

Mrs Alyssa Hayden; Mr Sean L'Estrange; Ms Libby Mettam; Mr Kyran O'Donnell; Dr Mike Nahan; Mr Stephen Price; Ms Jessica Shaw; Ms Lisa Baker; Mr John Carey; Ms Janine Freeman; Mr Yaz Mubarakai; Mrs Liza Harvey; Mr Zak Kirkup; Mr Peter Katsambanis; Mr Dean Nalder; Mr Tony Krsticevic; Mr Paul Papalia; Dr Tony Buti; Mr David Templeman

SMALL BUSINESS DEVELOPMENT CORPORATION AMENDMENT BILL 2019

Second Reading

Resumed from 12 June.

MRS A.K. HAYDEN (Darling Range) [4.45 pm]: It is my pleasure to stand today and say I will be the lead speaker for the Liberal Party opposition on the Small Business Development Corporation Amendment Bill 2019. At the start I would like to say that the Liberal Party opposition supports this bill in principle. It supports any legislation to protect and support our small business community. As a Liberal opposition we completely understand the importance of the small business sector. We will always stand up and support the sector. We understand how much it contributes to our state. I want to put on the record that the Liberal Party opposition fully supports any amendments that will assist small businesses and subcontractors.

Before I go on, I would also like to make a special mention to the minister's policy adviser, Emma Roebuck, who has been extremely helpful and professional. I want to thank her and show my gratitude for all her help. She has worked extremely hard and I appreciate it.

Mr P. Papalia: She is very good, isn't she?

Mrs A.K. HAYDEN: She is an excellent staffer.

I also note for the record that this was the Labor Party's commitment going into the last state election. It won the election handsomely and had the mandate to bring forward amendments to support its commitment at the election. Those commitments were to support our subcontractors—to protect them from slow or non-paying businesses. I have a few friends who have been victims because subcontractors have not been paid and small business owners who are constantly fighting to make sure their invoices are paid. As an aside, I apologise that my voice is disappearing. With a bit of luck, my voice will get through the speech!

In 2011, the Liberal government introduced WA's first Small Business Commissioner. That was an extremely proud moment. The Liberal Party is completely supportive of small business. The purpose of introducing a commissioner in 2011 was to make sure that our small businesses, particularly retail shops and outlets, got the protection needed, especially in shopping centres and forum-style outlets. As we all know, small business operators are busy working in their businesses simply trying to keep things afloat, trying to get business through the door, making sure people pay the bills, employing staff, making sure staff are happy, covering sick leave, cleaning the office in general, doing their accounts, completing their business activity statements and making sure wages are paid on time. Small business owners do not have the time to worry about what we are doing in this place right now. They do not have the time to worry about legislation and they do not have the resources to compete with larger business organisations. It was vital that we introduced a Small Business Commissioner. At the time, the conversation was whether we gave that commissioner enough teeth. Since the introduction of the Small Business Commissioner that has been a conversation not only across all levels of politics but also across small business operators in large and small industries: "We've got a commissioner. Let's see how he goes." But there is always room to give that commissioner more power and the ability to protect small business more. As I said, the discussion has always been there. It is good to see amendments that will give the commissioner a bit more grunt; however, one thing I want to thrash out with the minister in this debate is to ensure that these amendments we are making and the powers we are extending to the commissioner will not have unintended consequences. We can do everything we can in this place with good intentions, but I would like the minister to address in his reply to the second reading debate my fear that some unintended consequences may result from this legislation. As we are all aware, the whole focus of the Small Business Commissioner and the Small Business Development Corporation is to ensure that they protect and stand up for small business. The last thing we want is to dilute that in any way simply because we have not thought about what these amendments could do and what impact they might have.

Government always has to make sure that it legislates to reduce red tape, to reduce the burden on small business and to protect small business. A lot of things are confronting small businesses right now. The cost of living is having a huge impact on small business operators; people do not have spare cash in their pockets and are not going out to support restaurants or buying that extra item at the shop, and they are window shopping more than they are actually spending. That is having a massive impact on small businesses right now. I recently read a report that revealed that more than 60 restaurants across the Perth metropolitan region have shut down over the past 12 months. When restaurants are shutting down, it is one of the first signs that people are not spending money. These are well-known restaurants, not pop-up, overnight restaurants; they are restaurants that have been in our community for quite some time.

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Another issue that is facing small businesses right now is shoplifting and antisocial behaviour. I saw antisocial behaviour and shoplifting for years in my experience of having a business in Midland and also when I had an office in Midland as a former member of the Legislative Council, and I saw the effect that that had on our business community. I refer to not only retail businesses, but also accountants and lawyers and other small businesses along the strip where this antisocial behaviour was being conducted outside offices. That is another major issue and stress that small businesses face. It is something that the government needs to look at. We need to address that on top of the issues we will debate in the Small Business Development Corporation Amendment Bill 2019.

Delayed and unpaid invoices is one of the biggest issues that small business has always faced. It is nothing new, and I know the minister is trying to address that issue in this legislation. Small businesses can go out and do their work, but to send out invoices and then have to chase up unpaid invoices is a waste of their time and resources. They are out there following up on unpaid invoices instead of getting new business and servicing their existing customers and keeping them happy. Small businesses run on very tight, small turnovers, and if invoices are not paid on time, they suffer very quickly. Larger companies can carry up to 90 days, but a small business generally operates on a seven to 14-day turnaround. If they have gone into a 30-day agreement, they will be waiting for day 30 to come around and making sure that they have that money in the bank on day 30; one day later will make the difference between whether or not they can go home with a wage, pay their staff and keep their creditors happy. Underpaid and delayed invoices has always been a massive burden on small businesses. Will this legislation fix that? No, of course, it will not. We cannot force every single person who gets an invoice to pay their bills on time through this legislation.

I note that the minister is focusing a lot on subcontractors, and one of the purposes of bringing this bill forward is to assist subcontractors. We are all well aware of what happened to subcontractors around 2015 and, I have to say, long before that time subcontractors were getting late payments, if not no payment whatsoever, for work they did under government-funded construction projects. A few of my friends are subcontractors, and this issue was happening in the 1990s; it is nothing new, but in 2015 we saw a massive escalation of that occurring. It was a very sad time—a time I do not think anyone in this place would like to see repeated. Certainly no-one in the industry wants to see it repeated. Subcontractors get up early, work hard, put in their bill and expect the money to be put in the bank. If it is not in the bank, they are too busy out there the next day working for the next dollar to follow it up. We saw so many families go through that pain, and unfortunately there was a loss of life that we are aware of. I hate to say this, but I am sure there sadly may have been more than one life lost because subcontractors were not getting paid, but we were all publicly aware that there was one. The burden and stress it puts on families is outrageous, and it should never, ever happen. On that note we, as the opposition, support this legislation, but I have some reservations that maybe we are focused too much on that sector and not making sure there is not a flow-on effect on other sectors in the small business community.

A few of my friends have had the same issue, and it is not just large companies that do this. It could be a subcontractor who gets a contract to put in a job for another business. He may employ staff to do that but he does not pay his staff. The building company that employed him to put in, say, wardrobes, has carpenters come in to install those wardrobes. The subcontractor may then say, “I don’t have money to pay my subbies.” The builder who employed him in the first place to do that work now has carpenters knocking on his door, saying “We did work for you. Where’s our money?” But that builder did not employ those subcontractors; it was through another subcontractor. It is very difficult for the guys at the bottom of the line to try to get their payment and follow through. Anything we can do to assist that is going to be beneficial and, as I said, fully supportive.

The main purpose of this amending legislation is to enhance the Small Business Commissioner’s general investigative and reporting functions. I note that the bill will expand the commissioner’s current investigative and reporting functions by expanding the scope of the matters that the commissioner can investigate—current topics in the marketplace. For example, he does not have to just wait for a complaint; he does not have to wait for someone to come forward and say they are concerned about this sector of small business and can he look into it. The powers will enable the commissioner to make a judgement call. If they see a trend in the market that they believe is affecting small business, they will be able to investigate it. I hope there are some checks and balances in the fact that the commissioner can actually make an investigation on his own. I would like the minister to advise us on that in his response to the second reading debate. When the commissioner makes a decision to do an investigation on his or her own initiative, what steps will be in place for him or her to go through? Will there be a checklist? Has the board or the minister put forward a policy that the commissioner will need to go through before ticking off and saying that they are going to make this investigation?

We need to make sure that if the Small Business Commissioner acts on a complaint, the complaint is genuine. Again, there must be a checklist, template or policy that the commissioner has to follow to make that decision.

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I would also like to hear from the minister how we will ensure that it is not just a competitor trying to—what is a polite way of saying it?

A member interjected.

Mrs A.K. HAYDEN: Yes, undermine; thank you, member for Carine. How we will ensure that it is not just a competitor trying to undermine a small business? We need to ensure that this does not happen. If the minister could allay those concerns in his second reading reply by assuring us that there is a process or policy in place that the commissioner must follow before an investigation is started, whether it is of his own accord or through a complaint, it would be greatly appreciated. The powers that are being granted will enable the commissioner to ask for documentation from any government or public sector body, small business, large business or individual. We are dealing with a serious extension of powers. We are giving the commissioner an open-ended and, as I note is stated in the legislation, unlimited ability to investigate, ask questions and request information, documents and “things”, which I will seek an explanation of during the consideration in detail stage. We are giving one individual an unlimited ability, even without a complaint being made, to investigate any body within Western Australia, whether it be a government or non-government body, an individual or a business. We need to understand the process that will be in place to ensure that the commissioner investigates a legitimate case and that no case will be investigated just for the sake of it. I am sure that the commissioner will have enough on his plate and that his resources will be quite tight, but we need to ensure that, no matter who is in the role, a proper process is in place to ensure that that does not occur.

I also want to clarify that the commissioner can report investigation findings to ministers of the Crown and local government, state government and specified commonwealth government bodies. I would like to know whom the report will go to, how broadly it will be made public and, if it is made public, whether confidential information will be protected. I am very interested to know who will have access to the report.

The DEPUTY SPEAKER: Can members who are having a conversation please keep it down or take it outside.

Mrs A.K. HAYDEN: I note that the minister or his office engaged with a number of stakeholders, and I thank the minister's policy adviser for sharing that information with me. I note that the stakeholders included large organisations that represent small businesses in a field, such as the Master Grocers Association, the Housing Industry Association and so forth. I made contact with them via email and a follow-up phone call. I spoke to most of them. Although they all said that, in general, they support the amendments, the majority of them were a bit cautious. They said that they had not seen the full detail. They made the comment that they were not aware that the bill was being brought on for debate so quickly. They thought that they would have a bit more time to go through the legislation. Their concern is to make sure that subcontractors are protected, but they were hesitant to say anything else because they did not want that to be lost. They are also concerned that the extension of powers could be used wrongly against small businesses. For the minister's reference, I thought I would share some of the feedback I received.

The Master Grocers Association cautiously supports the legislation based on briefings provided to it prior to the release of the legislation, as it never saw the whole working paper. It said that the commissioner's lack of power was an issue, that the commissioner was not meant to be a police force and that it would be concerned if too much power was granted. That leads to my next case, which I will speak about shortly. The Master Grocers Association was concerned about the powers going too far. The National Electrical Contractors Association is broadly supportive of the legislation based on the initial briefings it received. The Master Builders Association is broadly supportive of the legislation but has suggested that there be a shorter review period, which is another issue I will raise. It is worried about the unintended consequences of increased powers to the commissioner. These are not just my concerns and those of the Liberal opposition; these are the concerns of the stakeholders. The Civil Contractors Federation is very supportive of improving the security of payments. As I said, the main concern is about speeding up payments of invoices of subcontractors, which is the main focus of these amendments. The federation is concerned about the statutory trust funds and too much compliance and red tape. Heaven forbid that we add more red tape as we amend small business legislation! That would be a bit hypocritical. The federation understands that it could potentially backfire on small businesses, but it trusts the commissioner and believes that the commissioner needs to have teeth to be effective. Again, it goes back to my concerns. Everyone agrees that the commissioner needs power, but are we going too far and will safeguards be in place?

Subcontractors WA broadly supports the legislation. The major concern is that subcontractors are paid. The Motor Trade Association of Western Australia is very supportive. It was consulted on a number of occasions during the development of the amendments, so it is behind the minister. ProjectPAY is very supportive. I know that Louise Stewart is 100 per cent behind making sure that subcontractors do not go through the pain that we have

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seen previously. I support Louise 110 per cent on that. No-one wants our subcontractors to go through that ever again. The HIA, however, has quite a few concerns and I think I have shared those with the minister, but if I have not, I will. It is concerned about the adverse consequences of the expanded scope of the powers of the commissioner, the discretionary powers of the commissioner and a lack of checks and balances. It is concerned about penalties for uncooperative respondents but not for fictitious claims. It outlined a model whereby the Small Business Development Corporation could fit into the existing legal framework.

As I said, I note that the stakeholders that were engaged were larger bodies representing small businesses in a certain sector. I understand that it is difficult to get a whole pile of small business operators together and have a conversation with them en masse. Small business owners are too busy simply running their business. That is where my concerns lie. It is the role of the opposition to do the due diligence on behalf of the small business operators who have not been consulted, who have not had the time to give feedback or who are not aware that the legislation is being debated today. Please do not misinterpret anything that we on this side do as hindering small businesses. We are doing this in the best interests of small businesses. We are doing it on their behalf because they have not had the opportunity to be consulted and give feedback.

I will seek clarification about a few amendments during the consideration in detail stage. I want to ensure that the intent of the legislation is spelt out loud and clear. When the minister speaks in this place, he needs to spell out loud and clear the intent of the extended powers for the commissioner. In that way, if people need to refer to this debate down the track to ascertain whether these amendments were made in the best interests of small businesses, it will be on the record because the minister said so. That is what I will fight to establish through this debate and in consideration in detail. I will highlight that the Small Business Commissioner and the Small Business Development Corporation should always act in the best interests of small business, never against it. We need to make that loud and clear.

Because we are extending those powers quite extensively, I spoke to the Australian Small Business and Family Enterprise Ombudsman, Kate Carnell, and she shares the concerns I have. In fact, she stated that her own legislation does not enable her to do what some of these amendments will enable our commissioner to do. That the Australian Ombudsman does not have the same powers that our state commissioner will have rang a few alarm bells. That is why one of the amendments I will move is for a review of this legislation, to make sure that there are no unintended consequences for small businesses. I believe that having a review two years after the bill is enacted would be a safeguard to ensure that if anything adverse did happen to our small businesses, the minister of the day could step in immediately, conduct a review and act on it. As I said, the intent of this bill and the intent of the commissioner is always to act in the best interests of small business. I seek the minister's support for an amendment to have a two-year review.

Duplication of power is another concern the opposition has, as does the Australian Small Business and Family Enterprise Ombudsman. Regarding the duplication of powers, we already have a number of legal frameworks in place to which aspects of small business can be referred and dealt with. As I said, the last thing we want is another layer of red tape that gives new powers to a commissioner and duplicates powers that already exist under state and commonwealth legislation. It is a bit hypocritical; here we are dealing with small business and adding another layer of red tape. When I spoke to the ombudsman, she said that under her legislation, she cannot delve into any area that an existing agency already deals with. Under her legislation, if another authority already deals with a matter, she must refer it to that authority. I will move an amendment so that if an authority already deals with a certain type of complaint or is able to investigate that area, the commissioner is able to refer the matter to that body and allow it to investigate, so that we do not duplicate a power that already exists. One commissioner with a small number of staff will look forward to being able to refer matters to existing agencies instead of having to do everything themselves. I believe duplication is an issue. The commissioner currently provides advice and a dispute-resolution service. This legislation seeks to expand this role by giving the commissioner legal frameworks under which he can investigate matters but which existing entities already have. I would like to move an amendment to ensure the commissioner is not duplicating processes and, instead, can pass matters on to the right agency or entity. I hope the minister will agree to the amendment. We cannot expect the commissioner to be an expert on every single industry or piece of legislation in WA. It would make sense to send matters to the agency that has the expertise and experience in dealing with them.

By way of explanation, I will list a few agencies we have in place. The WA Ombudsman investigates complaints about Western Australia public authorities and can look into state government departments, agency boards and government services such as hospitals, prisons, schools, colleges, public universities and local governments. The WA Ombudsman already has certain powers to make certain investigations and can act on the same issues that the commissioner will be able to. The Magistrates Court can try to settle disputes for unpaid accounts between consumers

Extract from Hansard

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and traders of up to \$75 000. The Construction Contracts Act gives protections for head contractors, subcontractors and suppliers working in the building and construction industry. Concerns about local governments can also be resolved. Local governments have their own rights and powers under law. The Western Australian Local Government Association's governance branch investigates matters relating to breaches of the Local Government Act. That power is already there. Why are we duplicating a power that is already there? Why not just refer matters to that authority and allow it to do its work, and free up the commissioner to focus on assisting small business?

There is also the ability for complaints about building services and home building contracts to be resolved. The Building and Energy division of the Department of Mines, Industry Regulation and Safety and the Building Commissioner can perform that function, by providing an avenue for both consumers and builders to resolve disputes. Again, we already have a body with experience and expertise in dealing with disputes and complaints between consumers and builders. There is an authority already there. Why are we duplicating this in the legislation? The Australian Competition and Consumer Commission already has the power under the Competition and Consumer Act 2010 to deal with unfair contracting practices, false claims or misleading conduct. It can resolve problems with supplied goods. That body is already in place. It has the experience and expertise. Why are we asking the commissioner to go down that path and learn a whole new skill set, when the ACCC is already sitting there, armed, ready and waiting to go? The State Administrative Tribunal also plays a huge role in the building and planning sector. It deals with commercial tenancies, residential park tenancies and retirement villages. It has huge resources beneath it. Why are we asking the commissioner to duplicate its work?

I could go on as there are a few more agencies, but noting the time, I will skip them. I think the minister gets the point. Why would we duplicate experience and expertise that is sitting there and waiting? Why would we put that work on to the commissioner? I would really like to see support from the minister and the government for an amendment to enable the commissioner to refer investigations. Whether an investigation would arise from a complaint or because the commissioner believes an investigation is needed, it should be referred to an existing authority with the appropriate legal framework. The Australian Small Business and Family Enterprise Ombudsman Act clearly says that the general policy is to avoid duplicating the operations of any other agency of the commonwealth, state or territory that performs a function that wholly or partly overlaps with a function of the Ombudsman, and that it comply with all other laws of the commonwealth. Duplication is highlighted in a number of different sections of the legislation to ensure that it does not happen. Another section in the legislation states that if any other agency has legal power to deal with a request for an investigation or to handle a complaint, the Ombudsman must refer it to that agency. I will seek the minister's support for an amendment allowing the commissioner to refer off to existing agencies or authorities to ensure that the expertise and experience is there, and so the commissioner can be freed up to do what is vitally important, in making sure our small businesses are protected.

The other area that can be seen as a conflict of interest is that the commissioner will have the power to investigate any public sector entity, small business, large business, government body, including local government, or individual. Public sector entities include ministerial offices, and I have a bit of concern that a commissioner, who is responsible to and reports back to a minister, has the ability to investigate that minister. That may be a bit of an overreach, and I would be very interested to see how it would play out. I would like the minister to explain what would happen if the commissioner, who is responsible to him as minister, decides to investigate the Minister for Small Business. What happens there? The Small Business Commissioner is meant to have a very robust, open, frank and fearless conversation with the Minister for Small Business at any time, to bring to that minister the needs of small business, and any conflicts that may be affecting small business. That is the role of the commissioner now. The role of the commissioner is to report to the Minister for Small Business that he or she sees a problem brewing, or an issue that the minister should be aware of and it needs to act on. That happens now, so I do not understand why we need an investigative power into the ministerial offices, and how that will actually work.

Imagine that the Small Business Commissioner calls a meeting with the minister. They sit down and have a chat, and the commissioner says, "I'm investigating you, minister. I'm just letting you know that I'm about to launch an investigation, because I believe that what you are doing is having an adverse effect on small business. I'm going to do a report on that, and I'm going to come in and ask for documentation, things and information, and you're going to comply with that, and I am going to go away and do a report on what I think is going on in your ministerial office." I do not know how that works. I think that is a conflict of interest. The other way it could play out is that the commissioner could say, "Hey, minister, I could do an investigation on you, but you're my minister, so I think I'd better not." That is another area that could evolve under this provision. I do not understand how a commissioner, who is answerable to the minister, is able to investigate that minister or any other minister. If there is an issue in another ministerial office, the commissioner should also be having that conversation with his minister, saying he believes that the Minister for Local Government, the Minister for Planning, or the Minister for Transport is having

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an adverse effect on small businesses, and that something needs to be done about it. It is the minister's job to talk to their colleagues at the cabinet table and say, "Hey guys, my commissioner's raised some issues; we need to sort this out." I really do not think any minister would want the commissioner coming in and saying he is investigating that minister or their colleagues. I have a real concern around that. I would like to see ministerial offices removed from the list of entities the commission is responsible for investigating, because I do not see how it will play out. I sincerely have some real concerns around that.

The fourth amendment I will seek is to reduce the delegation of powers. Under the current legislation, the Small Business Commissioner is able to delegate his or her powers to anyone in the Small Business Development Corporation. That power exists right now. This is where we get unintended consequences. The minister has proposed amendments to increase and expand the powers of the Small Business Commissioner. This commissioner will have serious responsibilities. He or she will be able to go to any business, any subcontractor, any government agency, including ministerial offices, or local government, mount an investigation and ask for documentation and things—as I said, we will find out what those things are—and if the person being investigated does not comply, there will be a fine of up to \$20 000. The commissioner is now able to go into any individual's office, organisation or small business and launch an investigation, without limitation or approval of the minister, and ask for documentation. That is massive, and that is why a lot of small businesses are not even aware that this is happening, because if they were, we would have a lot of them at the front door saying they will not have the commissioner coming into their business. The commissioner is meant to be protecting them. However, we are going to grant these extraordinary powers to the commissioner.

What has not been amended is the current provision in the legislation that the commissioner can delegate his or her powers to anyone in the corporation. We have now added all these amendments, giving the commissioner a huge range of additional powers, and the commissioner can now delegate those powers to anyone who works for the Small Business Development Corporation. I find that a little scary. How do we have checks and balances in place? We sit here and say that the present commissioner, David Eaton, is a great bloke and we trust him, but if he delegates the power, we do not know who he is delegating that power to, and if he is delegating that power to five, 10 or 20 people within the corporation, how does he know, as the commissioner, what those people are doing? He cannot be looking over their shoulder every five minutes asking them what they are doing. They have unlimited power, without seeking approval, to do everything that I have just said, because the commissioner has delegated those powers. That has to be restricted. We have to restrict that delegation of powers to further people within the corporation, because we could end up with an army of people out there investigating any small business or individual person, because a person does not need to be a small business person or a subcontractor to be investigated; it is just any person. There is no requirement that a person needs to have an Australian business number attached to their name. There is now an army of people out there investigating whoever they deem fit without having to have it checked off by anyone.

If we are going to be giving these extraordinary powers to a position, we need to make sure that those powers are not abused, and that there is one person with whom the buck stops, and if something goes wrong that one person is to blame and will be held accountable. How do we hold people accountable if we do not know how far these powers have been extended? I will seek the minister's support to have that reined in, and I would like to see in the new powers that we are giving to the commissioner, if these amendments are passed, that only the commissioner can sign off on these investigations, and ask for documentation, information or things, not anybody who works for the Small Business Development Corporation, because they have been delegated powers. I am sure that the minister will agree that the last thing we want to see is these powers misused, and the only way to make sure that they are not misused is to make sure that the person we are giving them to is answerable and responsible. The only person who is answerable and responsible is the commissioner. As I said, this is not aimed at the current Small Business Commissioner, but it is a role we are giving to the commissioner. Commissioners change, and anyone could be the commissioner, so it is not about who the current commissioner is; it is about the position and the power we are granting. I consider that this Small Business Development Corporation Amendment Bill will dilute the commissioner's power and there will definitely be unintended consequences that I do not believe the minister intends to come from these amendments.

As I said, whether it is genuine or not, I would like the minister to explain the criteria that will determine the complaint process, which I touched on earlier. If there is a written policy or a checklist, is the minister willing to table it so that it is incorporated into *Hansard* and shows the full intent of the legislation? If it is reviewed in two years by other people, they can say, "This is what the minister intended it to be. Did this happen—yes or no?" I am very keen that the minister outlines that and makes sure it is very clear. As I said, what triggers will enable the commissioner to launch their own investigation.

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The last amendment I would like the minister's support on concerns a request for documentation. These amendments give the commissioner the power to request, as the minister said, documents and the like, but the bill does not say when they should be returned. If the commissioner has to take away an original document that needs to be verified, I would like a seven-day return date for it. At the moment, its return is open-ended to "as soon as practicable". I would like that amended to require the commissioner to return the original document to the owner within seven days. That is only fair. If a document is an original, the owner would have every right to have it returned. "As soon as practicable" could mean in three months, six months or 10 years. The documentation can be verified, copied and sent back to the owner within seven days. I will move an amendment for which I will seek the minister's support.

