has an issue with the community, and maybe South Perth. The government is putting regulations across the metro area for which it has refused to give a clear justification except that there are quite a few —

Ms J.M. Freeman interjected.

The ACTING SPEAKER (Mr R.S. Love): Member for Mirrabooka, I will call you if you keep going.

Dr M.D. NAHAN: The only justification has been that there is a large number of outlets out there. The minister tries to denigrate us and says that we are not supporting small business, which means that he must be doing it to protect small business. That is the only interpretation we could have.

Mr P. Papalia: I cannot remember saying that.

Dr M.D. NAHAN: Yes, he can. The minister repeatedly criticised the Liberal Party for abandoning small business.

Mr P. Papalia: That is true.

Dr M.D. NAHAN: If the minister makes a complaint, he should stick to it. He should not just waffle everywhere. Please give us a real, clear reason and justification for imposing a geographical limit and thereby giving the large existing barn outlets a monopoly where they exist now and stopping competition between those sectors of the market. Please give me a justification for it.

Mrs L.M. HARVEY: The minister has articulated, and indeed the member for Mirrabooka is intimating, that this is in the interests of public health. During the course of the consultation and the drafting of the legislation, did the government collect evidence around the increased harm-related incidents within the vicinity of the existing —

Ms J.M. Freeman: Just google it.

The ACTING SPEAKER: Member for Mirrabooka!

Mrs L.M. HARVEY: I am sorry; are you the minister?

Ms J.M. Freeman: No, but you can just google it.

Mrs L.M. HARVEY: I am asking the minister.

The ACTING SPEAKER: Member for Mirrabooka, I call you for the first time.

Mrs L.M. HARVEY: I am asking the minister. Obviously, there is an argument that these big box liquor barns have an adverse public health outcome. Could the minister please provide the house with evidence of increased alcohol-related harm within the vicinity of the existing big box liquor barns—he clearly has a list of them because he has been talking about them—from the perspective of the Western Australia Police Force and also the Department of Health and presentations to hospital? The minister must have the data there if that is the justification for bringing this proposed section to the house as part of this legislation. I ask that the minister provide that to the house.

Mr P. PAPALIA: I will say this one more time: the motivation behind presenting this part of the proposed section is to empower our communities across the state to say to the director of Liquor Licensing that we have an adequate supply of packaged liquor in our community and we do not need anymore—end of story. I do not need to justify it to the member. That is our intent. That is the community's wish and that is what we are delivering. If the member does not like it, she should vote against it.

Mrs L.M. HARVEY: I have one more question and then I think our side might be done. To be clear, the minister said that it is none of our business whether there is any data to justify the public health justification for this legislation. Does the minister not have it or is he refusing to provide —

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Mr Peter Katsambanis; Mr Peter Rundle; Mr Zak Kirkup

Mr P. Papalia: Have you talked to the McCusker Centre for Action on Alcohol and Youth in your role as Minister for Police? Did you ever meet with them?

Mrs L.M. HARVEY: I am asking the minister questions. That is how it works here. I ask the questions, the minister gives the answers. I am asking the minister if he has the data. I know police have data; they use it for their objections and their interventions. The minister has a list of the big-box retailers. Can he provide the house with the data, if it is available, through which we can look at the increased number of hospital presentations; the increased number of family violence incidents; the increased number of assaults in which alcohol is involved; and the increased number of motor vehicle interventions with police that are linked to alcohol within the postcodes in the vicinities of the big-box retailers that the minister is trying to prevent the proliferation of?

Surely if that is his argument, he would have that data. If the McCusker Centre for Action on Alcohol and Youth has provided it to him, I would welcome the minister providing the house with that data because, quite frankly, we are the opposition and it is our business to interrogate legislation like this, which we believe will result in an adverse outcome and perhaps work against small business. It will allow large monopoly retail outlets to have a bigger chunk of the market than they otherwise would. I know we are going to disagree, but we have put that on the record, and I ask the minister, if he has the data as part of the files of information he has on the desk, to please provide us with it and we will be happy to take it on the chin and say that we were wrong. There is a significant public health link to every one of those big-box bulk liquor outlets, every one of these liquor barns. We can directly link, via postcode, increased incidences of alcohol-related harm to do with health, violence et cetera. If the minister can provide that, I will sit down and remain silent on this issue forever, but if he cannot provide it, he should not come in here and say it is the basis for this amendment.