Lastly, I would like clarification on what will happen at the end of an investigation. The commissioner may have found that a certain organisation is having an adverse impact on small business. He might get all the information he needs, write a report, give findings and make recommendations, and then hand it to the Minister for Small Business. Let us say he investigates local government and hands his report to the local government that he investigates. What will happen then? Nothing in the legislation requires the minister to bring it to the attention of the relevant minister so they can work on a plan to rectify any issues or to work with the organisation or body that has been found to be working adversely against the small business industry. We are giving the commissioner all this power and providing funding of, I think, \$7.4 million—correct me if I am wrong, minister—which was allocated under the previous Liberal government over four years to enable the employment of, I believe, six or seven full-time staff to help the commissioner. If the staff do some marvellous work and identify areas in which a small business has been affected, what will happen next? That should be in the legislation. Do not worry; I will not move an amendment; I think I have done enough. What will happen next? We need the minister to make clear his intention for these amendments after collecting the evidence and understanding what is affecting small business. What is his intention for the next step? Will it be for the findings to go to the bottom of the cupboard and collect dust or will the commissioner advise the minister and the minister take it to cabinet to devise a strategy to make sure the problem is rectified? If it is a local government issue, will the minister go to the Western Australian Local Government Association or directly to the particular local government? Will he make sure it is nipped in the bud and resolved? Will he make sure that the adverse effect on small business stops once and for all or will the government say, "Hey, we identified this as a problem and that is it."

It is great that this legislation is here, but for what purpose and what will be the end result? That is what is missing in all of this. Neither the second reading speech nor the explanatory memorandum provided an outline of what will happen after an investigation. If there is no result at the end of an investigation, every person in Western Australia should, rightly, jump up and say, "All we've done is create a whole pile of work to result in nothing." We are talking about the Small Business Development Corporation, and the biggest issue affecting small businesses is red tape and regulation and requiring compliance with unnecessary rules and legislation. But if we implement this legislation and do nada with it, it will be a bit of a joke.

As I said, the opposition is standing up on behalf of the small business operators who were consulted on this legislation. As I said at the beginning, I understand it is very hard to meet with all small business operators individually, but their voices need to be heard. We on this side are standing to make sure our small business operators, the backbone of our state and the major employer of our state, are being considered in this legislation. Jobs come and go in the resources industry. We see the employment numbers go through the roof in construction and fall during operations; they fluctuate. Small business does not fluctuate; it is the steady employer of our state and we need to make sure that everything we do in this place, every piece of legislation and every amendment that we put forward will have the best interests of small business at heart.

Please, minister, assure all of us on this side and our small businesses that we are not creating a whole pile of new regulations and amendments and work for small businesses to comply with, with no result or action.

I am interested to hear the minister's reply and I am sure we will have a good conversation during consideration in detail. Please note that we do not seek to stop this legislation, but to improve it and protect our small businesses and subcontractors across WA.

MR S.K. L'ESTRANGE (Churchlands) [5.37 pm]: Minister for Small Business, government Whip and member for Kimberley, we can see why we won Darling Range. We have a shadow Minister for Small Business who has forensically gone through the details of this Small Business Development Corporation Amendment Bill. No doubt, the minister has run out of ink writing down all the amendments that the shadow minister proposed in her address on his bill. The member for Darling Range is passionate because she understands small business due to the number of small businesses in her electorate of Darling Range. The people of Darling Range voted overwhelmingly in favour of the shadow Minister for Small Business, the member for Darling Range, who is here today, because she cares.

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We just heard an outline of her support for the minister's intent of his bill but also her critique of how he intends to execute the bill and her concluding question: what results is the minister expecting as a result of these changes? That is a keen, important question. What result does he expect? I was the last Minister for Small Business in the Liberal–National government. When we were in government, we cared about small business in Western Australia. That is why, through our management of the Western Australian economy, first and foremost, particularly during the mining and construction boom that the member for Darling Range highlighted, we recognised the importance of supporting business and making sure it had the economic environment in which it could thrive. As the member for Darling Range pointed out, when the construction phase of the mining sector slowed due to the big projects coming to completion, what was left to support the small business subcontractors and tradies, with a decrease in aggregate demand for labour, were the efforts of the Barnett-led Liberal–National government. The efforts on some of those big and amazing projects transformed the City of Perth and Western Australia. The City of Perth was transformed through the construction of Elizabeth Quay and its ongoing projects and the construction and completion of Optus Stadium, which has won numerous awards and is seen as one of the most beautiful and outstanding pieces of sporting audience infrastructure in the world. No doubt Labor ministers thoroughly enjoy sitting in the boxes to watch events. They can thank the former Premier for that.

We also had big projects like Perth Children's Hospital, which was, as the Premier of the day said, a gift to the people of Western Australia in return for the mining and construction boom he oversaw. These projects helped sustain an economy that going through a downturn due to the slowing of mining construction and falling commodity prices. That is how government cares for small business—by managing the Western Australian economy as best as it can and cushioning the blows when there is a downturn. What has this government done since it came to power? It has done nothing. It has literally promised the world but delivered nothing. It thinks an outstanding initiative to support small business and subcontractors is to have selfies taken with quokkas. That is the extent of the government's efforts to sustain the Western Australian economy and it is not good enough. When we were in government, we recognised that subcontractors on a lot of projects in and around Perth were doing it tough because some of them were not getting payments on time or were not getting payments at all because the head contractor or a contractor up the chain had gone broke.

Mr P. Papalia interjected.

Mr S.K. L'ESTRANGE: The minister should pay attention. He might have some ink left in his pen to note some of the things that I am saying. I suggest that he does so because he needs to learn from the experience of members on this side of the chamber, who achieved a fair bit when they were in government.

Mrs A.K. Hayden: A lot.

Mr S.K. L'ESTRANGE: They achieved a lot, as the member for Darling Range said.

One of the things that we did was to take a whole-of-government approach to how we would support subcontractors on big projects, and that involved the Minister for Commerce, the Treasurer, the Minister for Small Business and the Minister for Finance getting together. The former Treasurer, the member for Riverton, will recall that when we sat down at the table in the Premier's office to discuss how we would tackle this and who would be the lead spokesperson because it covered four ministerial portfolios, the Premier said, "Sean, I want you to go out and do this on our behalf." All the other ministers said, "Yes, go for it. You're in charge, Sean—crack on". We rolled out a number of initiatives, one of which was the security of payment provision in the Construction Contracts Act 2004. We reduced the time to pay subcontractors from 50 to 30 business days. Members opposite will recall that. We also increased the time that a subcontractor could lodge an adjudication complaint from 28 to 90 days. Sometimes the 28 days would transpire because the subcontractors were hoping that the lead contractor ahead of them would pay them. Giving them 90 days to lodge an adjudication complaint gave them the ability to get their money through the adjudication process. We also instituted a construction code of conduct through the Treasurer's office to change the culture on building sites so that they would be more productive and prohibit anticompetitive behaviour, price fixing, collusion and sham contracting, just to name some of the problems that existed at the time. We also wanted to make sure that we could sanction head contractors who failed to pay on time, who failed to pay retention moneys and who unilaterally varied the terms of a contract with a subcontractor or unfairly terminated a contract. Those were the efforts to which we, the former government, went to support subcontractors and small business subcontractors operating in changing economic times.

We also expanded the role of the Small Business Commissioner. It is quite interesting because if members dig into the detail of this bill, they will see that it is just value-adding on what we did. We did the heavy lifting when we were in government. This government is putting a bit of polish on it—albeit some concerns have been raised by the shadow Minister for Small Business—and claiming that it is the great saviour of subcontractors and small

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business operators in Western Australia. As the member for Darling Range said, we will need to see the results of the change to determine whether the rhetoric is matched by outcomes.

The former government also set up the building and construction compliance unit, which is now run by the Small Business Development Commission. We sped up the payment process through that office with project bank accounts on all Building Management and Works projects. I think that was for projects up to the value of \$100 million, from memory, because they became Treasury projects after that. We also rolled out transition training programs to support subcontractors and head contractors to understand the impact of the suite of changes implemented by the Liberal–National government. We cared about small business. We took a two-pronged approach to support small business. We made significant legislative changes and we made sure that big projects were being built—not just talked about—to support jobs growth in a downturn in mining and construction.

The Building and Construction Code Monitoring Unit is looked after by the Small Business Development Commission, and members can see the fruits of our efforts in the document on the building and construction code monitoring unit website, which states —

The Western Australian Building and Construction Industry Code of Conduct 2016 (BCI Code) commenced on 1 January 2017 ...

It commenced when we were in government so we can be proud of that achievement. It was developed to —

- ensure the State of Western Australia, in expending public funds on State Building Work, contracts with Building Contractors which conduct themselves in a reputable, fair, safe and responsible manner, both in dealings with the State of Western Australia, and within the building and construction industry more generally

It was also developed to promote fair, efficient and productive workplace relations, improve the workplace relations framework, promote safe practices in the building and construction industry, assist industry stakeholders to understand the state of Western Australia's expectations and requirements in relation to building contractors seeking to undertake state building work, promote fair subcontracting practices and timely payment of subcontractors within the building and construction industry and establish a compliance framework under which the building contractors code compliance may be recorded for the purposes of future consideration when awarding future state building work. As the Minister for Small Business can see, we did the heavy lifting and the work for the government. The subbies of the day were pretty happy with our efforts. A 12 August 2016 article in *The West Australian* is headed, "Win for dudded subbies". There was a big front page spread because *The West Australian* recognised that the Liberal–National government cared and was doing something. It took a whole-of-government approach and rolled out a suite of changes. That was a great achievement. The Labor Party came to government in March 2017. What did it do? Well, not much. The Premier created the Western Australian Jobs Bill 2017. After debating the jobs bill—in fact, I recall that we spent four or five hours on it during consideration in detail—we identified it as a fraud. The bill did nothing and was essentially media spin. I worry that even though on the surface the Small Business Development Corporation Amendment Bill looks to support subcontractors and small business operators, if the results do not reflect what the government is saying it will do, it will be nothing more than added spin to the Premier's jobs bill. That is all it will be. The last time the Labor Party was in power many, many years ago, it failed Western Australian businesses and the Western Australian economy. There is no better or bigger example of a Labor government's failure to lead the Western Australian economy than how it handled the Ichthys Inpex project—a \$34 billion project that was to be off the north west coast of Western Australia. The former Labor government lost it. The Japanese leadership of that project tried to make it work. They had been liaising and negotiating with the former Labor government, trying to get meetings with the Premier and the Treasurer at the time, but they were being refused meetings. The former Labor government would not have a meeting with them about a \$34 billion project, so that project —

Mr P. Papalia: Were you in Parliament then?

Mr S.K. L'ESTRANGE: No, I was not.

Mr P. Papalia: I was, and what you said is misleading Parliament.

Mr S.K. L'ESTRANGE: No, I am not misleading Parliament. I will tell you why I am not misleading Parliament.

Mr P. Papalia interjected.

Mr S.K. L'ESTRANGE: I will tell you what you are doing: you are misleading Parliament. I will tell you why. Because Dr Jiro Okada —

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Mr P. Papalia: You misled Parliament.

Mr S.K. L'ESTRANGE: No, I have not. Dr Jiro Okada was the head of that project. In May, I sat down with Dr Okada in his office in Tokyo. I asked him, "Tell me, from your perspective, what happened with Inpex."

Mr P. Papalia interjected.

The DEPUTY SPEAKER: Members! It is not possible for Hansard to take a record when members are yelling out across the chamber. Minister, if you want to interject, I suggest you inquire of the member on his feet and then you can go for it if he says yes.

Mr S.K. L'ESTRANGE: I told Dr Okada that we get interjections from the government side of the benches telling us that we are wrong to think that Labor lost this project and that we did not support it. He said, "No, no, no. You were very supportive; they lost the project."

Mr P. Papalia: You just said that he could not get an appointment with the Treasurer. That is not true.

Mr S.K. L'ESTRANGE: I am happy to be corrected on whether he got a meeting with the Treasurer, but the premise of what I am saying —

Mr P. Papalia: You were misleading Parliament.

Mr S.K. L'ESTRANGE: I said that I am happy to be corrected if he got a meeting with the Treasurer. Now let me move on. The premise of my point is that the former Labor government lost a \$34 billion project that would have sustained jobs in Western Australia into the future. That is not in dispute.

Mr P. Papalia: Yes, it is.

Mr S.K. L'ESTRANGE: What the government is doing now is not much better. It is essentially governing Western Australia as though Rome is burning, because it is too focused on its social reform agenda, when social reform agendas really should come into play only after the economy has been sorted out. The government is not sorting out the economy. It is not making sure that small businesses are supported in Western Australia. It is certainly not enabling an economic climate in which business can thrive.

One of the things that points to that is the government's handling of the domestic economy—that is, of households. Since this government came to power, in a relatively short space of time it has increased the price of electricity by 19.6 per cent, water by 14.5 per cent, public transport by 15.25 per cent and motor vehicle licences by 7.9 per cent, and it is hurting the people of Western Australia. It is hurting the people of WA because they cannot go out and spend money in the local domestic economy. Wages have pretty much not moved but the cost of living has gone up under this government. The more it keeps doing that to Western Australians, the less they can support small businesses. Believe it or not, a lot of subcontractors rely on business investment, and on business investment progressing and succeeding.

Numerous reports show us that this government is simply asleep at the wheel in how it is managing the economy to help those businesses. I need only refer the Minister for Small Business to the latest CommSec report, which is a dire report card on his government's performance. Under "Economic Growth", it says —

- **Western Australia** retains its seventh position —

Minister, that is out of eight —

on the economic performance rankings and can be broadly grouped with **Northern Territory**.

That is the standard of the economy of WA—broadly grouped with that of the Northern Territory. At least the Northern Territory got the Inpex project! This government grouped us with the Northern Territory. That is what it has done in the past three years—hopeless.

Looking at the graph on "Economic Growth", guess where Western Australia sits on that? Last. WA is last in the nation.

In "Retail Spending", WA sits second last. The report states —

- The measure used was real (inflation-adjusted) retail trade in trend terms with March quarter ...

[Member's time extended.]

Mr S.K. L'ESTRANGE: WA is also second last in the graph "Equipment Investment". The weakest was the Northern Territory. The report states —

- Next weakest was Western Australia (down 15.4 per cent).

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That means there are not too many subcontractors out there getting new equipment. They cannot afford it under this government.

WA also sits second last in the “Unemployment” graph. It states —

... Western Australia has the equal lowest jobless rate in 19 months (5.9 per cent).

Under “Construction Work”, it states —

- Western Australian construction was down by 18.7 per cent on a year ago ...

I repeat: 18.7 per cent. The Premier and the Treasurer are out there telling the people of WA that everything is going well. CommSec does not think so.

Annual population growth rates have Western Australia down 47.5 per cent.

Under “Housing Finance”, Tasmania is now in top spot. The former government called Tasmania a national park! Tasmania is now in top spot. Guess where WA is? It is down 27.7 per cent when it comes to housing finance. It is pretty obvious why this is not going too well in Western Australia. The government has changed the regional migration status to stop people from coming to Perth to study. To double down on the negative of people renting or buying a property to live in while they study, after getting their overseas parents to buy it, the government whacked on top a seven per cent foreign investor surcharge. They are just bypassing everything here. That is under this government’s watch.

The pain keeps on going in the CommSec report. What does it say under “Dwelling Starts”? Western Australia is second last to the Northern Territory. It states —

Next weakest was Western Australia (down 39.4 per cent) ...

It is interesting that for that quarter, Western Australia had the lowest wages growth in the nation. On home prices, Western Australia is again the lowest—down 9.3 per cent for the quarter. That is not going well at all.

Under “Annual Growth Rates”, construction work in WA is down 18.7 per cent; housing finance is down 7.2 per cent; and home starts are down 23.5 per cent. That is the government’s report card from CommSec.

I will move to another document. This one was put out by the Chamber of Commerce and Industry of Western Australia. The Premier often gets up in this place and says that he loves the CCI. He thinks the CCI is the government’s best mate.

Mr P. Papalia: Have you read the amendment bill at all?

Mr S.K. L’ESTRANGE: What is that?

Mr P. Papalia: It is the reason we are here for the debate.

Mr S.K. L’ESTRANGE: The beauty of second reading debates is that we can outline to the people of Western Australia the context within which this bill will have an effect.

Mr P. Papalia: You haven’t read it.

Mr S.K. L’ESTRANGE: Of course I have. I have been briefed very, very thoroughly by the member for Darling Range as well. She did an outstanding job briefing us on this bill in the party room.

What did the CCI say? It said —

Declining business investment and dwelling investment, flat consumption growth and lacklustre population growth have weighed on the economy in 2018–19.

That is under this government’s watch —

It’s difficult to see the financial year just passed end in anything other than a contraction of the domestic economy ...

The CCI is telling us that the government has failed. It goes on to say several other things. It states —

Looking forward, the main factors that will drive the WA economy include:

- increased business investment in major resources projects ...

What did the Minister for Mines and Petroleum do when this government first came into power in 2017? He shut down any uranium exploration in mining projects. What else did he do? He shut down onshore gas exploration development projects for fracture stimulation projects. He got rid of those. What else did the government try to do? It tried to increase the gold tax—it tried that twice. According to the CCI, the number one thing the government could do to try to help WA out of this hole is invest in the resources sector. It has done everything in its power to slow it, not to support it.

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The second point raised by the CCI is —

- a fall in dwelling investment in 2019–20 and then an increase in dwelling investment to respond to increasing population growth ...

The government is doing nothing to attract people to the state.

Dr D.J. Honey: I have done my bit!

Mr S.K. L'ESTRANGE: You have done your bit, but you did it a long time ago, member for Cottesloe!

The CCI has outlined exactly what the blueprint is, but the government is doing everything in its power to make sure that that blueprint can never be executed.

The final dot point is about growth in export volumes. That is the one thing that the Western Australian economy seems to be doing well. Unfortunately, that does not flow through to the domestic economy. As the member for Darling Range pointed out, the most significant sector to the domestic economy is the small and medium-sized enterprise sector. That is what this bill is focusing on trying to support, but it will not be able to achieve much if there are no businesses out there to benefit from it. The first thing the government must do is get the economy on track. That is its responsibility and then, from there, it can start getting creative in how to help it improve even further. The government has not even got it off the deck. That is the big problem with how the Minister for Small Business and his cabinet colleagues are managing the situation at the moment.

Sitting suspended from 6.00 to 7.00 pm

Mr S.K. L'ESTRANGE: I am always pleased to return to the chamber after a dinner break to speak on a very important topic in support of small business in Western Australia. It is great to see the Minister for Small Business back in the chamber and listening to the debate. As I said earlier, hopefully he is taking copious notes while listening to my speech, as he did when listening to the speech of the member for Darling Range and as he no doubt will with the speech of the member for Vasse, who will be ready to hook into the minister when I sit down; she will get stuck into the incompetent Minister for Small Business. He has been asleep at the wheel. If he is not asleep at the wheel of the economy of Western Australia, he is certainly asleep in this place, because his interjections are not value-adding one iota.

Before we went to the dinner break, the minister made the point that the government is doing something in this bill that will support small business. I will quickly highlight that, in support of the comments made by the member for Darling Range. Essentially, the government is expanding the Small Business Commissioner's current investigative and reporting functions so that they extend to any matter that affects the commercial activities of a small business. The former government focused mainly on government contracts and head contractors linked to government construction contracts so that the subcontractors down the contracting chain were better supported. This government has decided that we did all the heavy lifting when we were in government, so it wants to put a bit of icing on the cake and extend those powers somewhat further into all matters of business, be it with the public sector or even the private sector. As the member for Darling Range said, she wants to ensure, particularly during consideration in detail, that these efforts to support small business do not impact negatively on small business through onerous red tape and hold-ups to business activity. We need to ensure that the changes proposed in this bill do what they are supposed to do—that is, ensure that subcontractors are better protected on projects so they get paid and they get their payments on time. That is the most important thing and that is clearly what the Liberal–National government did when it was in power—it ensured that that was the case.

Members will recall that I also highlighted that the government is professing to help small business in this way and I outlined why it is doing that. It is failing small business by failing to manage the economy of Western Australia. By failing the economy of Western Australia, small business subcontractors are going broke. The construction projects in the private sector that support private sector suppliers do not exist. That is because we have a government that is all about spin and less about substance. It is all about saying that it is out there and it will help build a road or a railway line, but it is not doing anything. The last government that did anything was the Liberal–National government. In its eight and a half years, it carried out an enormous amount of infrastructure development in Perth and Western Australia, and in regional Western Australia through royalties for regions. The mob opposite is doing nothing. It is piling its RforR funding into existing requirements in and around roads and infrastructure. It is not doing anything to advance the city of Perth and greater Western Australia further than what was achieved by the former government. It is a shame, because if it had a plan to invest and build enthusiasm and motivate the people of Western Australia and encourage people throughout Australia to come back to Perth and get engaged in big projects, the economy would start to grow again. If the economy starts to grow again, the confidence of the people of Western Australia will grow with it and things will start to succeed.

Extract from Hansard

[ASSEMBLY — Tuesday, 13 August 2019]

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Mrs Alyssa Hayden; Mr Sean L'Estrange; Ms Libby Mettam; Mr Kyran O'Donnell; Dr Mike Nahan; Mr Stephen Price; Ms Jessica Shaw; Ms Lisa Baker; Mr John Carey; Ms Janine Freeman; Mr Yaz Mubarakai; Mrs Liza Harvey; Mr Zak Kirkup; Mr Peter Katsambanis; Mr Dean Nalder; Mr Tony Krsticevic; Mr Paul Papalia; Dr Tony Buti; Mr David Templeman

There is no better example of the problems that this government created than is highlighted in the Chamber of Commerce and Industry of Western Australia's "Outlook" document of July 2019 about the economy of WA. One of its pages includes a table for unemployment and shows the forecast. The 2017–18 actual figure for unemployment was 6.1 per cent but the forecast for 2021–21, when the government hopes to achieve a second term in office, is 5.9 per cent. An improvement of 0.2 per cent is not doing something to support jobs growth or to support subcontractors and small businesses in Western Australia. It indicates an abject failure by the government to understand how the economy of Western Australia works and to do things for the economy of Western Australia by growing private sector investment projects by supporting them and encouraging consumption spend. That is the real key.

I will tell members about another interesting document I found. CoreLogic puts out information relating to the property market. That is vitally important. We talk about consumer confidence being important. It is actually how we feel about our personal wealth. Our personal wealth is underpinned by our property—our house value. Under the heading "Residential Real Estate Underpins Australia's Wealth", the document shows that Perth dwelling values fell by 2.2 per cent over the two months to July this year. They are now 8.9 per cent lower than they were over the past year and 20.2 per cent lower than they were at their peak in 2014. If the government will not do anything to encourage people to grow their wages, get better jobs, spend their money in the economy—their consumption spending—they are not going to buy a new house. It is almost like the Labor Party came into power and turned off the music and everybody sat on their chairs and stopped. The new government then decided that all it needed to do after everybody sat on their chairs and stopped because the music stopped was to tell people it was doing something and put out a lot of media spin but do nothing. I hope that this is not one of those bits of spin—that the minister is telling the small business sector that he is doing something to help when, in fact, he is not doing much at all because he does not know how to run the economy of Western Australia. The government is certainly not helping the small business sector grow their businesses and grow investment in Western Australia as a result.

MS L. METTAM (Vasse) [7.07 pm]: I would also like to make a contribution to this debate in support of the Small Business Development Corporation Amendment Bill 2019. As has been made clear, we on this side of the house are supportive of this bill. We are certainly supportive of the great work that our shadow Minister for Small Business has done in going through and scrutinising this bill and highlighting some of the issues that are presented in the bill.

Our party is supportive of small business. Small business has done it particularly tough under the McGowan government. In fact, since coming to office, 30 000 small businesses have shut their doors. We have seen an 18 per cent reduction in the number of small businesses in this state. There are a range of reasons for the lack of confidence. The member for Churchlands said that there has been a significant decline in consumer confidence in this state. According to the Chamber of Commerce and Industry of Western Australia, 59 per cent of small business people are not confident about the state of the economy and the way that things are tracking under this government. One thing that has obviously contributed to that is this government's hit on household fees and charges, which has had an impact on discretionary spending, resulting in significant falls under this government's watch. In fact, in December last year we saw some of the heaviest falls in discretionary or retail spend since the global financial crisis. It has been felt out there in the community and in the small businesses that not only provide a service to our community, but also support the economy and employ our people. At the moment the unemployment rate is a drag on the Western Australian economy. The June figures indicate that it is at 5.8 per cent, but it is worth pointing out that only a day after this government announced earlier this year its priority of 150 000 jobs to grow the Western Australian economy, we saw an unemployment rate of 6.8 per cent—the highest unemployment rate in this state since 2002. That indicates that although there is a lot of talk about support for small business, the small business sector out there on the ground in Western Australia is not blooming under this government. We are seeing something quite different. As I said, 30 000 small businesses have shut their doors and there has been an 18 per cent reduction in small businesses since this government came to office.

We are unfortunately also seeing that in the electorate of Vasse. In Busselton over the last 12 months businesses such as Mann's Newsagency, Ruby's Accessories, Leaf Love Busselton and Sunglasses Hut Busselton have all shut their doors. There has also been the closure of a number of chains, including Baker's Delight, Muffin Break and Transit Clothing in Dunsborough. More recently—I learnt about this only last week—we found out that the Cowaramup Bakery will also be shutting its doors. It is the only bakery in Cowaramup, and that is really sad news for that community. It not only provides a level of support for other businesses in the area, it also has an impact on the tourism experience. That has raised a lot of concern out there. These businesses provide services in a region that relies to a large degree on the tourist trade and tourism experiences and, as I said earlier, they also employ our people.

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Of the biggest issues facing small business, red tape is obviously of significant concern for smaller businesses that do not have the economies of scale needed to address some of the administrative burdens of dealing with government and red tape. One of the issues that is more relevant to regional Western Australia is mobile coverage. Under the former government, between 2012 and 2017, 344 telecommunications towers were constructed across the state, which has improved the capacity for small businesses in the regions to do their job and provide services, particularly for people from overseas who have expectations about the consumer tourism experience. Another issue is cash flow, which is obviously a focus of the Small Business Development Corporation Amendment Bill 2019. This issue has taken up a lot of public interest in recent times. Fewer than half of small businesses are paid on time and that, for obvious reasons, has a big impact on small businesses' ability to operate.

WA Labor in opposition made much of the issues surrounding subcontractors. Since Labor came to government, we have seen many subcontractors go into administration. Choice Living folded in January, owing \$17 million to its subbies. Cooper and Oxley went into administration last year as well, temporarily locking workers' tools inside the Dradgin site and owing unsecured creditors about \$27 million. BCL Group suspended trading in February 2018. Prime Earth Moving was the company involved in the construction of the Margaret River perimeter road project within my electorate; there was also Omega Construction. York Civil was involved in the construction of the Matagarup Bridge and had 18 workers.

As I said, much was said about what WA Labor was going to do to address the issues affecting subcontractors and the issues that arise when such companies go into administration and are left without support or payment. I refer to the editorial of *The West Australian* of 12 February 2018, which highlights the gap between what was promised and what has been delivered under this government. It states —

More than a year and a half on from that policy announcement, WA Labor is yet to introduce any significant reform to protect subcontractors.

Labor's promised laws would have done little to help those subbies caught up in the financial troubles of WA construction firm Cooper & Oxley.

...

As it stands, the State Government has little to show for so much campaign rhetoric.

Even Ms Doust, who stood next to Mr McGowan in 2016 when he unveiled his plan to protect subbies, admits the Government has fallen short in its ambitions.

It is quite clear that the legislation we are debating tonight does not address the issues that have been highlighted in opposition.

Mr P. Papalia interjected.

Ms L. METTAM: I will continue my comments, I think.

The ACTING SPEAKER (Ms M.M. Quirk): Are you inviting an interjection, member, or not?

Ms L. METTAM: No, I will just continue the debate. Another comment that was made by Primer Projects' managing director —

Mr P. Papalia interjected.

The ACTING SPEAKER: Minister!

Ms L. METTAM: In a WAtoday article of 12 March 2018, the managing director of Primer Projects stated —

“It is extremely disappointing to me that I find myself, my business and my family in the position of losing more money due to the government's inaction,” ...

“You promised better protections for subcontractors at the last election, it has now been over 12 months since the election and the government has done nothing.”

There is an issue outstanding about what the government promised in opposition, in the lead-up to the election, and what has actually been addressed. In saying that, the Liberal opposition certainly welcomes this bill presented by the McGowan government. It expands the powers of the Small Business Commissioner, a position that was introduced by the former Liberal–National government. The commissioner oversees and investigates complaints made to the subcontractor support unit. As I stated earlier, our shadow Minister for Small Business has highlighted some issues with this legislation, and we on this side certainly all support the scrutiny that the member for Darling Range has applied to it. This bill represents the next step in what was achieved under the former Liberal–National government.

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We know that business cash flows are significant for small business. Less than half of small businesses are paid on time. In government, we ensured that government contracts were quarantined so that subcontractors were paid on time and ahead of anyone else. In ensuring that there are dedicated bank accounts, outstanding issues remain about the impact of implementing this policy on red-tape reduction or increasing —

Mr P. Papalia: Have you read the bill? This is nothing to do with those accounts.

Ms L. METTAM: I have highlighted that. The minister should keep up. I am talking about what was achieved under the former government. The member for Churchlands, a former Minister for Small Business, talked a lot about what had been achieved under the former government. We established project bank accounts, as I stated, for Building Management and Works construction projects worth over \$1.5 million. It is pleasing that the current government expanded that to all state government projects in 2019. That was an achievement of the former government. As Minister for Small Business, the member for Churchlands implemented a policy to make it easier for subcontractors to access rapid adjudication processes for resolving construction payment disputes and for building contractors to be paid within a reasonable time. That was a great achievement of the former Liberal–National government and was really well supported by industry.

We implemented a new code of conduct for the industry and stamped out inappropriate behaviour on construction sites as a result. The former government introduced a number of measures to ensure that there was a code of conduct and an adjudication process, as I stated, for government contracts relating to Building Management and Works construction projects. That was well supported by the industry. As I stated, we welcome this next step. It does not go as far as we would like. There is still an outstanding issue with the gap between what was promised and sprung in the lead-up to the election and what will be delivered by this government. Two years have passed.

We on this side of the house certainly support what is being presented here—that is, an increase of the powers of the Small Business Commissioner. We certainly support the scrutiny that our shadow Minister for Small Business will give the legislation at the consideration in detail stage of this bill.

MR K.M. O'DONNELL (Kalgoorlie) [7.23 pm]: Greetings, Madam Acting Speaker. I, too, wish to rise and speak in support of the Small Business Development Corporation Amendment Bill 2019. For some businesses, the exposure to heavy financial losses as a result of insolvencies, unfair behaviour and poor payment practices is significant. Construction industry subcontractors are especially vulnerable. Some businesses have used their position of power to delay or withhold payments rightfully due to subcontractors. The second reading speech stated —

Worse still, some of this behaviour has occurred on projects that are commissioned by the government for the benefit of the public.

Then the minister threw in the line —

We saw this many times under the previous government. It was shameful.

I do not know why we must have a snipe whenever possible. How about we say thank you for Perth Children's Hospital?

Mr D.R. Michael: Thank you for the debt and more debt and keep coming debt.

Mr K.M. O'DONNELL: We will take back Perth Children's Hospital and Optus Stadium.

A member interjected.

The ACTING SPEAKER (Ms M.M. Quirk): Member for Armadale, you are disorderly! You are out of your seat.

Mr K.M. O'DONNELL: I refer to the many schools that were built —

Mr Z.R.F. Kirkup: Thirty-five, wasn't it?

Mr K.M. O'DONNELL: It was 35 schools; thank you.

Dr A.D. Buti: Get back to the bill.

Mr K.M. O'DONNELL: I was just responding to an interjection. I ask members to cast their mind back to Tuesday, 19 May 1992.

Mr D.T. Punch: I remember it well.

Mr P. Papalia: Do you know where I was? Iraq.

Mr K.M. O'DONNELL: I thank the minister for his service. Back then —

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Northern Rivers MLA Kevin Leahy will investigate the government's procedures for awarding construction projects.

In a joint statement issued today Fuel and Energy Minister Geoff Gallop and Construction Minister Jim McGinty said the Government wanted to tighten its system to protect sub-contractors.

That was back in 1992 and as the member for Churchlands would say, "How'd that go?"

Mr S.A. Millman: The Labor Party has been working hard for small business ever since!

Mr K.M. O'DONNELL: I know it has taken only 27 years to get it.

A government member interjected.

The ACTING SPEAKER: Members, I think some of these questions are rhetorical so just restrain yourselves.

Mr K.M. O'DONNELL: Thank you, Madam Acting Speaker. The reason that I raised that is not to go back over 20-odd years but to illustrate that there was an issue with this decades ago and in the noughties, and now in the teens we have the same issue. When the minister throws in the snipe, "We saw this many times under the previous government. It was shameful", there is no need for that. If we wanted to do something like that, we could go back to 10 February 2005 —

The Nationals' candidate for Albany has accused the Western Australian Government of making hollow promises by claiming subcontractors on the Albany justice complex would be back at work in a few weeks.

Construction on the justice complex has been on hold since New Year's Eve, when Bunbury-based builders Devaugh went into administration.

At a meeting in January, the Government and administrators reached an agreement with subcontractors in which they would return to work and be paid all outstanding debts.

Back then, the government and administrators were working. It continues —

However, a month on, work is still to restart and subcontractors are still to be paid.

This is 13 years after that other incident with Jim McGinty and Premier Geoff Gallop said —

... he is satisfied with the way the Devaugh collapse has been handled by the Government.

Yet subcontractors had not been paid their money when the government said they would. It is not only the Liberal government. The Labor government has had its problems when trying to deal with this. Again, I get back to: there is no need a snipe when reading in the second reading speech —

We saw this many times under the previous government. It was shameful.

There is no need for that. The reality is that previous Labor governments built nothing and there were no government projects for anyone to not get paid on—hardly any. Labor let the state of WA go to rack and ruin with old infrastructure, outdated and overflowing hospitals, overcrowded prisons and roads that were poorly maintained and dangerous. The Liberal Party government funded a building revolution, creating infrastructure for years to come and jobs for many. Yes, we had half a million people come in over an eight-year spread. Infrastructure had to be implemented and debt had to rise. The Liberal Party made Western Australia somewhere that people wanted to be.

Dr A.D. Buti: Misleading the house, are you?

Mr K.M. O'DONNELL: Sorry?

The ACTING SPEAKER: Member, you are reading from a number of media releases or media reports, so can you just reference them when you are quoting someone? It is easier for Hansard.

Mr K.M. O'DONNELL: Sorry; I apologise, Melissa. That one about Albany was on the ABC news website, dated 10 February 2005. The other one was a media statement titled "Investigation of procedures for awarding contracts" from 19 May 1992.

Dr A.D. Buti: Do you believe those statements?

Mr K.M. O'DONNELL: I am not saying whether the people who made those statements were right or wrong; I am trying to highlight the fact that it is not just the Liberals the government is having a crack at.

Mr P. Papalia interjected.

The ACTING SPEAKER: Minister!

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Mr K.M. O'DONNELL: You guys struggled to deal with it in 1992.

Mr P. Papalia: No. Who were the people you were referencing? You can't just say that it's on ABC radio, because they wouldn't have said that. You're referencing some statement by someone on the radio.

Mr K.M. O'DONNELL: On the news and in the statement, yes. It was a joint statement.

Mr P. Papalia: From whom?

The ACTING SPEAKER (Ms M.M. Quirk): Between whom and whom, member?

Mr K.M. O'DONNELL: Geoff Gallop and Jim McGinty.

Mr P. Papalia: No.

Mr K.M. O'DONNELL: Sorry?

Mr P. Papalia: Don't worry.

The ACTING SPEAKER: It is all right. Hansard will sort it out, I am sure.

Mr K.M. O'DONNELL: If Hansard need anything extra, I will make sure they get it. Thank you for bringing that to my attention. I want to finish by saying to the minister that he should be careful licking those envelopes; he could slice his tongue very easily.

DR M.D. NAHAN (Riverton) [7.30 pm]: I would like to speak in the debate on the Small Business Development Corporation Amendment Bill 2019.

Mr D.A. Templeman interjected.

Dr M.D. NAHAN: I thought I had the floor.

This is one of the most contentious and longstanding issues that the state has faced. As the member for Kalgoorlie pointed out, we have had incremental change over many years, if not decades. We support the intent of the bill, but it throws up many challenges that future ministers, and maybe this one, will have to address, and I would like to go through some of them. As the member for Kalgoorlie pointed out, things did not start from ground zero in March 2017. The government of the day inherited a whole range of processes and reforms that had been put in place by previous Labor governments and the Liberal–National government to try to address the issue of contractors failing to pay subcontractors in a timely and effective manner. The member for Kalgoorlie and the member for Busselton identified those, and I would like to go through my role in this from 2013 to 2017 to highlight some of the processes and also some of the challenges with the bill that have been highlighted by the lead speaker.

When I first became Minister for Finance in 2013, on my desk was a report by the Small Business Commissioner about a series of failures to pay subbies who had been contracted to Building Management and Works projects under the Building the Education Revolution program. Seven of the major contractors had gone bankrupt, leaving subbies high and dry. We had tried to address it and we had a report on our desk. I might add that at that time, the Department of Finance advised me, as the new minister, that there were no problems with its selection or vetting process or, indeed, the timely nature of payments to subbies. I thought that that was absolute nonsense, and the report said that at the time. So what did we do? We addressed it in the way that we could. We agreed to pay out after a process 50 per cent of the losses of the subbies who had not been paid by those seven contractors. The Building the Education Revolution program was formed by the Rudd government, which told the state of Western Australia, "Here's a billion dollars. You have to spend it in these forms in a year." All the money went through BMW. That completely overwhelmed the department. People sat around a table and said, "How are we going to allocate this billion dollars and get it all spent in a year?" The department had a list of vetted, secured and identified subcontractors. It basically shelled out the projects across the table to all the received contractors. It was the time of the global financial crisis, if members remember, but in Western Australia, unlike on the eastern seaboard, our contractors had not fallen off the cliff. A lot of work was still going on, particularly up north, and workers were almost fully occupied. There were some threats to future jobs, but they were all fully occupied. We just overtaxed the contractors. The BER work program drove seven otherwise viable businesses into bankruptcy. So governments can be the problem.

We then went through a vetting process to identify bona fide claims. That process was adjudicated independently by RiskCover and we paid out \$3.7 million in assistance as payment for 50 per cent of the losses that the subbies could identify. One of the lessons from that—this is a really difficult issue—was that some of the subbies simply did not keep adequate records that they could use in an adjudication process to prove that they had a contract, the terms of the contract, the terms of changes to the contract and who owed them money. That was a real difficulty.

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Following that, we changed BMW's adjudication and selection processes for registered contractors. We also put in place a process under the Small Business Commissioner to educate prospective subbies, because that was a major problem. We also emphasised to subbies the need for adequate record keeping. This is a real problem and one of the problems that the Small Business Commissioner will face in the future if this bill is passed. We also made substantial reforms to BMW so that it could have more intelligence about the nature of the financial position of the head contractors. One of the lessons—this is the essence of the story—is that subbies cannot be expected generally to appreciate or have a good understanding of the fiscal solvency of the head contractors. They simply cannot do that, whereas BMW should have, and I think it has, improved its game so that it can do that in a more effective way and therefore protect subbies. That was my first experience of this process.

Of course, when we came to government, we set up the Small Business Commissioner, which was the first such commissioner in Australia. It was a very effective reform. We then tightened up the Small Business Commissioner's adjudication power and reshaped the Small Business Commissioner's role to focus more on this problem—that is, to have a Small Business Commissioner who did a large number of things but mainly provided services and advice to the small business sector. Prior to that, the Small Business Development Corporation provided a raft of advice and services that were useful but not the main game. We took the Small Business Development Corporation and the Small Business Commissioner and focused on the real game. Mr Eaton has done a fine job as the commissioner since then. Of course, we got him involved in vetting the bankruptcies that occurred under the Building the Education Revolution program and he came up with a whole range of recommendations for both his own organisation and BMW that were put in place.

We then moved on. Other problems arose, particularly during the downturn in the economy. I will let members know how serious the downturn has been. Over the last two years, 350 building contractors have gone into bankruptcy or liquidation. That is a lot. It is not restricted to Western Australia, but a higher number of building contractors have gone into bankruptcy in Western Australia than in the rest of the country. It is one of the highest figures on record. It is not always due to a lack of payment; there is a range of issues, including work and activity.

Obviously, the issue of failing to pay subbies came up, not so much in the public sector after the reforms were put in place, although there were some, but in the private sector. When things became tighter in the private sector, these types of disputes between subbies and the head contractor became more pointed. We stepped it up again. We then set in place project bank accounts on a trial basis in Building Management and Works. That was the first time in Australia they had been trialled. They were on some experience in the United Kingdom. These things have to be gone about slowly because it is a very complex process. It could be costly and one of the biggest issues is whether it works in Western Australia under our law. I understand after our experience that the government picked it up and is now putting it into place more widely, which is useful. We also significantly amended the Construction Contract Act to tighten up the powers of adjudication. We also tightened up the payment period, moving it to 30 days, which at that time was the shortest in Australia. We also put in a whole raft of penalties to assure timely payment of money to subbies. We also put in the Western Australian Building and Construction Industry Code of Conduct, which was significant, and I do not think the government has moved on that at all. The power of it was that the biggest employer generally of subbies except for the mining sector is the government. Under this code of conduct we prohibited a whole range of improper payments, sham contracts, phoenixing of firms, failure to pay, disclosure of contracts, unilateral change of contracts and other unlawful behaviour defined under the commonwealth code. Under this code of conduct we prohibited those things. The penalty for contractors if found out was to lose the right to contract to the state. It was a bit strong, but it was a strong power the state had to tell the major contractors that if they did not operate under the code that we had put in place, they could not contract to the state. That was a very, very powerful tool we had in our hands, and we not only put it in place but supported it with substantial resources of enforcement. I do not think it is the minister's bailiwick; it might be that of the Minister for Industrial Relations or the Minister for Commerce. Nonetheless, I would like to explore in consideration in detail whether the government is still enforcing the code or whether the resources for these changes will be taken from the enforcement of the code.

We had discussions with the Building Commissioner about doing what this bill plans to do. One of the problems we had was that subbies would often not want to take action available to them under Construction Contractors Act because it might upset the head contractor, which they wanted to have work with in the future. They would delay taking action for as long as possible, even though it was freely and readily available and encouraged by government and the Small Business Commissioner, because they did not want to upset the dynamics of the contract in future work. That is part of the imbalance here. With the Small Business Commissioner we explored giving that person powers of unilateral examination of issues. That arose in the case of a subbie failing to get paid for work on the Perth Children's Hospital. I will not go into the details of it, but the main contractor with the subbie simply did not take advantage of the adjudication process in the contracting act and we could not convince them to do so. We could not address the issue unless they went through that process to provide us the information needed to find out who was right and who was wrong. It was clear to us that it might be necessary or useful for the Small Business

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Commissioner to take action when he hears about improper action, sham contracting, failure to pay or systematic failure to pay in a timely manner. The Small Business Commissioner was really reluctant to do this under our watch. I do not want to put words in his mouth, but there were a couple of reasons for that.

Mr P. Papalia: You'd better not.

Dr M.D. NAHAN: I am just being honest here. The minister can threaten me if he wants.

At that time I was one of the ministers and I had discussions with the commissioner. He has obviously agreed to this now, because the minister told him to do it. There are a whole range of processes that have to be put in place before the commissioner can have the types of powers he or she would share with a whole range of other bodies. Powers of examination and collecting evidence have to be defined. One misconception out there is that this is just going to be between the big contractors and the subbies. If we look at the evidence, sometimes the head contractors get into disputes with subbies, but generally the disputes are not with the head contractor, but with contractors down the line.

Mr P. Papalia: It allows it to do them as well.

Dr M.D. NAHAN: Yes, it does. The legislation had to do that. It had to be able to go up and down the contract chain and not just apply to head contractors. We have to also be very careful —

Mr P. Papalia: The legislation does that.

Dr M.D. NAHAN: The minister will get his time.

Mr P. Papalia: I will.

Dr M.D. NAHAN: I hope he is across his brief more than he usually is. He usually stands up and waffles. That is why he has been tagged as a junior minister. Unfortunately, this is not a task that a junior minister should be given; this is a very important one.

Mr P. Papalia: So small business is not important; is that what you are saying? That is what you just said.

Dr M.D. NAHAN: I said it is very important.

Mr P. Papalia: For you it is a junior ministerial portfolio.

Dr M.D. NAHAN: It is the exact opposite.

Several members interjected.

The ACTING SPEAKER: Members!

Dr M.D. NAHAN: I said this is not a task that should be given to a junior minister like the Minister for Small Business.

Mr P. Papalia: You are a backbencher.

Dr M.D. NAHAN: Yes, good. I am a member of this Parliament.

Mr P. Papalia: In the group of 13 you did not get a job.

The ACTING SPEAKER: Members, let us go back to the bill.

Dr M.D. NAHAN: He proved my point.

This is an issue we have evolved to over many decades. The issue at hand should be the extent, the restrictions and the conditions upon which a Small Business Commissioner, a competent one, one backed up with a whole range of other changes that will be put in place—particularly by the previous Liberal–National government that this government has inherited—to bolster things and take them up one step. My own view is that the Small Business Commissioner's adjudication process has generally been highly successful, and there has been a recent review of it. In most cases the adjudication has been successful, and very few appeals have come from that.

[Member's time extended.]

Dr M.D. NAHAN: The adjudication process has been successful; however, we, and the Small Business Commissioner in his various reports, identified that there have been small but serious groups of people with issues that have gone unresolved because the parties to them did not want to use the adjudication process, and that is what we are going into. As our lead speaker has pointed out about the bill, the range of issues that the Small Business Commissioner can look into is very broad and the parties are very broad. That breadth overlaps with a whole range of other parties and groups that we already have in place to adjudicate those issues. We will look at them in consideration in detail and attempt to narrow them down, because if things are too broad and there is overlap and duplication with other parties, very little is going to be effectively done, and where there is a strong niche for these new powers for a Small Business Commissioner, they are likely to be diluted. Therefore, it is important that we focus the powers

Extract from Hansard

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Mrs Alyssa Hayden; Mr Sean L'Estrange; Ms Libby Mettam; Mr Kyran O'Donnell; Dr Mike Nahan; Mr Stephen Price; Ms Jessica Shaw; Ms Lisa Baker; Mr John Carey; Ms Janine Freeman; Mr Yaz Mubarakai; Mrs Liza Harvey; Mr Zak Kirkup; Mr Peter Katsambanis; Mr Dean Nalder; Mr Tony Krsticevic; Mr Paul Papalia; Dr Tony Buti; Mr David Templeman

for the Small Business Commissioner under this bill on those most relevant to that person, and body, to pursue. That is vital because there is a problem. We will move some amendments on that.

The lead speaker, the member for Darling Range, also highlighted an amendment about going into ministerial offices. I do not know why that should be done. The minister does not sign contracts. The contracts that are the issue here are really in the departments or in the private sector. The minister might have information about the nature of the various contracts, but what needs to be adjudicated is the contractual relationships and details between the two parties, not so much with the minister. Including the minister, I suggest, may indeed inhibit the minister from becoming actively involved in the identification and elimination of the problem, if the minister is open to vetting by the Small Business Commissioner. We will look at the remit of this in great detail and try to delimit it and focus on how it works.

The member for Darling Range has done a great job on this important bill. She has not made any sweeping derogatory comments; she has stuck to the detail and the intent and tried to focus on improving the bill, which is why we should be here. The issues are how it will work, whether it will be efficient and whether it will overlap and duplicate the many other bodies that have adjudicating powers. One of the things the member for Darling Range is proposing is a two-year review of the process. I can see real issues, with my experience on this, when the Small Business Commissioner sees a problem that is not being brought to him by either of the parties to a dispute, that the parties, even the smallest subbies, might not want to participate in that adjudication process. We could come up with a variety of reasons for that. It is important that the Small Business Commissioner, when he goes into these examinations, retains his role as the advocate for small business rather than the judge of small business activity. So far, the Small Business Commissioner has very successfully structured, over the evolution of policy changes, a position in which small businesses think of him and his group as their advocate. If, through these amendments, we change the policies and he becomes the examiner, it changes the dynamics of his role, and it has a potential to undermine that role. I am not saying we should not walk down this path; I am saying we should walk down this path very carefully. I can remember, in some of the discussions I had with subbies when issues came up, that they did not take the adjudication process because they did not want the sunshine of adjudication to focus on the disputes they had with their contractors. Importantly, many of these disputes will be between relatively small subbies, or small firms, not so much the Multiplexes or the John Hollands of the world.

We will also find that many of the contracting processes—hopefully the Small Business Commissioner has been working on this, and they have improved—simply do not have the information systems, business processes and decision-making processes necessary to support an adjudication. Some of the feedback we got, particularly in the Building the Education Revolution fiasco and others, was that the records of the nature of the contracts, the alterations to the contracts, and the cost and expenditure data were simply not kept adequately to substantiate an adjudication. Going back to Building the Education Revolution, a good 20 per cent of the businesses that we wanted to give data to, and fund a 50 per cent of their law fees, simply could not substantiate in any meaningful way, in the view of RiskCover, that they had actually spent the money. We tried, and gave them extensions and assistance to try to find the data, but they could not do it. My concern here is not that we should not do it. This is a step that I thought we should have taken some time ago, but we had to, in the view of the Building Commissioner, put into place a number of policies. We had to make sure that the Building Commissioner is supported by the small business sector, that information systems are better, that we have supportive contracts and clear laws on payment periods and other aspects, and that the head contractors and major contractors are much more transparent. We also had to put in place project bank accounts to make sure that there is money around to pay bills in case something goes wrong. My point is that a large number of the disputes that the Small Business Commissioner will adjudicate under this bill will be between very small businesses that simply do not have the information systems and adequate documentation to substantiate a decision. The nature of this business comes out over and over again. I do not know how we can solve it. I think it is an issue we can take up with the Small Business Commissioner.

Before I sit down, one of the issues is that the office of the Small Business Commissioner, which has been one of the most successful institutional developments of Western Australian governments towards small businesses has, over time, steadily and with the support of laws, built up a reputation for being a clear-eyed, objective friend of small businesses. That is through the adjudication process, advice, assistance and advocacy, but when that person now gets the power to peer into contracts that they are not necessarily asked to peer into by either party, that potentially changes that role quite significantly. We have to think about it very carefully, and give the support to the Small Business Commissioner to use his wise judgement to choose where he goes and how he does it. The last thing we want is to pass a bill that is not well thought through, though the intent is right, and undermines the Small Business Commissioner's standing, which has taken 20-odd years to build.

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An issue that I want to end on is the point made by the member for Churchlands. How do we help small business? It is best to have a vibrant economy. The real issue in recent times, with subbies not getting paid, was the decline in business investment in this state. We rose to a height of \$65 billion investment in 2014–15, and we have now come down into the trough. Business investment is still shrinking in this state, though it has been predicted to increase over the past two years. Investment is perhaps picking up in the mining sector, which is great, but housing and business development is in the doldrums. Some of my colleagues said that the best thing that this government can do is to make sure that households have confidence, that households spend, and small businesses and subbies get work. The contract disputes is a second order issue. Work is the primary issue, and that is the source of the problem here. We have to fix the secondary issues, but focus primarily on economic activity.