Mr P. PAPALIA: That is tempting, but I never said that was the motivation. I said the motivation is to empower communities across Western Australia to say that they have a reasonable supply of packaged-liquor outlets in their communities—end of story. All the other observations the member has made are her own; I have not claimed that. I believe that, and I have talked to the McCusker Centre for Action on Alcohol and Youth, which certainly believes that, and I have talked to other harm minimisation advocates who also certainly believe that, but that is not our motivation. The motivation is to empower communities across Western Australia to be able to say, “Enough of the liquor barns”. That is the motivation.

Dr M.D. NAHAN: The minister used the word “communities”, so there must be more than one. The minister has not asked my community. It has not expressed concern about the expansion of large liquor outlets, but the minister is telling it, “No more.”

Mr P. Papalia: I’m not going to get up. You’re just talking for the sake of it now.

Dr M.D. NAHAN: No, I am not. It is an important point. The minister is imposing regulations on my community and he says that he has discussed this with it, but he has not. He is basically saying, “No more.” He has not discussed this with my community; there have been no issues there. There have been with some, but not all. When asked what is the basis for this restriction, the minister says it is to protect communities. He has not done that.

Mr P. Papalia: Empowering communities.

Dr M.D. NAHAN: He has not, he has disempowered them. He has said, “No more.” He is taking away the right of competition in the large packaged outlets. That is what he is doing.

Mr P. Papalia: The right to have large packaged outlets?

Dr M.D. NAHAN: Competition in the large packaged outlets. The minister says “No more”, because there are two in the area that cover my whole electorate, so therefore he is not going to allow any more. He says he is listening to the communities, but my community has not said that. Some have; fair enough. Allow them to respond. Allow for a community-by-community response. Allow the communities, through the Planning and Development Act or some other mechanism, to do that. If that were his real concern, that is what he would do, but he has not done that.

We are not going to get anywhere, so I suppose we should have this clause put. The minister has not been able to explain the basis for this major re-regulation of the liquor outlet industry and is actually going back to the deep past—de-regulating some, but tightly regulating others, which is going to give huge economic rents to the big side of town, and he does not know it.

Division

Clause put and a division taken, the Acting Speaker (Mr R.S. Love) casting his vote with the noes, with the following result —

Extract from *Hansard*
[ASSEMBLY — Tuesday, 20 March 2018]
p1012b-1039a

Mr John McGrath; Mr Paul Papalia; Mrs Liza Harvey; Dr Mike Nahan; Ms Libby Mettam; Mr Sean L'Estrange;
Mr Peter Katsambanis; Mr Peter Rundle; Mr Zak Kirkup

Ayes (33)

Ms L.L. Baker	Mr F.M. Logan	Mr J.R. Quigley	Mr D.A. Templeman
Dr A.D. Buti	Ms S.F. McGurk	Ms M.M. Quirk	Mr P.C. Tinley
Mr J.N. Carey	Mr S.A. Millman	Mr D.T. Redman	Mr R.R. Whitby
Mr V.A. Catania	Mr Y. Mubarakai	Ms C.M. Rowe	Ms S.E. Winton
Mrs R.M.J. Clarke	Mr M.P. Murray	Mr P.J. Rundle	Mr B.S. Wyatt
Mr M.J. Folkard	Mrs L.M. O'Malley	Ms R. Saffioti	Mr D.R. Michael (<i>Teller</i>)
Ms J.M. Freeman	Mr P. Papalia	Ms J.J. Shaw	
Ms E. Hamilton	Mr S.J. Price	Mrs J.M.C. Stojkovski	
Mr M. Hughes	Mr D.T. Punch	Mr C.J. Tallentire	

Noes (12)

Mrs L.M. Harvey	Mr A. Krsticevic	Mr W.R. Marmion	Mr D.C. Nalder
Mr P. Katsambanis	Mr S.K. L'Estrange	Mr J.E. McGrath	Mr K. O'Donnell
Mr Z.R.F. Kirkup	Mr R.S. Love	Dr M.D. Nahan	Ms L. Mettam (<i>Teller</i>)

Pair

Mr R.H. Cook

Ms M.J. Davies

Clause thus passed.

Debate adjourned, on motion by **Mr D.A. Templeman (Leader of the House)**.

House adjourned at 9.50 pm