MR S.J. PRICE (Forrestfield) [7.59 pm]: It gives me pleasure to stand and speak in support of the Small Business Development Corporation Amendment Bill 2019. I would certainly like to acknowledge the great work of the Minister for Small Business and his staff and everyone associated with bringing this bill before the house. It is certainly an issue that has needed to be addressed for a very long time. I found it quite interesting sitting here listening to the opposition talk about the economy and what we need to do to get the economy going when members opposite saw the biggest investment and mining boom in this state for years and years. What did they do with it? Absolutely nothing; they completely wasted it. We ended up with record debt and deficit as a result of the mismanagement of the opportunity we had. We should have been able to keep the economy going.

It is challenging at the moment and there are a lot of examples out there of how we need to do more to look after our subcontractors. This bill does exactly that. In *The West Australian* of 20 June 2018, Helen Shield wrote an article titled “Pay delays, unfair deals hurt WA’s subbies”. Subcontractors WA chairwoman Louise Stewart, is quoted as saying —

“Twenty-seven construction businesses in this State have collapsed in the past two years owing subcontractors millions of dollars for work that has been done.

It is because of those collapses—whether they be tier 1 or major subcontractors within this state—that the subcontractors need to be looked after. We have heard a lot of contributions to the debate today about how small business is very important to our economy. I think figures somewhere indicate that there are 224 000 small business operators within WA. We understand that they are a significant part of our economy. They employ a lot of people and we need to make sure we do what we can to assist them. The McGowan Labor government came to the last election with a promise to look after subcontractors. We are taking a very serious approach to this issue in multiple ways.

I would like to touch on some of the minister’s comments in his second reading speech where he referred to how small businesses have been exposed to financial losses, leading to insolvency in many cases, due to some of the unsavoury and poor payment practices that have occurred on some of our major construction projects. Unfortunately, it is the construction industry in which subcontractors have been particularly exposed to these practices. Comments were made earlier that I will touch on shortly about things like project bank accounts and other parts associated with looking at protecting subcontractors, yet we are taking a separate approach to looking after subbies, but I will come back to that a bit later.

As has been discussed, this is all about the expansion of the role of the Small Business Commissioner when it comes to dealing with disputes that he may be aware of, specifically, to investigate complaints made by subcontractors. We have spoken about the really good step of the appointment of the Small Business Commissioner, about eight years ago, by the previous government.

[Quorum formed.]

Mr S.J. PRICE: As I was saying, one of the positive steps forward was the introduction of the Small Business Commissioner eight years ago by the previous government. The commissioner has done an amazing job in that role. Statistics on the number of disputes under the commissioner’s alternative disputes resolution process indicate its success. It has given subcontractors and small businesses an avenue in which to try to resolve some of their issues with major contractors. As the member for Riverton said, quite often, a junior subcontractor will be dealing with a major company and the Small Business Development Corporation will provide an opportunity for some sort of mediation and resolution between parties that gives the small business an opportunity when they might not otherwise have that. However, as we have heard, the issue with that is in construction in Western Australia or any state, only a small number of tier 1 contracting construction companies take on big jobs. A subcontractor does not want to get offside with a tier 1 contractor because they could find that they cannot pick up any work. As challenging as it is, a pipeline of work is coming along and if a subcontractor is seen as problematic, there is every chance they will not pick up future work with that future contractor. They deal with a range of companies. A tier 1 contractor

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will use a certain number of subcontractors, who will then use their own subcontractors. The concern about taking up an issue and potentially losing further work is addressed within this bill also, and I will touch on that a bit later.

Before we came to government, we said that we would look at how we can assist subcontractors within the construction industry, particularly with a focus on contractors working on government projects. If a subcontractor has work on a government project, there should be no issue with them being paid for their work. One of the things we instigated was the review undertaken by John Fiocco, ably supported by Hon Matt Swinbourn from the other place, looking at how we could address some of the other challenges within the construction industry and other ways that we can assist subcontractors. Mr Fiocco was appointed on 22 February 2018 to undertake his review, and his report was released on 11 December last year with 44 recommendations. The government is working through looking at and implementing those recommendations. However, it is interesting to touch on the establishment of the Small Business Development Corporation subcontractor support unit under the Small Business Development Corporation heading. It was a very big step forward for our subcontractors. As the Small Business Commissioner, David Eaton, said in an article in *The West Australian* of 11 December 2018 written by Helen Shield —

“... could be the first port of call for anyone in the construction industry—big or small, contractor or subcontractor.

The unit would either help or refer elsewhere.

That leads to the point of duplication of services. If someone is better placed to deal with an issue, there is the potential to palm it off through that process. The Small Business Development Commissioner plays a very important role in this space. Until now, there have been limitations on the investigations and reporting functions that were prescribed. Essentially, these limitations relate to the source of a complaint. There had to be a complainant before the commissioner could undertake an investigation. There was a limitation in the amount of documentation that the commissioner could compel people or organisations to produce to help with an investigation and there were also limitations in providing reports on matters instigated, especially to the minister, because there was no statutory basis to allow the commissioner to share the reports. All these limitations have been taken into consideration with the Small Business Development Corporation Amendment Bill 2019 addressing a lot of those restrictions. The explanatory memorandum states —

The purpose of the *Small Business Development Corporation Amendment Bill 2019* ... is to enhance the Small Business Commissioner's ... general investigative and reporting function.

We have heard many contributions today about the what-ifs and how this may lead to other areas, but essentially the intent of the bill is quite simple—namely, as I just stated, to enhance the Small Business Commissioner's general investigative and reporting function. To do that, the bill expands the commissioner's functions by expanding the scope of matters that the commissioner can investigate from the current topics of unfair market practices and actions of public sector bodies that affect the commercial activities of small business to any matters that affect the commercial activities of small business. That is very important because it opens the possibility of other small businesses going to the Small Business Commissioner for dispute resolution. The bill enables the commissioner to investigate the actions of private sector, local government and state government that affect the commercial activity of small business, which is also an important point. The bill also enables the commissioner to investigate a matter without the need for a formal complaint by a small business. This goes into areas in which a trend or common practice in a small business or the construction industry may have a negative impact on subcontractors. The key wording is that the commissioner can launch an own-volition investigation if trends of behaviour or activity are observed.

To highlight that point, I refer to an article in *The West Australian* on 24 October 2018 by Helen Shield about one Perth Children's Hospital subcontractor who went into liquidation. As we all know, the children's hospital was a John Holland project. The article states —

A contractor can direct a subcontractor to do work not set out in a contract. This is known as a variation.

Variations have become a trend on a lot of our construction projects. A company may underbid the cost of doing a project and undertake variations to recoup the additional cost plus make up their underbidding through the variation process. RAC Arena is a classic example. I am not sure where that issue is at, but variation legal action was associated with the final cost. The article states —

A contractor can direct a subcontractor to do work not set out in a contract. This is known as variation.

The subcontractor puts the cost of the variation to the contracted work in writing and the contractor that ordered it signs to ensure the subcontractor gets paid.

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...

If the variation is not approved, the subbie won't get paid. If they don't do the work ordered, they are in breach of their contract.

They are caught in the middle of nowhere. According to one subbie who got caught up in this —

If they didn't agree, we were obliged to do the variation ... in any case but the invoice for it wouldn't be approved until after the end of the contract ...

Which is the completion of the job, and then they get into the litigation part of trying to recoup costs. The article continues —

If a company doesn't want to play fair, what can a (a subcontractor) do?

They can do very little —

If a head contractor has under-priced a project, they have no incentive to approve their subbies' variations.

And then they get into a legal battle. All the time that this goes on, the subbie carries the additional costs of labour and goods to perform the work that they have had to do under the variation. If they cannot carry that cost for the duration of the project, they go under. Variations are an example of a trend that could catch the attention of the Small Business Commissioner.

In another example, a company on the NorthLink project ended up going into liquidation as a result of unpaid variations. I refer to the comments of Mr Thomson from Piggott Partners, a liquidation company, who said —

Liquidators around the around the country would almost invariably find that unpaid variations are the root cause of most contractual disputes ...

They are also the cause of most of the liquidations of subcontractors around the country. That aspect of the bill that allows the Small Business Commissioner to identify particular trends in industries and conduct own investigations is very important. Phoenixing is an example of a company that winds itself up and leave its creditors unpaid—they may get a couple of cents in the dollar on what they are owed—and the company forms another company and carries on without having to meet its liabilities to subcontractors and other creditors who are still waiting to be paid.

One of the really strong aspects of the bill is the ability for a subcontractor to remain anonymous. As I touched on earlier, a main consideration for a company to not undertake a dispute procedure against a major contractor over non-payment is the fact that they may lose future work opportunities. This bill allows for anonymous complaints. The commissioner may undertake an investigation, but can do so while protecting the identity of the person who made the complaint or application. That is important to ensure that there are no adverse impacts for a person who may have been financially mistreated by a major contractor. This gives them an opportunity to rectify the issue without jeopardising future opportunities in that industry. Once again, that can apply to any small business. The increase in the commissioner's powers to look at these particular issues is good.

[Member's time extended.]

Mr S.J. PRICE: In saying that, there has to be a balance on the other side. There is also the opportunity for those against whom a complaint has been made to provide documentation to disprove the allegations. That is an important part of ensuring due process in these investigations. An overview of the industry has long been needed. For a long time, there has been a need to look at the construction industry. It is very complicated. We talk about the requirement for publicly-listed companies to disclose their financial status and ability to meet the costs associated with the work they are doing. A company may have a multimillion-dollar contract. The information that a company may provide when it tenders for a contract may change overnight. The information it has put forward about its financial stability may be impacted upon by another financial decision it has made. A tier 1 contractor may win a government job in Western Australia and bid for a job in another state or another part of the world. That contract may not work out for that company and put it under financial stress, which may have a negative impact on how it operates in this state. That is not something the government can deal with. The government does not get involved in restricting the work a company can do. RCR Tomlinson is an example of a company that did very well on a particular contract and then sought other big contracts, but because it was not suited to those contracts, in the end that did not work out for it. The more we can put in place to protect contractors and ensure they get what they are owed, the better off we will be going forward.

Once again, the McGowan government has taken a number of initiatives to deal with this issue within the construction industry. As I have said, the John Fiocco report made 44 recommendations, some of which are being

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rolled out, and more will be developed into the future. The significant amount of work which is in the pipeline through Metronet, and the work which this government is implementing across the state, provides a huge opportunity for subcontractors to get good, steady employment on government projects, and to know that they will be paid, because the money is there. The issue is not about whether the developer can afford the project. The government knows that it can pay for the work, because the money is there. The issue is ensuring it gets to the people who do the work and need to be looked after. The focus of the Minister for Small Business, who has done a fabulous job with this bill, and of the Premier, Mark McGowan, is to ensure that we put in place as many protections and procedures as possible for our subcontractors, because they are an important part of our small business community within this state and employ many people. We cannot allow people to be financially disadvantaged by rogue companies that take advantage of people.

The Small Business Development Corporation does a range of things, apart from dispute resolution and conducting investigations. It provides a range of beneficial services to small businesses in this state. We need to ensure that everyone is aware of those services and can take advantage of them. The comment was made by previous speakers that a subcontractor may not be able to make a complaint because they will not have the paperwork to support their complaint. That is ridiculous. The subcontractors in the construction industry of Western Australia are good, well established and very clear operators. To be honest, it is quite insulting to suggest that they would not have the appropriate paperwork. People who are running a business know exactly how much they are owed and they much they owe, and exactly how much they have in the bank. It is all about cash flow. They have been doing that work, and they know that they have the appropriate paperwork. Therefore, to suggest that they would not be able to run a successful investigation through the Small Business Development Commissioner and the alternative dispute resolution process is absolutely ridiculous.

The Minister for Small Business and his office have done a wonderful job on this bill, as has everyone in the department who has been associated with this bill. I certainly look forward to the passing of this bill through this house and the other place, especially with all the support from the opposition. I hope we can get this bill done and dusted and implemented into law as soon as possible so that we will be able to start to help our subcontractors. I commend the bill to the house.

MS J.J. SHAW (Swan Hills) [8.24 pm]: I also wish to speak on the Small Business Development Corporation Amendment Bill 2019. It is always a pleasure to have the opportunity to talk about the steps that the McGowan government is taking to support small businesses. Small businesses are the engine of growth. The seat of Swan Hills has 4 302 residents who own and operate their own business. The largest sector in which those small businesses operate is the construction industry. Slightly over 30 per cent of small businesses in the seat of Swan Hills are in the trades. This has a ripple effect throughout my electorate. A number of local professional services firms support those tradie companies. The guys also pop down the road to get their Masters choc milk, or their Dare, and support the local cafe, the local takeaway and the local IGA supermarket. The things we do to support small businesses in Swan Hills have a ripple effect and should not be underestimated. I know a bit about this. My whole family is in the building trade in Swan Hills, and has been for many years. In fact, my mum even worked on the trade desk at the local Bunnings store. Stimulating small business activity in the seat of Swan Hills has been at the front of my mind for a very long time, and, indeed, of my entire family.

Obviously, given the centrality of small business and the centrality of the construction industry in particular to the standard of living of the people of Swan Hills, we take a key interest in the McGowan government's initiatives designed to support small business. We in Swan Hills are pretty keen to do things for ourselves, though. The Ellenbrook Chamber of Commerce and Community was established 12 months ago. I went to its one-year birthday party a few weeks ago. The Mundaring Chamber of Commerce has a new executive and a new level of energy and enthusiasm and is driving change in that area. It is always a pleasure to meet with those people. They are always ambitious for Swan Hills and very keen to support initiatives. They are also self-starters. I suppose the characteristic of people in the small business sector is that they are self-starters. However, they need support. They particularly need support when at times they have to face some pretty David and Goliath-type battles.

Whenever I meet with the small business sector, I like to talk about what our government is doing and hear about their concerns. A lot of small businesses are very interested to hear about the passing of the Western Australian Jobs Act and the Western Australian industry participation strategy. They recognise that the state government spends around \$27 billion a year on the procurements of goods and services. It would be great if some of our local small businesses could see a bit of that action. It is fantastic that when bidding for Western Australian government contracts, principal contractors are required to identify the opportunities for small businesses and how they plan to deliver some of that state government expenditure back into the pockets of the hardworking people of Swan Hills.

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We have also established WA Industry Link, which helps businesses that perhaps are not as sophisticated and used to participating in complex government procurement processes to enhance their capacity to contribute.

The people of Swan Hills are obviously very excited about the delivery of the Ellenbrook railway line and the metro hubs and precincts that will surround the stations in that area. That will provide construction opportunities such as social and affordable housing packages. Off the top of our heads, perhaps we do not make a direct link between social and affordable housing packages and jobs for small business. However, if we create a heap of demand for social and affordable housing in areas like Ellenbrook, there will be a heap of demand for new home construction. Just to mention Keystart, 2 500 loans have been approved, and 2 100 of those were for new-build homes. Those sorts of activities stimulate the local economy in places like Swan Hills and deliver local jobs for tradies right across my electorate. It is not too much of a stretch to observe that the housing construction sector is challenged at the moment and the banks are tightening their lending criteria, partly as a result of the banking royal commission. The type of programs that the McGowan Labor government is providing and the type of steps that it is taking at the moment is playing a crucial role in creating jobs and stimulating our local economy. Given the number of construction trades and small businesses in Swan Hills, we are very interested in subcontractor supports and protections in particular. I know only too well from the experience of my family and my constituents that the building and construction industry is very high risk for small businesses. Subcontractors are exposed to very high levels of late payments, non-payments and insolvencies. This puts real pressure on small businesses, their employees, their families and our community; it has a ripple effect. It is not just the tradies who do it tough; the professional services firms and the local milk bars all start to feel the impacts when the trades industries are under pressure.

In December 2018, it was great to see the government announce a range of measures to improve payment protections for small business on government works projects. That is fantastic. The expansion of the project bank account provisions, when government project works are greater than \$1.5 million, provides protections for those contractors who are further down the food chain but are always the ones who seem to miss out when any of these big guys go belly up. It will also improve the speed with which subcontractors are paid and increase transparency in the payment process. It was great to see the establishment of a subcontractor support unit, overseen by the Small Business Commissioner, who will have the power to compel head contractors on government projects to prove payment to subcontractors; shield subcontractors from retribution for lodging complaints by allowing them to be anonymous; conduct random and targeted audits based on intelligence and tip-offs; make recommendations to government to sanction head contractors, ultimately impacting on their future procurement opportunities in WA; and showcase best practice contractors in the state. It is important that we do that and that we talk up the good guys. I guess the key thing is that it is no longer acceptable for head contractors on government-led projects to just fob off their responsibilities.

The bill that we are now debating makes amendments to the Small Business Development Corporation Act 1983 and represents yet another step that this government is taking to support small business, particularly small businesses in the construction industry. That is very important to my constituents. It has become glaringly apparent that subcontractors and small business owners are all too frequently hung out to dry by unscrupulous operators. They experience non-payments and late payments and always seem to be last in line. There are glaring power imbalances between small businesses and the big guys that they often have to deal with. Their access to information and access to funds, even the time that they have to dedicate to pursue contractual remedies, is really limited, so any help that we can give the small business sector will have a significant effect. While ever we fail to address that, the ripple effect all the way through communities such as mine in Swan Hills is significant.

Small businesses also face a raft of challenges and often unnecessary barriers to their operations. They struggle with red tape. They often feel powerless against bureaucracies at all levels of government. Again, they often lack the time, the legal skills and the financial capacity to challenge maladministration. One of the best-positioned agencies to assist these small business operators is the Small Business Development Corporation and the Small Business Commissioner. The corporation does some great advisory work. In fact, we recently had a small business forum at the Ellenbrook Chamber of Commerce. I was very pleased to be invited to speak at that event. The SBDC was there and it ran some fantastic sessions, providing advice to the fledgling and established businesses in my community on how they can better network and enhance their capacity. It does some fabulous work. It also provides an alternative dispute resolution service, which a number of constituents have accessed. The commissioner could do more. This bill will certainly facilitate that.

The Small Business Commissioner has some investigative and reporting functions. He or she can investigate complaints about unfair marketplaces affecting small business, the actions of public sector bodies that affect the commercial activities of small business and the impact on small business of legislation and government policy. The commissioner can also provide reports. He can make representations to another person or body on behalf of a small business complainant and can advise the minister on any matter related to its functions, but there are some

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limitations. The first limitation relates to the source of the complaint. The commissioner needs a complaint before the corporation can investigate an issue. It cannot self-instigate based on anecdotal evidence, general market intelligence or observed trends about behaviour and other practices impacting on small business. This can be very problematic as not everyone is in a position to come forward with their concerns. They might fear retribution from larger businesses or fear damage to their business relationships. A number of small businesses raised those issues with me when I was preparing for today's debate. They asked me to please not name them in Parliament as they were concerned about the impact it would have on their business. That is a terrible situation to be in.

The second limitation is that the commissioner cannot compel people to provide information or documents. The commissioner is then depending on the cooperation of parties, which is not always forthcoming and can affect the outcome of an investigation. The third limitation, in terms of reporting and information sharing, is a concern that government agencies may not always communicate effectively with one another, which makes it difficult for industry to resolve its issues in a broad sense. The commissioner also currently has no legislative basis to share information with other government agencies about what is happening to individual businesses in the marketplace. Under the proposed changes, the commissioner will be able to instigate own-motion investigations, which addresses the issue that the commissioner needs a complaint from a small business before he can look into a matter. The commissioner will be able to compel the production of information and documents. This will be particularly important and helpful in achieving the government's commitment to improve the security of payment for subcontractors. It is very important for the construction industry and small businesses in Swan Hills in particular. The commissioner will also be able to issue notices and enforce compliance. The commissioner will also be able to report to the minister and to government entities to improve the knowledge and capacity of all levels of government to address the issues of small businesses. Finally, with regard to confidentiality, the identity of a complainant will be protected from disclosure by the commissioner. This means that a small business owner who is reluctant to make a formal complaint due to possible retribution, bullying or damage to their business will be protected. Again, as I said, that is a material issue for businesses in my electorate.

As a result of the changes, the commissioner will be better able to investigate claims of poor behaviour and practice in the market and make informed reports to government. Small businesses will be better able to raise their concerns confidentially with someone in a position to help them and the flow of information about small business matters will be improved among government agencies. Small businesses, particularly in the construction sector, as I said at the outset, are the engines of growth in Swan Hills. This is yet another step that the McGowan government is taking to generate jobs, stimulate growth and support small businesses in my electorate. I congratulate the minister and his staff for their hard work on this legislation. Thank you very much. It means a lot to us. I commend the bill to the house.

MS L.L. BAKER (Maylands — Deputy Speaker) [8.37 pm]: I rise to make a brief contribution at this stage of the evening to the Small Business Development Corporation Amendment Bill 2019. I want to start by congratulating the former government, which I think established the role of the Small Business Commissioner in this state. From memory, it was part of the red-tape review that the Leader of the Opposition undertook. It was a fantastic initiative. The former government deserves congratulations for establishing that. Now we see the McGowan government stepping forward and giving further support to a good idea, taking it a further step to be a more effective deliverer of good settlement services and good protection to small businesses in this state.

I sat in this house for a while this year hearing many criticisms of small businesses and their performance, particularly around Beaufort Street and the like. I would like to put on the record that the kind of issues that the commissioner might be faced with relate to lease agreements, rental costs and many of the things that are bread and butter for the strip shops along Guildford Road and through Inglewood, Maylands and Bayswater. These are day-to-day problems for businesses throughout all our electorates. I am looking forward to seeing these expanded powers come into place and congratulate the McGowan government for this step.

On a more positive note, I want to speak about the businesses in my electorate and the things happening in positive business development. Although small business comes with some of the things I mentioned earlier, such as issues to do with leases and rental costs, I think it is well worth reminding people that there is also some very positive news. I know a number of members would frequent businesses in Maylands, some of which have just opened their doors. Lyric Lane will be a fantastic small bar, underground music venue and a great restaurant. It was developed and is owned and operated by Michiel de Ruyter; his wife, Luka; and their lovely son, Konrad. That trio battled against red tape at every step of the development. I distinctly remember Michiel coming to visit me—I suspect it must be eight or 10 years ago—to say he had an idea. He had just bought this property in Maylands and he had this grand vision for what it could be and what Maylands could be. I am very, very much appreciative of having this family in my electorate. They have kept to their vision. They have overcome every piece of red tape that was

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put in place to block them. They have worked really hard and I encourage anyone in this house to take their friends and go and listen to some music at Lyric Lane now that it has opened.

Maylands also has older businesses that have been around for a long time and weathered many storms over the last 10 or 20 years. Mozart's Patisserie in Inglewood was established by William Bohmer in 1976, if members can believe it. It is managed by Sheng Shen today. Mr Bohmer and Mr Shen are both artistry pastry chefs and music lovers. The patisserie is set in an unassuming block on Beaufort Street but people come from all over the metropolitan area to buy its high-quality cakes, particularly birthday cakes. That business has just managed to stay in tune with what the market needs and move with the times. We have fantastic businesses in the centre of Maylands. Rabble Books and Games is a new business that a young couple has opened. Maylands has been up and down over the past 12 months. The City of Bayswater is doing an excellent job of streetscaping and place activation, and managing out crime in that area. At every turn I have been helping where I can in those efforts as well. Rabble Books is a really mighty place to buy some Christmas presents. The Maylands bookstore was opened last year by Sam Baker and Nathalie Latter. I am sure that they have the books by my colleague the member for Armadale in there. I have not checked. It is on Eighth Avenue and has quickly become a favourite among locals. It stocks books of all genres, including children's books, and has an emphasis on titles that showcase inclusivity, diversity and underrepresented groups.

King Somm Wine Bar and Store in Bayswater is going gangbusters. It is going very well. It is a fantastic, cosy venue. It has a great in-house pizzeria called Jane Dough, if members need some of that as well. I could go on; I have an exhaustive list here. I popped in to see a fantastic business, the owners of which came to see me about seven years ago. Connie Sciuolo opened a Bedford hairdressing business called Haircon about 20 years ago. About 10 years ago, she came to see me because she had some real problems with red tape. It is a small strip shop, one of about four, along Walter Road. There were problems with the electricity sharing. The business was being charged too much money and it was very difficult to navigate through that minefield. Her husband is a building contractor. He knew what he was doing. He also ran into the same kinds of problems. The Small Business Commissioner, with these powers, would be in a position to look at issues such as how companies such as Western Power have divided the power in these old strip shops and charge each tenant. If someone wants to upgrade and they are the fifth one on the line, a lot of costs are involved. I think the commissioner will be helpful on that. I recommend Haircon. It is pretty snazzy now. I went down and visited and had a photograph taken in a very burlesque throne, which was pretty amazing, and Connie was there with me. It was beautiful. They do great work at Haircon.

La Luna in Inglewood has homewares and a gift boutique. Favourite Daughter, a fantastic women's clothing shop, has just opened up. This is all in Inglewood. Go to the Stripey Horse for kids' presents and the like—beautiful work. I want to mention a small business that has been around for a very long time; 16 years ago, Matt Harris opened Exercise for Life in Bedford. It is a specialist gym that helps people get fit again, particularly if they have injuries and the like. Well done to Matt for persevering through the hard times and continuing to keep his business on track.

My very, very dear friends Keith and Glenn from Chapels on Whatley opened an amazing business on Whatley Street a long time ago.

Mr P. Papalia: You're tapped in.

Ms L.L. BAKER: I am. It is hard not to be. I had breakfast at Chapels last week. I thank the member for Darling Range; she appreciates Keith and Glenn and Chapels on Whatley too. It does fantastic high teas. They are a great pair of retailers. I think their combined knowledge of the retail industry has been a profound influence for many shop owners around Maylands. Certainly, I know that Keith has made it very clear that if he thinks someone is doing something wrong in the merchandising of their front window, he will pop in and give advice. It is not always welcome but he gives them the advice. He is a fantastic retailer. Roast on Rothbury is another great, but tiny and well-hidden, treasure. I am sure not many members of this house have ventured to Embleton to have a sample of the cafe Roast on Rothbury, which is obviously on Rothbury Road. It roasts its own coffee. It is a tiny little shop, but it does an amazing job at servicing the local community.

Mrs L.M. Harvey: It's a great cafe.

Ms L.L. BAKER: Well done, member; I am very glad that the member knows it. Cecci's opposite my electorate office is a very cosy Inglewood restaurant and small bar owned by Mark and Kylee-Anne Cecci. It serves food with an Italian flair and modern Australian touch. That restaurant has just made its debut in *The Urban List*. I am very proud to say that these businesses are doing extremely well in my community and demonstrate the long-term hard work necessary to open and run and successfully continue to manage a small business.

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I also want to mention the commissioner's role in looking at behaviours that impact on small business and injustices, including those that are perpetrated on franchisees; people who are subject to grossly unfair contract terms; tenants being sold electricity by shopping centres at inflated profit margins; and bullying arising from an imbalance of power in commercial dealings. One of the reasons I am interested in mentioning this is that I have a background of working in small business that most members in this house would not know about, but the member for Darling Range does because I worked with her mother on several occasions. Sandra Chambers was the head of the Swan Chamber of Commerce for a very long time and I was lucky enough to do some consulting work with her to build —

Mrs A.K. Hayden: Sandra Wallis.

Ms L.L. BAKER: Sandra Wallis; what did I say?

Mrs A.K. Hayden: Chambers.

Ms L.L. BAKER: There we go. Sandra Wallis; sorry. That work specifically in the Swan shire was around building microenterprise, small businesses, home-based businesses and also business incubator networks, all of which I am very familiar with. I wanted to raise this in the context of small businesses and micro-enterprises that are opened and managed by women. There is absolutely no relationship personally to why I have taken this interest, but I have taken particular interest in the plight of older women in Australia and those who are locked out of the labour force for a range of reasons and find themselves struggling. I am also interested in those women who would like to escape the constraints of the work they have been doing for some time, but who are perhaps a bit nervous to try something different. For a very long time, I have been deeply committed to developing small businesses, home-based businesses and micro-enterprise activities for women in this state. In fact, a very long time ago, I ran the first research into those topics in Australia.

I was searching for contemporary profiles of Australian women in business and the only one I could quickly find was done by the Australian Bureau of Statistics for the Office for Women back in 2015. I just want to make a few comments about the contents of this report to refresh the memory of the house, and perhaps my own memory as well, about some of the personal characteristics of women in business. It is really interesting that when I first started doing work in this area, which was a very long time ago, there was a general rejection, particularly by the Small Business Development Corporation of the day, of the idea that women actually had businesses or needed any specific or different assistance to run their businesses successfully. I am very glad to see that the Australian Bureau of Statistics' 2015 report clearly puts paid to that, even if it is 25 years after I started working in the area.

When we started working on how to best work with women in order to help them transition from being either unemployed or underemployed or to find sustainable ventures to support their families, there was not any specific help out there for them. I found that the differences that we found at the time are still the same today, which is a bit sad. The ABS found in 2015 that women make up just over a third of all business operators; that there has been a 46 per cent increase in the number of women business operators over the last 20 years—I would like to think I had something to do with that but perhaps not—and that more than two in five women business operators are aged between 40 and 54. Most interestingly, though, is that a very large number of women business operators—42 per cent—have a diploma or a degree, and almost a third of them were born overseas. Quite a high proportion of women with their own business—more than 23 per cent—are aged over 55, which I found to be a really remarkable link into the subject that I started talking about. Older women are wanting to find ways of exchanging being an employee or being involved in the corporate world with sustainable ways of continuing to pay their superannuation, pay their children's school fees and keep themselves sustained, particularly if theirs is a single-income household.

What are the differences? Quite often, women go into businesses on amounts of money that most men would not even consider sniffing at. It tends to be money that they have got on a credit card, saved, or borrowed through a very small personal loan. It could be \$5 000 or \$10 000. That is not necessarily a good way of starting a business, unless a person is very clear about how their cash flows are set up for the first two years. As we know, more than 80 per cent of businesses fail in their first two years, so to start a business undercapitalised is a fatal flaw. We need to make sure that women understand that. That is one difference that we start with right at the beginning. The other thing we simply do not have is a lot of data on where women are at the moment and what industries they are taking part in most. I remember that when I first did the research a very long time ago, I included Geraldton, the south west and the metropolitan area in the surveys. I went to banks and asked them how many of their business clients were women. It was very interesting to me that in Geraldton, which predominantly services the farming sector, the big banks said that they did not have many women clients. I said to them, "I think you should actually go back and have a look at who your farmers are, because most farm businesses are mum-and-dad businesses." When I said to those bank managers, "Who comes in here to talk to you about the finances? Who do you sit down and work out the cash flows with?", they said, "It's actually Mrs Smith; it's not the husband." A very poor amount of data is

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available on women's participation in business. By the way, that was also the case with the fishing boats in Geraldton. Fishing boats are often in the names of both the husband and the wife, but the banks were not recognising that they actually had two people in these partnerships. They did not know how to talk to or work with the female partner particularly well. They were dealing with her as she just fronted up with the books and that was that, but when I asked them whom they did business with, they would say, "It's the blokes." I thought that was very interesting.

The other thing that women do differently in business —

Mr P.A. Katsambanis: Don't forget your extension, member.

Ms L.L. BAKER: May I have a quick extension? Minister, do not hit me!

The ACTING SPEAKER: Extension granted.

[Member's time extended.]

Ms L.L. BAKER: Thank you; I will be very quick.

The other thing women do very differently from men—this is not a vast generalisation; this is fact—is that they open businesses that have a social justice perspective to them more often than their male colleagues do. They are also far less likely to be involved in dodgy businesses. Their ethos is often around strengthening families or building resilience. I have an article from SmartCompany that features inspiring Australian women in start-ups and small businesses. I want to point out a couple. The article lists the 13 most-inspiring women—believe it or not, it does not include Gina Rinehart or Katie Page, who are the most wealthy Australian businesswomen. These are the most inspirational women. The first one the article mentions is a woman called Andrea Gardiner, who has been running a company called Jelix Ventures for two years and is —

... the second woman to be a founding chief executive of a venture-capital firm in Australia.

The article goes on to mention Julie Mathers and states —

For Mathers, it's all about small changes.

The chief executive and business owner runs sustainably focused e-commerce store Flora and Fauna, which offers shoppers a range of cruelty-free, vegan, eco-friendly and all-around sustainable products to help them lead a better life.

Mathers has been in the industry for ... three decades, and launched the store in 2014. Since then, it's gone gangbusters, with revenue growing 400% year-on-year as more and more Australians get hungry for responsible purchasing.

The article says that Mathers is hoping for that to increase more and more.

The article also refers to a small business run by Lucy and Rosie Thomas. Their business is an anti-bullying venture called Project Rokit. The article states —

The two sisters founded Project Rokit over 12 years ago, a social venture which empowers Australian youths to stand up for themselves and others in the face of bullying.

There are 13 of these women. I will not go through any more simply because of the time, but I do want to say that helping to support enterprise development, entrepreneurship and those kinds of individual skills in women is something that I am very passionate about. I intend to run a seminar on women in small business in my electorate next year. I will be inviting the Small Business Commissioner and the Small Business Development Corporation to partner with me on that. I very much look forward to seeing that come off. The first one I ran had 900 women turn up. We had to run a second one a month later and we had another 700 women turn up for that. We held a third one subsequently, which had another 700 women attend. That was a long time ago and people did not talk about women in business that much. We are in a different world now. It is the twenty-first century. I hope that I get a good show when I run the women in business seminar in my electorate, and I certainly hope that the Small Business Commissioner and the Small Business Development Corporation, whose work is so positive and will be much enhanced by this bill, will come and support what I intend to roll out in my electorate.

MR J.N. CAREY (Perth — Parliamentary Secretary) [8.59 pm]: I want to speak briefly on the Small Business Development Corporation Amendment Bill 2019. It is obvious that small business is critical to Perth city. It is critical to creating vibrancy, life and amenity, and attracting more people to Perth. My philosophy has always been, as reflected in this bill, that we either support small business or get out of the way. That was the approach I took as the Mayor of the City of Vincent. We were the first council in Western Australia to abolish alfresco fees and streamline approvals for cafes and restaurants, so that they could simply do it online. That was a way of helping to drive street activation in town centres such as Leederville. I note that, at the same time, the old regime in the

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City of Perth, under the former suspended Lord Mayor—apparently a good operation—rejected abolishing alfresco fees and cutting red tape. There is a clear difference, and perhaps an indication of why Leederville and other areas are pumping, while the City of Perth is playing catch-up. I noted that the City of Perth commissioners have now abolished alfresco fees and introduced one-hour free parking in West Perth and East Perth, and a range of other measures, working with the state government to drive life and activity.

I also note that we as a government are driving reform and cutting red tape for small business. The Minister for Small Business should be deeply proud of the second wave of liquor reform that this government introduced—a massive range of changes that are cutting red tape for small businesses. In particular, I think the one that was underestimated was the decision to give discretion to the liquor authority to consider low-risk applications without having regard to the public interest test. This critical measure meant that small bars that are now opening in our city and our town centres do not necessarily have to go through the public interest test. I remember that we also introduced the first wave of reforms. If we consider the success of the city, I know people like to refer to big public infrastructure projects, but in fact the first wave brought significant change to our city. I note that the Liberal Party, in its nanny approach, which is often the way it tackles things, sought to argue in the upper house that a capacity of 120 people was too large for a small bar. It was a ridiculous proposition, and it has been proven that the judgement of members opposite was wrong and illogical, given the number of small bars that have now popped up throughout Perth as a result of those reforms.

We have also made announcements today of cutting planning red tape for small business across Western Australia. For eight and a half years, the previous government did no planning reform for small business. It is a fact. It did not look at one of the critical issues facing small business in Western Australia—that is, council approvals for small business. I support *The West Australian's* campaign to get local government to cut red tape, and I strongly support the measure that I personally championed, that we abolish council approvals for a number of uses in main streets and town centres. This is the simple reality that was faced under the previous government's eight and a half years of mismanagement of the planning portfolio. Businesses would receive approval and perhaps wait three to four months or longer, paying the lease and having no turnover. We are changing that. As a government, we are cutting this critical piece of red tape for small bars, cafes and restaurants. This will mean significant savings for small business in Western Australia, and it is being introduced under a Labor government.

This legislation contains welcome additions to enhance the powers of the Small Business Commissioner to ensure that he does not require a complaint and, most importantly, that he has the power to compel people or organisations to produce documents and information. As we have heard, this relates not only to subcontractors in the construction industry, but also has potential for franchisors working within shopping centres and so forth. There is a real opportunity here to investigate other areas in which small businesses are being ripped off.

I come back, in a record time of less than seven minutes, or I think actually less than six minutes, to say that this government, unlike the previous government —

Mr Z.R.F. Kirkup interjected.

Mr J.N. CAREY: Yes it is; it is not the nanny approach of Mr Nanny over there. The Liberal nanny party tried to stop small bars at 120—disgraceful.

Mrs A.K. Hayden interjected.

Mr J.N. CAREY: That is the opposition's history. Have a look at the upper house. That is the opposition's history. Members opposite tried to block small bars in Western Australia—shameful. They say they are the party of small business, but they are the party of nannyism—nanny here, nanny there. They did nothing to cut red tape in planning reform for small business. In fact, we had the irony of the previous Minister for Small Business, who did nothing to cut red tape and abolish the need for council approval, and was so well respected by the Leader of the Opposition that he was demoted. He was so gloomy at every event, I felt like giving him a little pat on the back. It was gloom and doom every time I saw the member for Churchlands. He started to speak today, and it was a miracle—he is back to life. The point is that he had an opportunity to cut red tape for small business in this signature part, which was about planning approvals, a major delay in Western Australia. In eight and a half years, the previous government did nothing about it. Every small business opening in town centres and main streets across Western Australia said that it had been a critical delay, and I am proud to say that this government, with its other reforms, is cutting red tape and driving that support for small business. I commend the bill to the house.

MS J.M. FREEMAN (Mirrabooka) [9.07 pm]: I want to speak to the Small Business Development Corporation Amendment Bill 2019. The largest occupational groups in the seat of Mirrabooka are trades and technicians, at 16.9 per cent, and labourers, at 15.2 per cent. Many people work in businesses that are exposed to the financial

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losses that can occur when businesses fold, resulting in insolvencies and unfair behaviour. Many people are left unpaid because they are subcontractors, highlighting the insecurity of that employment. I welcome this government's bill, and the undertaking by the minister on the key initiative, being the expansion of the role of the Small Business Commissioner to oversee and investigate complaints made to the subcontractor support unit about the poor behaviour experienced by some contractors in the construction industry supply chain. I note that these amendments will expand the powers in the legislation to enable that to occur. The bill is important to ensure security of payments, and to support small businesses in the construction industry, and will hopefully stop the situations that people have talked about in my office—the folding of development businesses that then start up as new businesses without paying their subcontractors.

I want to talk about how important this legislation will be in protecting small businesses in many of the culturally and linguistically diverse communities in Western Australia. People may not be aware, but one-third of the small businesses in Australia are owned and operated by people from CALD backgrounds. I found this out from the Australian Taxation Office, which has a “Multicultural Access and Equity Action Plan 2018–20”. That is where I got those details, which will be no surprise to the member for Jandakot. He himself was a small business operator. We know that many of people we deal with find it difficult to find employment when they come to Australia, so many establish businesses. We know intuitively and factually in Australia, that small businesses established and built by migrants are very much the backbone of the Australian economy. I was very pleased when the Small Business Development Corporation developed a program with the Office of Multicultural Interests to assist culturally and linguistically diverse people to develop small businesses. Those workshops cover many aspects of understanding business —

Mr P. Papalia interjected.

Ms J.M. FREEMAN: Yes; I am talking about that, minister. I was talking about the great initiatives of the culturally and linguistically diverse community and the protections they need in our community. When the Small Business Commissioner is dealing with these issues, he should have an eye to the importance of small business in the CALD community and the importance of the CALD community to the development of small businesses in this state and our country generally.

I want to talk particularly about two innovative programs in the community I represent in Mirrabooka. One is that the Metropolitan Migrant Resource Centre has just launched a multicultural enterprise development project that will support people from migrant and refugee backgrounds to build business skills and gain confidence in developing small business-generating ideas. They have developed that through a process and had people look into it. They conducted a business foundation training session just last week that will continue into October. The social enterprise will involve a full course that began on 22 July. Those programs are really important in developing ideas, but it is no good developing the idea of a small business without giving people some way of delivering them into the community.

I congratulate MercyCare, the City of Stirling and The Square Mirrabooka, which have partnered in a joint venture to be piloted at Mirrabooka multicultural markets in a series of three summer twilight events from December 2019 through to March 2020. This capacity for people to have a place in which to run their small business, which is fostered and given that foundation through businesses such as The Square Mirrabooka, needs to be applauded. The member for Perth made a very strong submission about the difficulty and red tape involved in delivering small businesses. Newly arrived Australians who come from a CALD background and have been accustomed to running a business in their country of birth find that learning some of the regulations and requirements can be quite difficult. For people in many communities, being able to enter into something they have done traditionally with food production can sometimes be curtailed by some of our restrictions. The development of the Mirrabooka multicultural markets, through the combination of MercyCare, the City of Stirling and The Square Mirrabooka, is to be applauded. I am part of the group that is pursuing that.

I say also that the federal government has committed an additional \$5 million to the acceleration and support program to assist first generation migrants looking to develop start-ups. I put that out there because I have looked at where that money went previously and it seemed to go mostly to communities in Sydney and Victoria. We need to put our hand up for some of that money so that our CALD communities can benefit from those start-up funds that are available. Perhaps the Small Business Development Commissioner can look at that. I commend the bill.

MR Y. MUBARAKAI (Jandakot) [9.15 pm]: Thank you, Mr Acting Speaker, for this opportunity to speak today on the Small Business Development Corporation Amendment Bill 2019. The McGowan Labor government is committed to protecting small businesses through this bill, which will pretty much provide a strong safety net for small businesses that basically require a level of assistance to empower them to do what they do best in running a small business. We all know that small businesses create buoyancy in any economic climate when there is a strong,

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resilient and healthy environment surrounding them. In the last six years, small business families have experienced a disaster in the state of Western Australia. It has been tough with no line of sight in addressing the rotting of some of the big contractual businesses that have been taking advantage of smaller contractual businesses that have lacked support. The only avenue for these small contractual businesses is to go down a hefty legal process through the courts to recover what is rightfully owed for the work completed. That can be devastating and can cause too much trauma to individuals and families who are experiencing something for their hard work in completing a task.

The McGowan government and Minister Papalia have committed themselves to creating the right environment for small businesses to grow and succeed and to help them create and support meaningful employment in the state of Western Australia. Minister Papalia has introduced this Small Business Development Corporation Amendment Bill 2019 to Parliament. The intent is very clear—that is, to boost the powers of the Small Business Commissioner to receive and investigate complaints of mistreatment of subcontractors and small businesses on state government projects. With this bill, the commissioner will be enabled to conduct random and targeted inquiries based on interagency intelligence and complaints from various sectors of subcontractors and other small businesses.

In Western Australia, we are in a unique position. We have a great service in place that pretty much supports and encourages whoever takes up the challenge of running their own business. The Small Business Development Corporation offers this free service to businesses at all levels. It also offers an outstanding business dispute resolution service that helps resolve disputes quickly and fairly and helps mitigate expensive legal costs. I will later give an example of how in my electorate a small business has benefited through approaching the Small Business Development Corporation and being assisted.

In addition to the dispute resolution services, the corporation also provides general assistance that not many small businesses in Western Australia are aware of. I believe that more needs to be done to create awareness of the corporation's services. If an individual or entrepreneur in Western Australia wants to run a small business, free advice can be given to them about buying a business or a franchise; understanding the advantages and disadvantages of entering a business; getting advice on the complexities of leasing premises whereby all the legal jargon is simplified in layman terms to understand what they are committing themselves to; and understanding the various codes of conduct if there are any such associated laws or regulatory frameworks. These are very complex issues. It is not as easy as one may think. A person does not get up one day and start a business. A lot of work goes into financing a person's dreams and putting themselves on the line. They may have a skillset for a certain trade, but there are legalities which they may not be aware of and other issues that are above and beyond their capacity to understand. I am glad that the Western Australian Small Business Development Corporation provides free advice to small Western Australian family businesses.

My small business background and firsthand experience of the valuable and important role of the Small Business Development Corporation in this space compelled me to speak about the Small Business Development Corporation Amendment Bill 2019 today. The corporation's key focus is to maintain a strong positive working relationship with businesses in Western Australia, and that will continue to be its primary objective.

As I said before, recently the Small Business Development Corporation played a pivotal role in a situation in my electorate. In May this year, I was contacted by the owner of a small cabinet-making business that provides high-end, custom-built cabinetry solutions for kitchens, bathrooms, offices and wardrobes. The small business works closely with its customers and suppliers across the Perth metropolitan area. It directly employs eight staff and has also heavily engaged with contractors that comply with its demands and scope of work. The focus of the small business owner has been best practice in enhancing and promoting their business. The business has insurance with a major insurance provider and made no claims for the first four years, which kept its premiums down. However, in one year, very recently, two claims were made, which resulted in exponentially high premiums and put a financial burden on the owner's cash flow. When I was approached by the constituent who runs this small business about his concerns and issues, not knowing where to go for help and assistance, I contacted Minister Papalia's office to see what could be done to assist the small business owner and to simply understand what support could be given, because insurance is more of a personal direct dealing and has nothing to do with the corporation. The minister took on the grievance for me and raised it directly with the Small Business Development Corporation, which then contacted the owners directly and provided assistance and advice. The result was positive. The Small Business Development Corporation advocated a way forward through the insurer's dispute resolution mechanism, allowing the owners to begin an internal appeal process. The owners were very thankful for the very solid industry advice, direction and support given to them. The Small Business Development Corporation acts in that perfect format for Western Australian small businesses. I personally take this opportunity to thank Minister Papalia for helping, particularly in these economic times, that small Western Australian business to get back to doing what it does

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best—namely, running its small business without worries and without having to understand the complexities of other matters, such as insurance.

This bill seeks to address the limitations in the commissioner's current investigative and reporting functions. It will ensure that the commissioner can undertake an enhanced role in protecting the security of payment for subcontractors in the construction industry. Although the initial focus is on assisting small businesses in the construction industry, there is broader scope for the amendment bill to assist all small businesses across a number of industries by expanding the commissioner's role to investigate and address concerns that could be disruptive to the small business sector.

There are many new thriving and growing businesses in the electorate of Jandakot that are working hard to develop and expand our city. These businesses are pivotal in developing our regions, cities, towns and communities. Without thriving small businesses, the heart of our economy breaks, which in turn breaks workers, homes and families. That is not what we want in the state of Western Australia.

I finish by again thanking Minister Papalia, his team and the Small Business Commissioner, David Eaton, for this amendment bill. I thank the McGowan Labor government for committing to and protecting small businesses. I also thank the McGowan Labor government for listening to the concerns, issues and ideas of the Jandakot community and its strong and continued investment in the Jandakot electorate. If these measures are implemented, they will help restore goodwill, provide security and futureproof the small business network. I appreciate this opportunity to say a few words on the amendment bill. I thank other members for making a contribution to the house.

MRS L.M. HARVEY (Scarborough — Leader of the Opposition) [9.26 pm]: I rise also to contribute to the debate on amendments to the Small Business Development Corporation Act 1983. The opposition has made a variety of different remarks about the Small Business Development Corporation Amendment Bill 2019. I have read the minister's second reading speech. The minister believes that this legislation will empower the Small Business Commissioner to have an impact in that space, of which we are all aware, of tradies being leveraged with unfair practices, being denied payment and being forced to take on responsibilities for variations and other changes to the scope of works on contracts and then having head contractors and others deny them payment or take them through a lengthy litigation or dispute, which sends many tradies to the wall. We know those stories. This has been happening in the construction sector for a long time. Indeed, there is a structural issue in the construction sector. I am not sure that this legislation will necessarily be the solution to changing those structural issues that are the cause of the problem that this legislation seeks to remedy.

As legislators in this place, it is important to look at the act that an amending bill seeks to amend. I looked at the Small Business Development Corporation Act and I was quite surprised to see the functions of the corporation as outlined in the act as they exist at the moment. Section 11 of the Small Business Development Corporation Act, "Functions of Corporation", states in subsection (2) that the corporation has the following functions —

...

- (b) of its own motion, to make representations, to tender advice and make reports to the Minister on any matter or thing relating to, or affecting small business or the operation of this Act;
- (c) at the request of the Minister to investigate any matter affecting small business referred to it by the Minister and to report to the Minister thereon;

...

- (fb) to investigate, and report to the Minister on, the actions of public sector bodies that affect the commercial activities of small businesses;

That is what the Small Business Development Corporation can do within its existing remit. The Small Business Commissioner, as chief executive officer of the Small Business Development Corporation, is empowered under the existing legislation to perform these functions, through its resource, the Small Business Development Commission. The government is in effect bringing to this place amending legislation which will grant to the commissioner powers with which he is already empowered under the existing legislation. That is somewhat of a duplication. The opposition has flagged that the consideration in detail of this legislation may take some time. We will be seeking clarification from the minister about why the commissioner, with the empowerment that he is given as CEO of the Small Business Development Corporation, needs to be given additional powers to enable him to perform his functions. It would appear that the CEO has the ability to perform those functions without legislative amendment. We will be seeking some advice from the minister's advisers in due course about that matter.

Subsection (2) states also —

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(fe) to investigate, and report to the Minister on, emerging trends in market practice that have an adverse effect on small business;

...

(hb) to assist small business to operate in ways that minimise disputes with other businesses;

Members can see that the Small Business Development Corporation has a range of functions. It is also empowered under subsection (2) —

(k) to counsel small business on the availability of finance and the means of obtaining financial assistance;

The minister might seek to amend that in due course. It would be interesting to know whether that function of the SBDC could ever be used. I suggest that it would contradict several other pieces of legislation with respect to financial managers and financial advisers. That is just something I picked up in looking at the original act.

Section 13 of the Small Business Development Corporation Act, “Small Business Commissioner, appointment of”, provides the following definition —

The chief executive officer of the Corporation appointed under the *Public Sector Management Act 1994* Part 3 is the Small Business Commissioner.

It states clearly that the Small Business Commissioner is the CEO of the SBDC, and, as CEO of the SBDC, he can direct the SBDC to conduct its functions and exert its authority under the act. We will seek a response from the minister in due course about why these additional specific functions are required to be assigned to the commissioner.

Clause 5 of the amendment bill seeks to amend section 14A of the act by deleting paragraphs (b) and (c). Section 14A is entitled “Functions of Commissioner”. It is very interesting. That is why it is important that members look at a marked-up copy of the bill. Section 14A states in part —

The Commissioner has the following functions —

...

(b) to receive and investigate complaints about unfair market practices affecting small business and provide assistance to attempt to resolve those complaints;

Clause 5 of the bill seeks to provide a new paragraph (b), which states—

(b) to receive complaints about any matter that affects the commercial activities of small business, and do either or both of the following in relation to a complaint —

(i) investigate a matter complained about and any person in relation to the matter (including, without limitation, a public sector body or local government);

(ii) provide assistance to attempt to resolve the complaint;

That clarifies what the commissioner is currently empowered to do. Section 14A continues —

(c) to receive and investigate complaints by small businesses about the actions of public sector bodies that affect the commercial activities of small business;

That will be replaced by a new paragraph (ea), which specifically defines what a public sector body might be, and states —

(ea) to investigate any matter that affects the commercial activities of small business,

So far it is the same —

and any person in relation to the matter (including, without limitation, a public sector body or local government);

That is a different wording, but it will pretty much achieve the same outcome.

The amending legislation covers off on what the commissioner is allowed to investigate. It provides that the commissioner has the ability to choose whether to investigate a complaint or not investigate a complaint. It provides some discretion.

If this legislation is successful, under proposed new section 14BA, the commissioner will be able to require a person to produce any document or thing specified that the commissioner considers might relate to the

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investigation. The opposition supports this legislation in principle. We understand that the intent of this legislation is to give the commissioner power to act on behalf of small tradies and other people who are being taken advantage of by larger corporations in commercial negotiations. However, as far as I know, not even Western Australia Police Force is empowered to enter a business, demand documents, and remove and copy those documents, without first requesting a court to authorise access to the premises and access to those documents. In effect, the Small Business Commissioner will be given stronger powers to collect evidence in business disputes than is given to Western Australia Police Force to investigate criminal matters between individuals. Perhaps I have got that wrong. One of the questions that we will ask the minister is why the commissioner will not be required to seek the authority of a court, for example, before entering a business premises and demanding confidential documents such as invoices, bank statements and the like.

I am a small business owner. I can tell members that, like most small business owners, I have tax audit insurance. Should the Australian Taxation Office decide to do an audit of my business, under the powers afforded to the Commissioner of Taxation, an ATO delegate can come into my business and inspect the records and documents and demand access to bank accounts. I am fine with that. Tax cheats need to be flushed out. I have no problem with the ATO's power to do that. However, I would not be willing to provide that type of confidential information to any other entity. Banks often demand that type of information, but that is because a business has requested that it be afforded money or a line of credit. That is often proof of the health of the business and its ability to pay. However, in case the ATO should seek to put my business through a tax audit, I have taken out insurance to cover the inconvenience, time and cost that will be incurred in complying with the directions of the ATO commissioner. When the commissioner says to me as a business owner that it is time for my audit, I am able to contract a bookkeeper, for example, to come into my business to look after the bookkeeping and management functions, or whatever it might be, while I as the business owner work with the ATO auditor or officer to comply with its instructions. I am covered. There is no cost to me because my insurance will cover that. When the Small Business Commissioner approaches a business demanding proof of invoices and payments and whatever else he may deem to be relevant to the dispute that has potentially been anonymously identified to the commissioner, there is no caveat or control on what he can request. In effect, the commissioner could be requesting confidential contractual information between the business contractor and whomever is paying them, including the business contractor, and every other tradie that they might be dealing with—not just the one who has made the complaint—and every individual and every creditor that they deal with, and potentially even debtors that they deal with, to see whether those transactions might link to an investigation. No controls have been put in place. I understand that the minister intended to ensure that the Small Business Commissioner was duly empowered to perform his functions and work on behalf of the tradies. I commend that intent but we need to be very careful in this place that when we bring legislation like this forward, we are not giving the commissioner overreaching powers to step inside any business and perform one of these investigations.

The commissioner is required to report. There are protections in the bill relating to misuse of information. That is all fine. It is not evident in this legislation that the Small Business Commissioner has any power to compel one party to a contract to make a payment. The Small Business Commissioner can go into the business, collect all the information and say that this head contractor is acting unconscionably, pushing out all the payments for all these subbies to 90 days or 120 days, not paying them at all, or drowning them in variations and other cost variants that have been pushed further down the line to the subbie. Under this legislation, the Small Business Commissioner cannot compel that head contractor to make a payment of even one cent in compensation to that small business operator. He is not empowered to do that. All he can do is report on it, which he can do anyway, under the existing functions of the SBDC act. Basically, we are giving the commissioner overreaching powers to go to a business and collect any information that he sees fit. He has to provide a report to the minister about that information but there are still no consequences for the contractor who acted unconscionably, causing this complaint to be lodged. That is a massive failing of this bill. I do not know what then ensues. The commissioner has been empowered by this new legislation to conduct an investigation and table a report. Would that report be admissible in a civil court if the tradie wanted to sue the contractor for non-payment or whatever it might be? Would the court look at the commissioner's report and the commissioner's findings and say that they hit the mark with the integrity of the processes that the court would normally require around producing sufficient evidence to uphold one of those claims?

[Member's time extended.]

Mrs L.M. HARVEY: There are a lot of failings in this legislation. In principle, the opposition supports it, but as we get further into it and when we go into consideration in detail, our job is to highlight its flaws. I think I have highlighted some pretty big flaws in this legislation.

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I would like to raise another issue. I listened to the members for Maylands and Mirrabooka talk with great authority about small businesses in their constituencies, which was commendable. The member for Maylands in particular has been a passionate advocate for women in business. She raised some very legitimate points about the burgeoning engagement of women in business, particularly the over-55 bracket. Many of those women, probably from sheer frustration with corporate Australia and government, unable to shatter through the glass ceiling, have said, "I've had a gutful of this. I'm going to go out and be my own boss, be in charge of my own destiny and work my own hours. The harder I work, the more money I make, the better outcome I get, the more satisfaction I have and the more enjoyment I have, and I have my autonomy." That is really important for a lot of women. Once we get past a certain age, our children might be less cumbersome and we have less financial encumbrance—not that I like to call children financial encumbrances but they are to a degree when we are trying to get them through school and university. Once women get to the point of looking for some financial freedom and independence, they really flourish in small business. Every matter that the member for Maylands raised was relevant to this issue.

Before I sit down, I will return to the minister's second reading speech. Some members in this place may recall—others deliberately choose not to recall—that the legislation that amended the SBDC act to create the role of the Small Business Commissioner was the first piece of legislation that I had carriage of in this place as the Parliamentary Secretary to the Minister for Small Business, who was Hon Simon O'Brien at the time. I sat at the table on the other side of the chamber and was thoroughly grilled on this legislation. At the time it was seen by the then opposition as largely paying lip service to what was going to be a service that would never work. The minister's second reading speech states —

Through the establishment of a Small Business Commissioner, a great benefit was delivered to the 224 000 small business operators who contribute much to our economy, often at great risk to their personal capital and assets.

I agree 100 per cent. I need to take issue with a couple of sentences in the speech that the minister somewhat churlishly included. I continue —

One great change that happened eight years ago enabled the Small Business Development Corporation to introduce the role of a Small Business Commissioner, ...

I am sorry; did the SBDC introduce the role of the Small Business Commissioner, members? I do not think it did. I do not think the Small Business Development Corporation has the power, the authority or the legislative ability to introduce the role of a Small Business Commissioner. The Barnett Liberal–National government introduced the role of the Small Business Commissioner. I brought legislation to this place to amend the SBDC act so that our government, the Liberal–National government, could introduce the Small Business Commissioner and define the commissioner's role. "Churlish" means rude in a mean-spirited way—ungracious. That is how I label the minister's commentary. It continues —

who then established a non-litigious, low-cost dispute resolution service to assist business owners to achieve speedy outcomes and get back to doing business. This service was aimed at disputing parties that voluntarily participated in the process as an alternative to pursuing matters in the courts.

I can tell members that the role of the Small Business Commissioner did not exist when the legislation was read into this place to allow for a service aimed at providing disputing parties with a low cost dispute resolution service that was non-litigious. The role of the Small Business Commissioner did not exist. Our government did that. I am sure that the minister would not choke on his Wheaties if he was able to say graciously that the Liberal government did one good thing when it introduced that Small Business Commissioner legislation and allowed for that non-litigious, low-cost dispute resolution service. Here is why. As I said, "churlish" is the best word for it. The speech continues —

Today, the commissioner has been successfully established as the focal point for small business dispute resolution. Importantly, the integration of services for individual business owners, with the policy oversight provided by the SBDC, has meant the knowledge gained and advice provided to government can turn a solution for one business into a solution for many.

That is exactly what we intended, members. It continues —

In the last financial year, the commissioner's dispute resolution service finalised 76 per cent of commercial tenancy disputes and 90 per cent of all disputes through case management by SBDC staff. This service was provided at no cost to business owners in dispute. Eight per cent of cases were escalated to independent mediation at a subsidised low fee. In most cases, parties to the dispute voluntarily entered into agreements that both resolved the dispute and preserved the business relationships.

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What a fantastic initiative of the Barnett Liberal government and the former Minister for Small Business, Hon Simon O'Brien. One of the best experiences of my life was sitting on the other side of the house, listening to the opposition at the time whingeing and moaning, saying that this is not going to work and it does not have teeth. Members asked how we would get these landlords and small business tenants to sit together in a room for mediation. Look at the outcome: 90 per cent of them do it. The vast majority incur no cost in the process because of the system we set up in government after consultation with industry and small businesses; we understood exactly what they needed. I am really proud of our government's achievement and I do not think it would hurt the minister to say just once that that was a good initiative of the Liberal–National government. We are proud of it.

In conclusion on this legislation, for some reason—it has not been explained—the minister is determined to get through all stages of this legislation tonight.

Mr P. Papalia: It can only go through consideration. We cannot do the third reading because I am seeking some amendments. Therefore, we cannot finish it all tonight—just the consideration.

Mrs L.M. HARVEY: We will finish the consideration in detail stage for the legislation. Even though it is a very small bill, opposition members have raised many issues with the legislation. We want to make sure that it works, because the government has been out in the community spruiking this amending legislation as the solution to all issues confronting our tradies. Now we all know those issues. I have tradies in my family; they work in various industries and put themselves at risk. Sadly, in certain circumstances they have had to walk away and incur debts from a job because of the contract that they have, basically, been forced to sign. Right at this moment in time, the economy is very sluggish and tradies are desperate for work. Tradies are being backed into a corner in the current economy, signing contracts that they would not otherwise sign because they are so desperate to get money through the door to pay their electricity and water bills and to try to chip away a bit more of their mortgage for a house that is in negative equity. Tradies are entering into contracts that are not in their best interests, because they are desperate.

This legislation is not clear on whether the commissioner will have the ability to alter any of those contractual arrangements if it turns out that contractual arrangements between the two parties to that contract are unconscionable. Who determines unconscionable? Does the commissioner have the power to order a contract be null and void? No. The contracts will still be in place. The commissioner will have no power to compel any payment whatsoever for a tradie who believes that they are owed money. It seems to be somewhat of a toothless tiger. We are committed to thoroughly interrogating this legislation because contrary to what others on that side have said, we believe in small business in this state. We want to look after the interests of our tradies. We as a party do not believe that legislative response is necessarily what is required or indeed the best solution. As I mentioned earlier, in my remarks, the construction sector needs a structural reset. The structure is wrong. The risk has been pushed all the way down the line to the tradies. The tradies have their backs up against the wall—trying to put food on the table, pay the school fees, pay the power bills and not lose their houses—and they are signing contracts that are not in their best interests. I do not think that this legislation will have any impact on that scenario. That needs a different way of thinking and a different approach when dealing with business. I have flagged those issues as a significant concern to the opposition. With those closing remarks and in the interest of ensuring that we are not here till 6.00 am, I will take my seat.

MR Z.R.F. KIRKUP (Dawesville) [9.55 pm]: I, too, join opposition members in talking on the Small Business Development Corporation Amendment Bill 2019. As we get towards five minutes to 10, I have to say that I find it interesting that this bill has been with us in this chamber since June, I think it was, this year. We have had the passage of four or five weeks —

Mr P. Papalia: There was a recess, my friend.

Mr Z.R.F. KIRKUP: We also sat for a number of weeks in that time and the government did nothing with that legislation, yet the minister now wants to keep us here, members and staff, when we have a very important piece of legislation coming up at the end of the month—the Voluntary Assisted Dying Bill. The minister wants to make sure that he keeps us here as long as he can. The minister picked the wrong fight with the member for Darling Range and the opposition.

Mr P. Papalia interjected.

Mr Z.R.F. KIRKUP: We are absolutely in support of this legislation, but because of this government's poor ability to manage the passage of legislation in this house and indeed in the Legislative Council, we will sit late tonight. Last week the Legislative Council had to suspend sitting for 15 minutes because the government ran out of bills, which I find remarkable. Because of this government's poor handling of legislation both in this place and the Legislative Council, we are here at 10.00 at night and we will be here for many, many, many more hours. There are many more opposition speakers on this bill. We will be at the consideration in detail stage for as long as it takes.

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I promise the minister this: the member for Darling Range has gone through and briefed the Parliamentary Liberal Party on the issues that have been identified with this legislation. I just clarified with the member for Darling Range how many clauses are in this bill. It has 11 clauses. The member for Darling Range has found eight amendments. I cannot imagine a situation in which a minister brings in a bill and we find it needs significant amendments, which the government accepts.

The bill was clearly not well drafted. It has been on the list of legislation to consider in this place for months, yet the minister wants to sit here and ensure that we are drawn long into the night, wearing down his team, to get this bill through because the government has nothing else to deal with. I promise that we will meet that challenge. The opposition will continue to sit here, because our members are exceptionally well briefed and well prepared to speak on this legislation. Of course, the reason that we are so ready and well prepared to speak on this bill is that it concerns small business, which is the blood of the Liberal Party. The concern for small business courses through our veins like no other issue. The Leader of the Opposition, of course, is a small business owner. The member for Darling Range, the lead speaker on this issue, has been a small business owner since she was in her teenage years—only a few years ago! She is intrinsically aware of the challenges small business owners face, as is the Leader of the Opposition, whose partner is still running a small business. That is reflective of the values in the Liberal Party. We have a concern for small business and a history and a relationship with small business that far exceeds the union-dominated collectivism of the Labor Party. The Liberal Party understands and respects the role that small business plays. I look at my family; my father is a plumber. We have sparkies and glaziers. Friends of ours right across —

Ms S.E. Winton: Do they live in South Perth too?

Mr Z.R.F. KIRKUP: I don't live in South Perth. I live in Halls Head in my electorate. How about you?

Ms S.E. Winton: I live in my district.

Mr Z.R.F. KIRKUP: Good on you! I am glad the member for Wanneroo does, because she is one of the few members of the Labor Party who lives in their electorate.

A member interjected.

Mr Z.R.F. KIRKUP: Member for Armadale—who is not in his seat—I did not open up this debate; the member for Wanneroo did. I am just clarifying the point that I was making. The member for Wanneroo, perhaps in a haze because she does not like fluoride in water, keeps on suggesting that I live in South Perth, which, of course, I do not; I live in Halls Head, which is in my electorate.

I return to the point that I was making before the member for Wanneroo interjected—that is, of course, that small business matters to the Liberal Party and to my family. All opposition members who have spoken have said how small businesses are doing it tough. Given the very considered contributions of members opposite, and in particular the member for Swan Hills, who spoke about the WA Jobs Act and how it would somehow provide an outstanding increase in the level of local content for Western Australian business, I find it remarkable that we discovered as part of our interrogation of the WA Jobs Act that that legislation will help boost local content in Queensland, New South Wales, Victoria, South Australia, Northern Territory, New Zealand, Tasmania, the ACT and Western Australia, because of the constitutional and trade relationships that exist between those places. I find that to be the continual folly of this government, which is actually media driven. It comes up with concepts that look good in press releases and policy documents, but when they are interrogated thoroughly by the opposition, as the member for Darling Range has done with this bill, we find that the government promises one thing and delivers something completely different.

As I have said before, small business runs through the veins of Liberal Party members. Unlike for members opposite, it absolutely matters to us. It is interesting that we expect the Labor Party to understand small business, but when we ask government members how things are going out there, they say that things are going exceptionally well, that the economy has never been better for small businesses in Western Australia and that things are going great for mums, dads and families out there. They say that under this government there has never been a better time to be in Western Australia, yet they ignore the fact that they have voted numerous times to increase fees and charges on families and small businesses and on cutting down disposable income. The member for Darling Range spoke a number of times about how small businesses are hurting. They are feeling the pinch because time and again fees and charges have been jacked up and there is a lack of disposable income in the economy. It should be of little surprise that when those issues were raised in the Darling Range by-election, a Liberal Party member for Darling Range was elected to this place. We know that in those areas, in particular, vulnerable families need

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a government that will look out for them. They need a government that makes sure that it delivers on what it promised. Those people are hurting and believe that this government is doing nothing about that whatsoever.

I find it interesting that the member for Darling Range, after thoroughly going through this bill, has come up with eight amendments. That is an exceptional result. I applaud the member for Darling Range publicly, as I have done privately, on the excellent work she has done to identify that there are clauses in an 11-clause bill that deserve amending. I think that is an exceptional effort. I have been in this place as a member for only a short time, but I watched government when I worked for the former Premier and I was interested in this place for a very long time. I have not seen any opposition perform so well under any previous government. We have identified and worked out amendments with stakeholders and done the job that the junior minister should have done in the first place when bringing a bill to this place. The minister claimed in the first instance that he consulted with different groups, but it turns out that that consultation was not up to scratch. This bill should have been thoroughly drafted before it arrived in this place, but it appears that the government may accept four of the opposition's amendments. We will go through those forensically in the hours that will follow today, and possibly early tomorrow, because that is exactly what we want to do. We want to make sure that this bill is right, because so far the government has failed to bring us a bill that reflects what should have happened in the first instance in the drafting of and consultation on the bill. The government should heed the concerns of the member for Darling Range in all the amendments that she will propose on behalf of the opposition. It is clear that the member for Darling Range has found out where the government has erred in this bill and she is making sure that this bill will reflect what the government wanted to do in the first place—that is, to ensure that the bill is valid and worthwhile. That is all we are trying to do here.

The Leader of the Opposition rightly pointed out that the opposition absolutely supports this bill, but it will make sure that the bill is right. We want to make sure that every part of this legislation that has been proposed by the government is appropriately and thoroughly investigated so that we can send the bill to the upper house—whenever that might be. It might be tonight, tomorrow morning or tomorrow afternoon, but whenever we send this bill to the upper house, we want to make sure that it is in the best possible condition and reflects that members of the opposition have done the job that the government should have done in the first place.

The member for Maylands inspired me to talk about local small businesses in my district. I have a list here of local small businesses that, for the remaining 10 or possibly 20 minutes, I will talk about in depth. It is really important to reflect on the local small businesses that exist in the electorates we represent. Of course, the Acting Speaker (Mr S.J. Price) would know that I represent the district of Dawesville, which is part of the City of Mandurah and the Mandurah community. More than 4 500 businesses operate in Mandurah. It is an outstanding and driven population, who go their own way to successfully operate their own businesses. The beauty of the ingenuity of the entrepreneurial spirit of Western Australia is encapsulated in Mandurah.

Mr W.R. Marmion: Do you know all 4 000?

Mr Z.R.F. KIRKUP: I am looking forward to naming every single one of them.

Mrs A.K. Hayden interjected.

Mr Z.R.F. KIRKUP: The member for Darling Range is very kind. I have only 20 minutes, but let us see how I go. I would like to talk about those small businesses that I visit regularly, because I obviously live there, member for Wanneroo. I would like to make sure that their efforts are recognised, because the economy is particularly tough at the moment.

Ms S.E. Winton: Are you staying there?

Mr Z.R.F. KIRKUP: Absolutely. We are going to raise a family there if we are lucky enough, member for Wanneroo.

Ms S. Winton interjected.

Mr Z.R.F. KIRKUP: Absolutely. I do not understand the fluoride-less haze that the member for Wanneroo is in. Is she suggesting that somehow I am not going to stay as the member for Dawesville?

Ms S. Winton interjected.

Mr Z.R.F. KIRKUP: I reiterate now: I will absolutely be standing for election for the electorate of Dawesville in 578 days' time.

Ms S. Winton interjected.

Mr Z.R.F. KIRKUP: While I am on the subject, I would be very interested in the thoughts of the member for Wanneroo about what is going to happen with the seats of Kingsley, Girrawheen and Mirrabooka. Does the

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member want to tell me more about that? What is going on in the Labor Party in the northern suburbs? When we talk about seats in which members live and want to represent, I am awfully interested in the Labor Party's submission to not only get rid of the member for Kingsley, but also, now that we have seen the boundaries that have been released, what will happen to the seats in the northern suburbs that the Labor Party holds. I would like to watch that interesting contest, but I will get back to the substance of the bill, which is, of course, what the Acting Speaker would like me to do.

Ms S. Winton interjected.

Mr Z.R.F. KIRKUP: I am going to get back to that. But what I should talk about first is plumbing, because I know how much the member for Wanneroo likes water. My father is a plumber. He talks to me endlessly about the importance of fluoride in the water. I know the member for Wanneroo does not support fluoride in the water. I am curious about whether she has ever made those representations to the Minister for Water. I will ask a question on notice to the Minister for Water about whether the member for Wanneroo has ever asked him to withdraw the use of fluoride in drinking water. I am keen to understand whether that is the case. Has the member ever made any representations like that?

Ms S.E. Winton: Did I?

Mr Z.R.F. KIRKUP: That is what I am asking the member for Wanneroo. We are engaging in great banter. It has been a great chat, but I might get back to the bill.

The ACTING SPEAKER: It would be much appreciated.

Ms S. Winton interjected.

Mr Z.R.F. KIRKUP: The member for Wanneroo can look it up.

The ACTING SPEAKER: Member for Wanneroo, thank you.

Mr Z.R.F. KIRKUP: Thank you very much, Mr Acting Speaker, for your protection from the member for Wanneroo, who is ever passionate.

I will mention a couple of businesses in Mandurah. The member for Perth made a very brief contribution because he was curtailed by the junior minister, who made sure that all Labor Party backbenchers talked for a short period of time—because, of course, you guys do not have any free will when it comes to how long you can speak on legislation, unlike the opposition. We in the Liberal Party absolutely have free will. We can act of our own accord and our own volition because we are not drones, unlike members opposite. The member for Perth spoke about the importance of past liquor-licensing reforms. I would like to reflect on the number of bars in my district that are doing very well. One in particular, Murphy's Irish Pub, is run by Edward Janiec. If members are ever in Mandurah, I recommend that they go to Murphy's Irish Pub. In 2018, Murphy's was awarded the best food experience, I think worldwide, by Guinness. It is one of the best pubs to get a Guinness in the country.

Dr A.D. Buti: Where is that?

Mr Z.R.F. KIRKUP: It is on Mandurah Terrace, in Mandurah.

Dr A.D. Buti interjected.

Mr Z.R.F. KIRKUP: The member for Armadale would have gone past that place on his bike.

Dr A.D. Buti: I will stop by.

Mr Z.R.F. KIRKUP: Tell him I sent you and he will drop the price of a pint. When talking about liquor-licensing reform, as the member for Perth spoke about, it is interesting to look at what that looks like in the context of the local publicans in my district. I have a great relationship with a number of them, as well as a lot of other small business owners, whom I will get to as part of my contribution.

[Member's time extended.]

Mr W.R. Marmion interjected.

Mr Z.R.F. KIRKUP: The member for Nedlands has asked where Murphy's is; is that right?

Mr W.R. Marmion: How far from Brighton is it?

Mr Z.R.F. KIRKUP: You could walk there; it is about 200 metres. I am happy to show the member for Nedlands around. The member for Nedlands is very popular in my district. I would be very interested to know whether the Labor Party would put its leader or deputy leader on any advertising material in the member for Wanneroo's electorate, because we have seen time and again that when that occurs it tends to lose elections. It tends to lose

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elections when its leader and deputy leader are put on any material. We only need to look to the Darling Range by-election and the federal election, and see what happened there. When the member for Nedlands comes down in his important capacity as deputy leader and shadow minister for a range of different areas, I am looking forward to taking him around, and he will be heralded in our town as all members of the Liberal Party are. While I am at it, I will talk about when the Leader of the Opposition came down for a crime rally. Businesses in my district are very concerned about crime.

Mrs L.M. Harvey: They are being targeted.

Mr Z.R.F. KIRKUP: Absolutely, they are being targeted, as the Leader of the Opposition points out. I have never seen such a big crowd in Mandurah.

Dr A.D. Buti interjected.

Mr Z.R.F. KIRKUP: Member for Armadale, it is all right; we will get through this. Apparently, I copied the member for Armadale as part of my rallies. I did not even realise, but if my seat ends up as safe as his, I would be very happy. When the Leader of the Opposition came down to Mandurah, as she does many times, it was to a roaring reception. There was a massive crowd in support of the issue. I know that when I sent out a release to people in my electorate saying that the Leader of the Opposition, the member for Scarborough, was coming down, I had a flood of RSVPs for the event that same day. People were very keen to understand what the Liberal Party was going to be doing for Mandurah and for my district in Dawesville and the district of Murray–Wellington, and they wanted to hear it from the Leader of the Opposition, the WA Liberal leader. It was a great event, and as part of that visit we had coffee at Mataya beforehand. Natalie Locke is an outstanding young woman, and I absolutely love Mataya. I think they are doing great work there. It is a really great café.

Mr P.A. Katsambanis: It was sensational.

Mr Z.R.F. KIRKUP: Sorry, member for Hillarys; I was basking in the warm glow of the Leader of the Opposition, but of course the member for Hillarys, the shadow Minister for Police, and I met with a small business owner before we got to Mataya. We met with Hayden Burbidge from Sportspower, and then we went on to Mataya and met with Ashley and Julie Ramm from Miami Tackleworld. It is a great tackle shop and they are very hard-working individuals. The member for Hillarys and I had the opportunity in meeting with Hayden to talk about his Sportspower store. It was ram-raided twice in six days, and nearly \$100 000 worth of stock was taken. When he talks about what the impact was on the economy, he is really hurting. He said to me that when his store was robbed for the second time, he was already shutting his doors, and that would have driven his decision to shut his stores, had he not already been closing because of the dire economic circumstances that face the City of Mandurah. It is an area with 20 to 22 per cent youth unemployment, I think. There are significant unemployment issues in Mandurah. Hayden talked through what had happened with the member for Hillarys and me. They are really awful circumstances, and that was one of the reasons we held that rally.

I am talking about small business as part of this legislation, inspired by the member for Maylands talking about her local businesses. I will go back to Mataya for a moment, where we had coffee with Ashley and Julie Ramm from Tackleworld, the Leader of the Opposition and the member for Hillarys. There was a great vibe there. It is a fantastic small business, and a very modern, forward-thinking place. Natalie Locke and the team there are redeveloping it. They are trying to pull more money in and make important investment decisions in their business, supported by the City of Mandurah to try to encourage and foster local small business in Mandurah. It is vitally important to our local economy and our way of life there, and a reflection of the excellent culture we have in a city that is driven around that entrepreneurial spirit. Of course, it started off as a fishing village, when fishing families set up there. That is a small business if we ever want to talk about one. We could go back to the 1800s, but of course we do not have time for that. But it is very interesting to see how towns develop around small businesses.

There are a couple of others that I would like to talk about very quickly. Another great restaurant, Flics, does a great job, also on the terrace. It is particularly supportive of our local lesbian, gay, bisexual, transgender, intersex and queer community, as part of Pride in Peel. They do a great job as part of their social investment in our community, and also outstanding food and hospitality. The Pen and Cobblers Tavern are institutions. Cobblers Tavern was where I had my victory party. The party was seven days premature, because I was not victorious at the time that I had the victory party, but we waited.

Mr J.E. McGrath: The Miami Bakehouse.

Mr Z.R.F. KIRKUP: The Miami Bakehouse, absolutely. It is an icon. I met with the owners of the Miami Bakehouse. They now have two stores on the highway. They have a store in their old location and one in Pinjarra. They are expanding. It is a great example of a small business that continues to expand and be representative of the iconic

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Mandurah spirit. A couple of cafes are also worth mentioning. I had the opportunity to send an email to every person who is celebrating a birthday. I have their date of birth on my email list. I invite them for a coffee at a coffee shop that reflects where they live. It means that I get to go around to a number of local coffee shops and meet the owners, and it is a great time to get a sense of what is happening. We have some great local coffee shops that we tend to select. DPM in Mandurah is also a great coffee shop. Spill the Beans is just a two-minute walk from my house in Seascapes Boulevard. There are also Pyramids Beach Cafe, Café Coast and the Boardwalk Cafe. The Groundswell DriveThru started off as a small orange Kombi van and now has its own standalone bricks and mortar coffee shop. Ryan Buckeridge does an outstanding job at the Falcon Bay Beach Cafe. The Falcon Bay Beach Cafe is a really interesting story. It sits right opposite Falcon Bay, which is a beautiful, pristine piece of coastline that is well visited by families and visitors from the Peel region and possibly Perth during the summer. Obviously the Falcon Bay Beach Cafe is run off its feet during the summer. Trying to get one of their fish burgers means a long wait because there will be a queue out the door. In winter, of course, it is almost dead. Falcon Bay is not a surf beach; it is a bit protected, and unfortunately it does not get quite the visitation that we would get down at Pyramids. As a result, Ryan and his team have to make sacrifices and struggle through the off-season. They have to make sure they are as well prepared for the summer, and the spring and autumn either side.

Mr J.E. McGrath: Aren't they all seasons?

Mr Z.R.F. KIRKUP: They are not all seasons.

Mr J.E. McGrath: What about the Jolly Frog?

Mr Z.R.F. KIRKUP: I am going to get to the Cut Tavern, as it is now. The Jolly Frog has gone; it is now the Cut Tavern. It is actually dealing with its own local government issues. The management has approached me to talk through some concerns that the local government has with the tavern about licensing and noise constraints and things like that. That is a really good example. The Cut Tavern used to be the Jolly Frog. That location has struggled for a number of years to get businesses that are sustainable. These guys have gone in there and invested heavily in the Cut Tavern and they are trying to make it work. It is remarkable to see how they are going, and hopefully they will get more support from the City of Mandurah. We have obviously reached out to them to make sure that we can do absolutely everything we can to help support the team over at the Cut Tavern.

I might speak of another couple of businesses in the seven minutes I have left. There is a gentleman from West Germany called Gerd, who migrated to Australia and started his own small business in boat hire. He moved from West Germany all the way down to Mandurah. He looked at a number of locations in Australia before he decided to migrate to Australia and he decided on Mandurah for the reasons that I know and love, and why my wife, Michelle, and I have moved there and hope to start a family there, member for Wanneroo, because it is a great location to live, work and raise a family.

Mrs L.M. Harvey: He obviously didn't stop in at Scarborough.

Mr Z.R.F. KIRKUP: No; he did not stop in at Scarborough. He made his way to Mandurah, Leader of the Opposition, and he set up a boat hire business, but more than that; he set up a barbecue boat hire business. The member for Nedlands would be quite interested in this given his engineering background. He set up a 360 degree boat—a circular doughnut. I think his boats are manufactured in Europe and he imports them here and he puts a barbecue in the middle of them. It is an electrically powered vessel, effectively, and he hires out his boats in different numbers and configurations for eight or 12 people. They can go out and experience the Mandurah estuary in great style and have a barbecue on the boat on the estuary. He talks to me about the endless amount of regulations and things he had to go through to bring his boat over, to get it licensed and to meet all the engineering and environmental requirements.

Mr W.R. Marmion: Can he go up the canals?

Mr Z.R.F. KIRKUP: He can go up the canals. He sometimes does that with the Christmas tours.

Mr W.R. Marmion: He can go and see the lights.

Mr Z.R.F. KIRKUP: That is right; there are the Christmas lights, something I hope to invite my colleagues to in years to come. We will, hopefully, have an event down there with some of the bolstering Liberal Party branches that are swelling in numbers and have a bit of a Christmas lights event and Gerd is part of that. He takes people down some of the canals on his barbecue boats. It is a great experience.

Dr A.D. Buti: Mandurah is thriving, but you talk about it being crime infested.

Mr Z.R.F. KIRKUP: I do not talk about it being crime infested, member for Armadale. I talk about this government, as occurs for all Western Australians, continuing to ignore those who are vulnerable; whom it made promises to, much like it did to small businesses in Western Australia and like the hurting families across our districts and across

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the Labor Party districts. The difference between government and opposition members is that we speak the truth about what is happening out there and members opposite wander around in some haze thinking things are great. The reality is that things are difficult out there. They want a compassionate government not a mean-spirited government; one that cares and knows what their life is like and is concerned about vulnerable people. That is why the Leader of the Opposition has asked the member for Carine to serve as the shadow Minister for Homelessness. This Liberal Party is concerned about our vulnerable Western Australians out there. We care about Western Australians who are hurting, compared with the silence of members opposite who continue to come in here and parade around as though there are no problems out there whatsoever. Small businesses, which, of course, are what we are talking about here today, are hurting. It is not just the economy; it is about crime as well, member for Armadale.

Very quickly, I have already taken my extension, member for Hillarys, in the three minutes I have left, I will talk about a couple more businesses.

Mr P.A. Katsambanis interjected.

Mr Z.R.F. KIRKUP: That is right, Bellboy Seafood run by Aiden and Damien Bell, who are outstanding local fishers on the estuary. They do great work, in particular at the crabfest. At last year's crabfest I met Damien just before he pulled out some fresh crabs in advance of the crabfest.

Mr J.E. McGrath: He should've given you a couple.

Mr Z.R.F. KIRKUP: He did not give me anything at all. He is a very astute businessman, member for South Perth. We have to go to one of the stores he supplies and grab something if we want anything. The local seafood industry is really important to Mandurah. I am really pleased the member for South Perth has brought that up because it has given me a great opportunity to talk about those local seafood businesses.

Mr J.E. McGrath: I've spent a lot of time in Mandurah.

Mr Z.R.F. KIRKUP: The member for South Perth has spent an awful lot of time in Mandurah. I hope one day to see a bit more of him down there.

Mr J.E. McGrath interjected.

Mr Z.R.F. KIRKUP: That is right; we know Mandurah is the retirement capital.

Mr P. Papalia: The last person who said that to him ended up on his backside!

Mr Z.R.F. KIRKUP: A number of great local fishers, such as Wattsies Place, have been hurt since the Forrest Highway went through, but they have diversified their business to make sure they get into more local restaurants and supply more local, sustainably caught seafood into restaurants throughout Perth and Mandurah. Obviously, they are part of a very strong seafood focus in our community.

In the two minutes I have left I will speak about a couple of other businesses. One is Mandurah Boat and Bike Hire. I started a group called Cycle Peel and Mandurah to bring all these dedicated bike groups together and see what we can do about bringing about some cycling tourism. The member for Darling Range knows it well. She was down there during my election campaign talking about cycling tourism and met with a number of local cycling groups. Cycling is very important to our community. There is a very large over-55s cycling group there. Mandurah Boat and Bike Hire were part of that.

I would like to very quickly mention Fleet Cycles and Mickey Boulton. They are the shop rides that I go out with on a Thursday morning. Fleet Cycles is fantastic. There is also Elyse Lambert and her family from Cycles Mandurah. Elyse has just qualified for the Ironman triathlon in Nice. We have great conversations about her Ironman preparation and things like that. She has done outstandingly well; I think she was one of the best female Ironman competitors in Busselton in May this year and she is going on to Nice in France. Again, she works in a great local small business. They absolutely need support from the government; they need support from everyone in this place, all members of Parliament, to come together and support our small businesses. That is why I am so proud to be able to stand here together with the opposition in support of this bill.

MR P.A. KATSAMBANIS (Hillarys) [10.25 pm]: I rise to speak on the Small Business Development Corporation Amendment Bill 2019. Like many people in this place, small businesses are very dear to my heart. I grew up in small business; my parents were small business owners. From a very, very early age, I learned the ups and downs of being in small business. There are plenty of ups but there are also plenty of downs: the threat and the risk at all times that a little bit of disruption could cause significant harm; the fact that all of a small business owner's family's major capital assets are invested in the business; that the survival of their business and their home are interlinked; and that difficult business conditions make it difficult sometimes to pay their staff and ensure that

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every week their staff can go home and feed their family. There are sacrifices made, such as the time that parents spend operating their business. In my family, seven days a week from early in the morning to late at night, dad was not at home, but we knew he was not out partying; we knew that he was at the shop, working to make sure he could put food on our table, keep the doors open, pay his staff and look after his family. I grew up with that. As I said, we had our ups and downs, but both my sister and I recognised from a very early age that being in a small business is not all beer and skittles. It is tough work. The whole family is impacted when things are not going well.

Right throughout my life I have continued to be in small business—in fact, I was running a small business when I came to Western Australia, seeking new opportunities—so I, too, understand the cycle of small business and how things can go well, but often things can go wrong; what it is like when things go wrong, and the cascading impact it has on a small business owner, their family, their staff, and everyone around them. That is why I am personally committed to doing everything I can as a legislator, as a member of Parliament, to assist small business growth, to ensure that those people who invest their life savings in their dream to run their own business can make those life savings grow so that they can provide for their family, and can provide employment opportunities for more people. As we know, small business is really the engine room for growth. If every small business in Australia and in Western Australia could employ one more person, not only would we not have an unemployment problem, but also we would be looking for more people than are currently available to work. Allowing small businesses to prosper and grow and to develop new opportunities for not only the owners and their families, but also the families of their employees, is a critical part of making government work in this state. I know that we are all committed to that. We may have different ideas on how to get there, but there is no point in us sitting here tonight or at any time pointing the finger at each other and saying, “You don’t care about small business”, “I don’t care about small business”, or “The other person doesn’t care about small business.” I think all members of Parliament—a lot have expressed that tonight—go out into the community and speak to their businesses.

Anyone who goes out there and speaks to businesses at this moment in time knows how tough many, many businesses are doing it across the board. We focus a lot on retailers, and rightly so, because they are our high streets and our shopping strips, and we see small business prospering because the shops are open and busy and everyone is happy. Conversely, we see them when they are not doing so well because the shopfronts are closed. There are many other businesses, such as microbusinesses, that operate from home and where the hurt is happening without people seeing it. In particular, I refer to businesses operated by tradespeople right across the state. Make no mistake—right now, tradies, especially those involved in the home building industry, but also those in construction generally, are doing it very, very tough. The Hillarys electorate—I have said this here before—has a tradie-based economy. It is the same in other northern electorates. We are very much a tradie-based economy. If the tradies are not doing well, retail shops, restaurants, the hospitality industry and clothing shops are not doing well. If tradies are not doing well, building services businesses are not doing well—that is, tile and paint shops and the like—and car dealerships, tackle shops and boat dealers are not doing well. It cascades throughout the whole economy. I tell members right now that it is not good. It is a difficult, difficult time. Many businesspeople I speak to say that one of the biggest issues is that this government is crowing about its big budget surplus, which has been built largely on the back of Western Australian businesses and households having to pay increased taxes and charges over the last two or more years. Households are hurting so they are spending less. Businesses are households too. They are having to pay more for business charges and more at home. No-one is doing well. Disposable income is down and wages have not grown for a long time. We know all that. People are crying out for help, but, unfortunately, this government has done precious little to help small business.

The government talks the big game about reducing red tape, which I will talk about in a minute. It would be great if it did that. It would be great if all these things that come out in the media cycle actually happened. Let us see it happen, because we have not seen it up to now. There has not been any great meaningful red-tape reform. There have been changes for small bars, which I have certainly supported. That is good; that is great, but it has not been across the board.

This government has talked about one particular area of small business that has really been struggling in the last few years. It has talked about it incessantly. It talked about it during the election campaign and it has talked about it since being elected. I refer to the protection of subcontractors and ensuring that they are paid—and, better still, that they are paid on time. There are two subsets; some subcontractors do not get paid at all and some get paid way too late, when it is past the point of no return. The government has done very little that is meaningful about it. The Small Business Development Corporation Amendment Bill 2019 purports to help subcontractors get paid in a timely manner. It will supposedly help them get the money that they are entitled to for the work they have actually done so that they can pay their staff, trade creditors and everyone else they need to pay and, hopefully, as the Leader of the Opposition said, make a dent in their mortgage, pay school fees and look after their families. That is all well and good. If this bill assists in the payment of subcontractors, it will be a great bill. I hope it has an impact,

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but it is not the panacea. Despite this minister's words, it is not the panacea. In amongst the rhetoric of the minister's second reading speech, one paragraph highlights exactly what the bill does. It states —

... the amendments contained in the bill enhance and clarify the commissioner's additional statutory role to make inquiries, conduct investigations and provide meaningful reports to government.

That is the extent of what this legislation will do. It clarifies the Small Business Commissioner's investigatory role—his or her ability to make inquiries, conduct investigations and provide some reports to government. That is all this legislation really does. We should remember, as other speakers have mentioned, the genesis of the commissioner's role. The role was specifically created by the Barnett Liberal government to give small business some certainty and clarity in both policy and, importantly, dispute resolution processes. The member for Armadale is not in the chamber right now, but he has been studiously listening to most of this debate. He understands how important a low-cost, easily accessible alternative dispute resolution system is to ensuring access to justice, particularly for small businesses and especially in their business-to-business relationships with bigger businesses that have bigger pockets and access to more legal firepower. The Barnett government introduced that alternative dispute resolution process overseen by the commissioner. It is a voluntary process, of course; it is mediation and voluntary dispute resolution. That process is available and has been highly successful. The minister outlined in his second reading speech how successful the process has been. Although, as the Leader of the Opposition pointed out, the minister refused to give credit to the people who deserve it. We know who deserves the credit for introducing that process, and that system will continue.

This legislation tinkers with the description of the commissioner's powers for receiving and investigating complaints on the impact of the activities of small business. It does that by amending section 14A of the Small Business Development Corporation Act 1983. The legislation will give the commissioner specific powers—probably to clarify that these powers exist—to access documents. When conducting investigations, the commissioner will be able to go into a business and request some documents. The commissioner will then be able to give a report to the minister or some government entity. That government entity is defined rather broadly to include both state and federal government entities, including the Australian Small Business and Family Enterprise Ombudsman, the Australian Competition and Consumer Commission, the Australian Securities and Investments Commission and other federal bodies, including the Commissioner of Taxation.

This legislation will allow the commissioner to investigate certain circumstances, request documents and make a report. That is all well and good. If that adds to the Small Business Commissioner's panoply of powers and allows him or her to go out and actively represent small business, we will not criticise that. I certainly do not. I say that it is good to give the commissioner a bit more power. Interestingly, the bill lacks certain provisions I would have expected to be included in a bill to—I quote the minister's second reading speech—“drive change to protect subcontractors working on government-funded construction projects.” The legislation lacks the ability to guarantee any form of payment to those subcontractors after the documents have been collected, an investigation has been concluded and the report has been written and delivered to the relevant minister or government agency.

Absolutely no power is contained within this bill to magically protect subcontractors or small business persons by allowing them access to the funds that they are seeking for the work they have done, be it on a government-funded project or any other project. The minister may say that that is all well and good, but of course the Small Business Commissioner has the power to bring the parties to the table in alternative dispute resolution. However, the commissioner could have done that before he commenced the investigation. A voluntary system requires that the two parties come to the table. If a contractor is not prepared to pay a subcontractor and is prepared to be recalcitrant and obfuscate, to use warfare, and to muddle the subcontractor in variations and all sorts of other documentation in order to effectively kick the can along the road, this bill will offer no new power whatsoever to protect that subcontractor. The minister cannot say in all conscience that this is all part of a suite of protections that will enable subcontractors to be paid, or enable other businesses in the future to utilise the new powers of the commissioner to help them in disputes with landlords, suppliers or franchisors, or other people who are not acting in good faith.

Mr P. Papalia: Do you oppose this bill?

Mr P.A. KATSAMBANIS: The minister is not listening, is he? He really is not listening. The minister is supposed to represent the interests of small business, and all he can do is make wisecracks. When any failure of the minister's own rhetoric is pointed out to him, he walks away!

The ACTING SPEAKER (Mr S.J. Price): Member for Hillarys!

Mr P.A. KATSAMBANIS: The minister is clearly not on top of his brief. We will point that out in consideration in detail.

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The minister asked me whether I oppose this bill. I have said from the outset that I support any bill that will give the Small Business Commissioner greater powers to protect small businesses. I am just highlighting that this bill will not do what the minister claims it will do. The minister should not claim that this bill will have more impact than it will have.

What will the commissioner be able to do with these new powers? We will interrogate that during consideration in detail. We will also interrogate whether these new powers will actually work. This bill will give the commissioner the opportunity to look at a problem and write a report to government.

[Member's time extended.]

Mr P.A. KATSAMBANIS: The government may put that contractor on a black list or give them a bit of a hurry-up, or whatever. There are no enforceable powers in this bill whatsoever. There is no clarification about how these powers will interrelate with the powers granted under other acts—for instance, the new Construction Contracts Act, to which subcontractors could have access if they were minded to go down that path. Other speakers have spoken about the fact that some subcontractors fear that utilising that act will sour permanently an existing business relationship, and they are keen to get as much work through the door as they can, so they do not want to sour that relationship. That is why alternative dispute resolution, particularly the sort of alternative dispute resolution offered by the Small Business Commissioner, is often a very good and elegant solution to bring the parties to the table without breaching that existing and ongoing business relationship. That is irrespective of whether the subcontractor feels that the head contractor has not treated them very well, because if the head contractor has not paid them for work they have done, clearly they have not treated them very well.

That is why the opposition has looked at this bill with a critical lens. We support any legislation that will increase the power of the Small Business Commissioner. We also support any legislation that will enable subcontractors to be paid on time, which is when they deserve to be paid. However, this bill will not do that.

People should be under no illusion that this bill will give them power to seek payment for contracts that they are not being paid for at the moment. The Minister for Small Business can sugar-coat it any way he likes, but that is the fact.

There are some other questions about this bill, some of which have already been highlighted. Under the changes that will be made by this legislation, the Small Business Commissioner will not be compelled to investigate any matter, provide assistance or give a report of a case. It would be helpful to have a little clarity about the framework the commissioner would use to decide whether to investigate a matter. The minister will have an opportunity in his second reading reply to provide that information. What will that mean in practice? Will the commissioner be able to look at something and say that they do not want to do it? I do not think so, and I think that the current commissioner would not do something like that. Future commissioners would not want to do that either, because they would not want that sort of reputation. What sorts of things will be considered when deciding whether a matter needs to be investigated? What will be a reasonable excuse for a person who is asked to produce documents, things or information to not produce those things? What will the minister do when he receives a report from the commissioner? These are all legitimate questions. How will the framework around the identity of the complainant work? Obviously, this will be very important in some cases, because some subcontractors might want broader action to be taken and things to be investigated, but might not want the finger pointed at them because they rely on the contractor—even though it is not good—to give them further work. They may not want their name published for other reasons. How will that work for reporting to the minister? We will interrogate some of that in consideration in detail because the public, and small business in particular, deserves to know what powers will be included and what their obligations will be under this legislation.

The shadow Minister for Small Business has done an excellent job in identifying existing flaws in this bill. I could be wrong and could have been misled, but I believe that the minister has already agreed to accept a series of amendments that have been proposed by the shadow minister. That tends to indicate, again, that thoroughness may not be the forte of this Minister for Small Business. The opposition is working hard to improve this bill and make it more workable.

Businesses in my electorate and in every electorate are looking to us for leadership in this area. They are looking for us to alleviate their burdens, to cut red tape rather than talk about cutting red tape, and to cut fees and charges rather than increasing fees and charges, as this government continues to do. We should work in a bipartisan matter. Businesses in my electorate and in every other electorate are crying out for it. I think a little more diligence to the task from the minister and more reality-driven speeches, rather than the second reading speech that was made in this place, would give people more confidence that the people with their hands on the tiller of small business policy

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in this state have the best interests of small business at heart. We have heard hyperbole and it has been exposed that, effectively, the emperor does not have any clothes on, because this bill will not do what it purports.

In the limited time remaining to me, I want to highlight some of those businesses in my electorate that I have already pointed out are trying their best to build their business, employ people and put food on the table for their employees' families and their own families. There are so many of them. I would need the whole day to go through every business in Hillarys. I want to highlight some. A lot of members have been talking about cafes. Members with inner-city electorates, such as the members for Maylands and Perth, or regional members such as the member for Dawesville, like to talk about the cafes in their electorates. They should come up to the electorate of Hillarys. We have wonderful cafes. If they come to Craigie and visit Roma Republic, they would think they were in an inner-urban hipster cafe when they walk in. It is brilliant. It is fantastic. It is better priced than the inner-city cafes. Its quality is awesome and the patronage shows how popular it is.

If we go to Padbury, we can visit a cafe such as Alex Junior, which was the brainchild of local pharmacist Steven Litas. Again, that shows how local communities can help themselves. Steven is the local pharmacist. There was an empty shop next to his and he realised there was a bit of a gap in the market for his clients to come in and have a cup of coffee and perhaps a snack—a sandwich, a muffin, some healthy food—so he opened Alex Junior, which is a great coffee shop. It is highly regarded in the local area and recommended to anyone who is in the area. In fact, people should come straight to Padbury and visit that cafe. They do not need a special reason to come; they should come just for the coffee. That is another business that is suffering from red tape at the moment. Apparently, the local government has declared that people who buy their coffee at Alex Junior cannot walk up to the counter and order a coffee while holding their dog on a lead; the dog must be tied up outside. It is a dog-friendly cafe. The doors are open, so people walk two or three steps into the premises from the footpath in the little Padbury shops. This is a new issue and hopefully the council will address it.

Mr D.A. Templeman: Have you contacted the mayor?

Mr P.A. KATSAMBANIS: You bet. Hopefully, the council will address this issue, as it addressed another serious issue affecting business. Anita Catalano, a young lady in my electorate, a single mother, set up a fitness business called the Tailored Fitness Centre at the Hepburn Heights shopping centre in Padbury. She had to go through all manner of red tape just to open the business and operate a little cafe on the side, because, again, we know that fitness and a cup of coffee go together nowadays. It offers a good environment. People go along to that business. Businesses can grow and prosper. Anita contacted me, and I contacted the council. I speak very highly of the City of Joondalup. It dealt with that issue very quickly and Anita was able to open her cafe. Instead of closing down her business, having made a huge investment, she was able to open and run that business. Hopefully, it goes from strength to strength.

We have wonderful businesses all over the electorate. At Hillarys Boat Harbour, we have so many wonderful local businesses such as the Over Board Cafe, the Purple Goat Cafe, The Harbour Terrace and 3Sheets Restaurant. The Breakwater is under new management now.

Mr J.E. McGrath: The ice-cream shops.

Mr P.A. KATSAMBANIS: There are fantastic ice-cream shops. People should come down and have an ice-cream. Even in winter, ice-cream is great, especially with the weather we have here in Perth. Mia Cucina, downstairs from my office, is a successful restaurant. It has been there for many years. The owners are working hard with low margins but the restaurant is always busy because people patronise it. We have fantastic successful businesses right across the electorate. We have those in every single electorate.

The Aquarium of Western Australia is another fantastic small business. It is not only offering educational aspects in our electorate by educating people about the ocean, but also actively helping marine research. If people go to AQWA at the moment, they will see the replica of the *Duyfken*, so they get two for the price of one. It is a wonderful business. There is accommodation at Hillarys. People can come and stay at Quality Resort Sorrento Beach, run by Andrew Slomp and his crew. They do a magnificent job, as does Hillarys Harbour Resort. People do not need to drive in and drive out; they can stay all night.

People can go to White Salt restaurant or Voyage Kitchen, which is across the road, and have a nice meal and a glass of wine, and utilise the high-class accommodation facilities. We have wonderful small businesses everywhere in Western Australia, including Hillarys, and they are crying out for more support from government, whether it is a Labor government, a Liberal government or any colour of government. The McGowan Labor government needs to hear the cries of small business. Do not pay lip-service to them. Do the right thing by small business: cut red tape and start reducing fees and charges rather than continuing to increase them up, up and up, and stop pretending that legislation, like the bill before this house, does a lot more than it actually does.

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This bill is a good start. It will help improve slightly on what the Barnett Liberal government did, but there is a hell of a lot more work to go, and the minister can prove whether he is up to the task of being a proper representative of small business or is just full of rhetoric.

MR D.C. NALDER (Bateman) [10.55 pm]: I, too, stand to talk on the Small Business Development Corporation Amendment Bill 2019. I will start by saying that I have quietly sat here for the last few hours listening to various speakers on this bill, and it has been fascinating. According to Labor members, we would think that with this bill the government has become the champion of small business. The Leader of the Opposition articulated it correctly when she claimed that some of the behaviour from government members, particularly the minister, has been a little churlish. It is prudent to reflect on previous governments' histories and the actions they undertook to improve the lot of small business. If this government came to this house and said, "We are taking that good work and taking it another step further", we would acknowledge it and say "We tip our hat; you're doing a good job." But no, it cannot do that. For some reason this government has to put politics into everything that it does. It can never acknowledge the good work of the former government. That is when it gets disappointing. We acknowledge that this legislation will be supported, albeit with appropriate amendments, but if the government was ever going to champion the cause of small business at this point in time, like the member for Hillarys said, it needs to understand what small business is looking for in this state. If we wanted to understand it, we would look no further than the economy. Areas of the Western Australian economy are doing well, including the mining sector and the agriculture sector, which is the best it has looked in decades, but if people come into the metropolitan areas or the country towns of Western Australia, they will see that small businesses have been doing it tough, and this government has not done anything about that. If it really wanted to understand what it could do, it would look at economic policies and make some changes that would be beneficial for small businesses in Western Australia. We are seeing some changes to a policy to look after some subcontractors, which we believe is the right thing to do. We want to see these subcontractors looked after, we want to make sure that they get paid and we are hopeful that this legislation will be able to deliver that, but we believe the amendments we will put forward are part of a critical process to ensure that the legislation has the best possible chance.

I want to talk about the economy of Western Australia, because this government seems to have forgotten some basic things occurring in Western Australia at this point in time. We are seeing some broader structural changes in the overall Australian economy. As a result, we have seen the Reserve Bank lower interest rates twice in recent times, we have seen the Australian Prudential Regulation Authority change its policies to make it easier to gain access to finance, and we have seen the federal government give taxation advantages to households to try to help stimulate the economy. What we have not seen from the state government is acknowledgement of this and of the broader concerns within the domestic economy of Western Australia and what is actually doing it. We have seen this government increase household charges and impact on the discretionary expenditure of households that flows through to small businesses.

Look no further than the shopping strips in Mt Lawley or other suburbs or country towns. I know that in Narrogin, Albany or Katanning or my home town of Wagin, there are a lot of empty shops. Those small businesses are hurting. What is this government doing to champion the cause? If the minister wants to be the champion of small business, he needs to acknowledge this and put processes in place. We really need the government to look at the economic policies that it is driving. I want to focus on a couple of things that the government has done that have had negative consequences for small businesses in Western Australia. One of them it did for purely political reasons. One was around changing the regional status of Perth as a city. We have seen that that change that has given Perth the same status as Melbourne and Sydney flow through to international students, and then those numbers have dropped off. The minister should show respect right here because we are talking about the effect on small business and he is talking about championing the cause of small business and he is failing to do that.

Mr P. Papalia interjected.

Mr D.C. NALDER: This is a response to the second reading and —

Mr P. Papalia: You still have to talk about the bill.

Mr D.C. NALDER: I will talk about the bill. We are seeing a negative impact on the number of international students. In the last two years, Western Australia's percentage share of international students has dropped from 7.5 per cent to 5.5 per cent. International students are now the fourth largest industry in Western Australia, adding \$35.2 billion a year to the national economy. Our population share is 10.3 per cent. At 5.5 per cent, international students are generating \$1.9 billion for the Western Australian economy. If we had our population share, it would be an additional \$1.6 billion. But in the last two years, our percentage share has dropped from 7.5 per cent to 5.5 per cent. That \$700 million a year reduction in our domestic economy in Western Australia is flowing through to the spend that occurs in small businesses. That flows through our housing industry. That flows through every

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part of our domestic economy. If the minister were to champion the cause of small business, he would look at the policies the government has implemented and the flowthrough consequences of those policies. We do not hear that, yet the minister wants to stand here and claim that through this bill he is championing the cause of small business.

We support this bill, with the amendments, but the government is not championing the cause of small business. If the minister showed a little less hubris and a little more respect for what has come before him, he would be shown more respect by the opposition. There is a lack of respect from this minister in this house and hence he is getting a little lesson on economics in Western Australia. Australian Bureau of Statistics figures show that the number of small businesses in Western Australia since 2014 has declined by 28 000 in the last two years. Again, I refer to those empty shops we see in the suburban shopping strips and out in country towns. The minister likes to blame the former government and what is happening in the east. He is not taking responsibility. We want the minister to put this legislation, but we want him to go a lot further for small business. That is what we are calling out for. If the minister is going to do that, he will need to look at the windfall gains he is getting in government. The government has had a couple of massive windfall gains courtesy of the federal government fixing the GST. It has put a floor under the state's budget. In the first month of this financial year, iron ore prices were trading at \$US70 above the 2015–16 average. For the month of July, that was nearly \$US70 more, on average, than the state received in 2015–16. We are talking about, on an annualised rate, an extra \$5.6 billion a year. We know that the government lifted its budget by \$10 to \$73.50. We know that the windfall gain the state government will receive from iron ore royalties is \$300 million above its budget for the month of July alone. What is the government going to do? When is it going to look after small business? When is the government going to stand up and say, "We need to do more for our domestic economy"? Our domestic economy is hurting. We need to ensure that we quarantine some of these funds to support small business.

The minister said that this bill champions the cause of small business. Government members got up in here and took all the kudos for how the government stands up for small business. That is not what is occurring at all. We support the Small Business Development Corporation Amendment Bill 2019 and we support the need to put in place measures that ensure that subcontractors are protected. We have no problem with that whatsoever. We worry about some of the powers this bill will give to the Small Business Commissioner. We think they should be seriously considered and we will be moving proposed amendments to the bill.

When talking about small business, the minister wants government members to get up and pat him on the back and claim the kudos for being a small business champion, but we are going to show the minister why he is failing in that respect. The minister criticised me for introducing this into the debate when all I am doing is responding to the arguments that have been put forward by government members. The minister can complain as much as he likes but I am responding to some of the claims that have been made.

We need small businesses to prosper. Everybody in this house has said that this evening. I have heard it from both sides. We need small businesses to prosper, but we have to do more. As the member for Hillarys just said, we have to look after them more. He implored the minister to get out there and talk to small business owners to understand what they need. Western Australians pay the highest rate of payroll tax in the country. We have had these massive windfall gains but there has been no action from this government. If it were serious about it, it would have been in the last budget. It would have quarantined some of its windfall gains to ensure that it is used for the benefit of small business and it would have looked at payroll tax reform, or the likes of that. That is what would have happened if it were serious about small business. We definitely have not heard that today. I am not sure whether we will hear it from this government in the near term.

It would have been nice if the minister had acknowledged the legislation brought in by the former government that introduced the Small Business Commissioner, as pointed out by the Leader of the Opposition. That would have shown some class, instead of the churlish behaviour we saw this evening. Had the minister done that, we would have provided credit to this government. We would have tipped our hat and moved forward and passed the amendment bill in good faith and moved on. If the minister wants to play political games in this place, we will engage in those political games toe to toe. There are failings in this government. It has failed to acknowledge the damage that it has created and the flow-on effect it has had on small businesses in Western Australia. In 2017, there were green shoots of recovery. Those have now been burnt off, as I said, as a consequence of government policies such as changes in the regional migration status of Perth and the increases in household charges that we had in the first two years of this government. We are seeing arrogance from a government that believes it won with such a margin that it will get two years to charge whatever it likes and then it will go soft in the second two years and hope everyone forgets about it.

What it did not understand or appreciate was the consequences of those decisions and the flowthrough effect they would have. We live in a low-inflation, low-wage growth environment, which means that if we increase charges

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above the rate of inflation when salary growth is at the rate of inflation, we are actually taking discretionary expenditure out of the economy, and that is where it starts to bite the small businesses that the government is supposedly championing. That is what we are saying here this evening: the government needs to do more than what is in this legislation. We are going to support the legislation, with amendments, but we want the government to take the next step and show that it understands the economy and the impacts its policy decisions are having on the economy, and to do something for the small businesses of Western Australia. It is not acceptable for us to lose 28 000 small businesses in the last two years, according to the Australian Bureau of Statistics, without any consideration or thought by the Minister for Small Business. If he were going to be true to himself and say, "I've been a good Minister for Small Business", he would at least acknowledge that those issues exist in our economy and attempt to do something, and we have not seen that.

I do not have much more to add to the debate on this bill. I look forward to consideration in detail, because that is when we will look at the clauses more specifically. We are concerned about the extent of some of those clauses. Although there are only 11 clauses in the entire bill, we will seek to amend a number of them to ensure that we provide the best possible chance for subcontractors who have not been paid to be paid. I will finish my contribution at that, and I look forward to the rest of the discussion on this bill.

MR A. KRSTICEVIC (Carine) [11.11 pm]: I, too, would like to make a short contribution to the debate on the Small Business Development Corporation Amendment Bill 2019. As I have listened to members speak to this bill, I have found it amazing how many anecdotes, suggestions and ideas have been provided by members from both sides to the Minister for Small Business about the trials and tribulations of small businesses. They have provided ideas about how small business can be assisted and how this bill could improve the lives of people who are struggling in small business, but it is amazing how little interest the minister has shown in all those suggestions. He just keeps waving the bill around, saying, "Make sure you talk specifically about this. We don't want to know all about the issues affecting small businesses in your electorate. We don't want to know how much they are struggling. I don't want to hear stories about how we can make small businesses more successful. I'm not interested, even though I'm the Minister for Small Business and even though that's what we're talking about. I'd rather you stuck to the narrow focus of this bill. I don't really want to know what I can learn and take away from this debate and about hopefully not just improving this piece of legislation but also leading on to future pieces of legislation and initiatives that might help small business in this state." I find it amazing that the minister has no interest in or time to listen to some of the great initiatives and ideas that have been presented here.

Dr A.D. Buti: That's misleading.

Mr A. KRSTICEVIC: He has been telling everybody on our side to stop talking about this. I have been watching the minister and observing what he has been doing and he is not interested in all these great initiatives.

Dr A.D. Buti interjected.

The SPEAKER: Member for Armadale!

Mr A. KRSTICEVIC: Members have talked about the 28 000 small businesses that have closed their doors and how people are doing it tough. This bill refers to the Small Business Commissioner gathering information, putting reports together and being able to investigate. What is he investigating? He will be investigating the complaints, concerns, facts and information that subcontractors have brought to his attention by saying, "You know what? I'm not being paid. Here's the information and evidence; now you can go away and do some investigations and research, and you can do a report." That will not help that particular subcontractor to get paid.

We know that there are many reasons why subcontractors do not get paid. It is not always that the head contractor is deliberately withholding the funds. It is not always that the head contractor is doing something illegal or dodgy. It may well be that the head contractor has found himself in financial difficulties for various reasons. Some of those reasons could be the levers that are being pulled by the government, cost-of-living pressures, red tape, expenses or difficulties being experienced by the head contractor as a result of the government's policies that mean that they cannot pay their subcontractors. We should not automatically assume in all cases that subcontractors are not being paid because other people genuinely do not want to pay them. There are many different reasons why these things occur. I know that we focused more on the narrow perspective of the people who do not want to do the right thing and who deliberately try to avoid their obligations, but we need to be conscious of the fact that it is a much broader scope that impacts on the ability of people to pay. Of course, that has massive ramifications throughout the system.

This bill will not in any way, shape or form help anybody to get a cent in their pocket. All it will do is give the commissioner additional powers to gather information and put out a report. It is great that the commissioner will be able to gather information in an easier way than is currently the case. The minister said in his second reading speech —

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In the last financial year, the commissioner's dispute resolution service finalised 76 per cent of commercial tenancy disputes and 90 per cent of all disputes through case management ...

Ninety per cent is not a bad figure. It is obviously working to a large degree. Obviously, going through the mediation process is having some impact. But how can we increase the number of subcontractors who get paid and what changes need to be made to ensure that they get paid in a timely manner? We know that the government is very good at putting together committees, doing reports and putting out glossy brochures and nice advertising campaigns, but there is very little substance behind a lot of that to help people who are struggling and finding it difficult. As we know, the number of small businesses and subcontractors who are struggling or going out of business is unbelievable. When people say to me, "Tony, I'm thinking of starting a small business. I'm thinking of getting apprentices", the first thing I say to them is, "You need to reconsider and do your homework and make sure that you've got this right." I have heard so many stories of people who have gone in with the right intentions but have found themselves in trouble very quickly because they have not done their research and not just because of the economic circumstances that we find ourselves in now, but also because of government policies that are dragging down the economy, hurting small businesses and creating the environment that leads to some of these subcontractors not being paid. Obviously, that has ramifications all the way down the chain to the lowest common denominator of families that cannot pay their bills, school fees and everything else. It impacts on every level of society.

This issue is not new. It did not come up just yesterday. This was talked about by the previous government and we made a number of changes.

Dr A.D. Buti: What?

Mr A. KRSTICEVIC: The Labor Party talked about fixing the problem. When it got elected, it said that it would fix the problem. It has been in government for almost three years. In March next year, it will have been in government for three years but what has it done? It has done lots of things that have hurt small businesses and the economy, and it has done lots of things that are hurting the people it wants to help, but, unfortunately, those who are holding up the economy, the 200 000-plus small businesses that are the backbone of this economy, are not being treated with the level of respect that they deserve. They are being ignored. They are being worked against rather than being worked with and worked for. Of course, the rhetoric all sounds wonderful, but we have only to drive down the street or talk to people to see from the facts as they present themselves that businesses are closing and they are struggling. We obviously know for a fact that it is not just the state government that has an impact, but local government. Local governments have a great impact in that space.

Dr A.D. Buti interjected.

The SPEAKER: Member for Armadale!

Mr A. KRSTICEVIC: We are talking about the local stuff here.

Dr A.D. Buti interjected.

The SPEAKER: Member for Armadale!

Mr A. KRSTICEVIC: As the member for Armadale would know, local government has an absolutely huge impact in this space, whether it is with planning rules, red tape, fees and charges, parking—you name it. Local government creates environments in which small businesses can struggle. We see examples when we drive through various suburbs and shopping malls. Not that long ago they contained very successful businesses, they were thriving communities, and of course, now they are almost like barren wastelands in some cases.

Mr Z.R.F. Kirkup interjected.

The SPEAKER: Do not encourage him.

Mr A. KRSTICEVIC: It is quite sad to drive through some of these areas and see what two and half years of Labor state government inaction has done. People might say that the Labor government has done nothing, but it has done certain things.

Dr A.D. Buti interjected.

The SPEAKER: Member for Armadale, I am not throwing you out! Talk as much as you like, I am not throwing you out. You stay with us.

Mr A. KRSTICEVIC: Pretty much most of the things that have been done have been detrimental to small business and the economy, so in some respects I wish it was true that the Labor government had done nothing, because at least if it had done nothing, it would not have been destructive, it would not be hurting the economy and it would not be driving small businesses out of business. That is the reality of it. We have heard examples here; whether it

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is the foreign migration scheme, the foreign buyers' tax or the fake WA jobs bill, the government is all about smoke and mirrors. There is no substance. This government is great at smoke and mirrors; there is no doubt about that. Do you know what? Eventually the chickens come home to roost, because at the end of the day people do not have a job, they do not have money, they cannot feed their families and, as we can see now more than ever before, that leads to homelessness and people sleeping rough. That is happening like never before in this state. The government has to ask itself: how has this situation evolved? It has evolved through the inaction of this government to bring real, meaningful legislation to this Parliament—by the inaction of this government to take these issues seriously and try to help the people of Western Australia rather than help its own members' personal causes. It is quite sad in so many ways to see the damage that has been done out there in our community.

This legislation is great. It is more paperwork. We are creating more paperwork, more red tape and more bureaucracy. It may add some value to the process, there is no doubt about that, with some improvements, as always. Plenty of legislation has been introduced in this Parliament. Luckily, some amendments will be moved in this house, but generally the government is very stubborn. It does not usually accept amendments in this house. Then the legislation goes to the upper house and amendments are moved there or it goes to a committee. Sometimes, after it has gone through the upper house, it just disappears and we never see it again. It does not go through there. The government says, "We stuffed that one up. We'll just throw it in the shredder and go on to the next bill." That is the cowboy way that this government operates, rather than thinking that there are people in this Parliament who actually have something to contribute to this debate—that they can add some value. There are some very, very successful, intelligent people here, and maybe it would be worthwhile for the government just to listen to what they have to say and take their ideas, steal them and use them as its own without ever giving credit.

The SPEAKER: Member, could you go back to talking about the actual bill?

Mr A. KRSTICEVIC: Of course, Mr Speaker.

The SPEAKER: This is the longest short speech I have ever heard, member!

Mr A. KRSTICEVIC: As we have said, we know that subcontractors are struggling at the moment, whether in the building industry or anywhere else. It does not really matter. Now, it is not so much whether they are going to get paid by the head contractor; it is whether they are going to get a job at all, whether they are going to get any income at all. This is the sad situation we find ourselves in at the moment. I commend the minister for doing something. It is great to see that he has finally done something. It has only been two and a half years, and finally we are getting somewhere. He has created some more red tape and some more paperwork—fantastic. I am just wondering about something. The bill provides that the commissioner does not need to investigate —

The SPEAKER: Member, that can be looked at in consideration in detail.

Mr A. KRSTICEVIC: That is fine; I was just trying to put a note in here.

The SPEAKER: Your own members are turning off you, member. Your own members are going to sleep there. By all means have it. I have ordered breakfast.

Mr A. KRSTICEVIC: As I said, I was just wondering whether any additional funding goes with this extra responsibility. If the minister has all these extra powers to collect information and write reports and compel people, and pull all these things together, will he get more funding to do that extra work, if there is any extra work? That will be of interest as well. I also want to know how this is really going to help the subcontractors to get more money in their pockets. How will it help them to do that? I will be very interested to see, and hopefully when the minister replies he will give some respect to the quality of the debate from many of the members in this place, and acknowledge the contributions they have made to this piece of legislation, rather than treat it as some sort of comedy show and side act. That is all I have seen so far from the minister, so I hope that he will take his job seriously, because this is a serious matter. Subcontractors and businesses are the backbone of this community. They employ so many people, and they have held up this state for so long, and I think they deserve respect and to be treated with dignity in this debate, through this Parliament and by this minister.

MR P. PAPALIA (Warnbro — Minister for Small Business) [11.26 pm] — in reply: Before I commence, I acknowledge in the public gallery the Small Business Commissioner, David Eaton, a wonderful public servant. I extend my apologies for him having to bear that —

Dr A.D. Buti: Endure!

Mr P. PAPALIA: Yes, endure some of the contributions that have just been made to the debate on the Small Business Development Corporation Amendment Bill 2019.

Mrs Alyssa Hayden; Mr Sean L'Estrange; Ms Libby Mettam; Mr Kyran O'Donnell; Dr Mike Nahan; Mr Stephen Price; Ms Jessica Shaw; Ms Lisa Baker; Mr John Carey; Ms Janine Freeman; Mr Yaz Mubarakai; Mrs Liza Harvey; Mr Zak Kirkup; Mr Peter Katsambanis; Mr Dean Nalder; Mr Tony Krsticevic; Mr Paul Papalia; Dr Tony Buti; Mr David Templeman

Mrs L.M. Harvey interjected.

Mr P. PAPALIA: Honestly, Leader of the Opposition, it was very clear that many members on the other side had not even read the amendments. They have not read the bill, and they have obviously not —

Several members interjected.

The SPEAKER: Members! We heard you in silence, Member for Carine.

Mr P. PAPALIA: They have obviously not paid any attention to the public debate around the matter. This legislation is required because the Small Business Commissioner is going to be empowered to change the culture of the manner in which subcontractors are treated in Western Australia. It is a response to provide additional powers so that the Small Business Commissioner can shift the behaviour. The intent is not to ensure that they are paid after the event; it is to change things so that they get paid in the first place. It will enable them to provide advice to the commissioner when they are being poorly treated, and to do so in an anonymous fashion if they wish to protect their identity, and enable the commissioner to then investigate and determine whether they have been treated properly or not. Other legislation is being prepared by the Minister for Commerce, which members opposite would be fully aware of if they had been paying attention to the debate, as a result of the Fiocco review, dealing with cascading trusts, project bank accounts and the like to ensure that people are able to be paid in the event that someone breaches proper behaviour, resulting in someone else not being paid. Other measures are being introduced later by the appropriate minister.

This is a completely new and innovative response. The intention is to provide the Small Business Commissioner with the ability to send a really significant message, in the first instance, to the construction industry involved in government contracts. That is the particular sector that members all know is the one that we are very sensitive to in Western Australia. It is the one that was treated appallingly during the Building the Educate Revolution era. I know it is something that everyone regrets, but for the member for Riverton to suggest that a few subcontractors were not able to manage their finances and demonstrate to Building Management and Works that they should be paid is just not true. I know, because my constituent Max Hannah lost two houses—his own house and his investment property, which was his superannuation—and not because he was a bad small businessman who was incapable of keeping records and demonstrating to the government agency that he should be paid. That was not the case. It was because the legislation of the day did not empower anyone to do anything about it when the prime contractor who held the contract with the government took the money, failed to pay the subcontractors for work they had completed and then went bust. That is a fact. It was not an isolated incident. It happened to hundreds, if not thousands, of people. People lost their homes and people's marriages broke up. Sadly, some people took their lives in that era. It is a serious matter and wrong to suggest that all we are doing here is smoke and mirrors. Appallingly, the member for Carine suggested we are doing nothing but adding red tape and imposing some sort of additional burden on small businesses and subcontractors, whom we are trying to protect and assist. What he said is shocking. He has demonstrated either incredible ignorance or an absolute incapacity to understand the situation of others—a terrible lack of empathy.

The Small Business Development Corporation Amendment Bill is very clear. I understand what it is to be in opposition. I was there for eight and a half years; I know it is tough. Very seldom can people in opposition commend the government for doing a good thing. I understand that, but, Leader of the Opposition, this was not a churlish second reading speech. I acknowledged that the previous government introduced a good thing when it created the Small Business Commissioner. The speech actually says that. That is what I said was a good thing. Of course, the previous government did it. Changes were made to the act to enable the Small Business Development Corporation to enable the Small Business Commissioner to exist. That was a good thing. However, the commissioner has not had the powers to investigate by compelling people to provide information and demonstrate that they have paid their subcontractors. There are a lot of other restrictions on what he has been able to do in the past and we are now empowering him to do a lot. It is not smoke and mirrors, member for Carine. I do not want the commissioner to have to use the powers. I have met with the Master Builders Association and answered its concerns. The language used at times to get people's attention sounded adversarial in nature. I think the member for Dawesville or maybe the member for Hillarys mentioned that the fault was not always with the prime contractor. Sometimes they have been compelled by the environment or they have paid and a subcontractor to the prime has not paid or whatever the situation. That is accommodated in this legislation.

The bill will enable the Small Business Commissioner to receive notification. He will be enabled to send those complaints to other authorities. Commentary was made about duplication, but that will not happen. There are policies and guidelines that we can table in consideration in detail, so I will not go into them now. A lot of the concerns members raised have been addressed. I understand a lot of that information was passed to the member

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for Darling Range, so maybe the rest of members opposite have not seen it. It was provided to show that many of the concerns that members opposite have raised have been addressed already.

I need to address this. We will accept amendments from the opposition not because the legislation was poorly drafted by the agency or parliamentary counsel, but because the proposed amendments do no harm. I do not believe they are incredibly necessary, but they do no harm, so, fine; we will accept them in the spirit of wanting the legislation to pass through this place and the other house as soon as possible so that we can support subcontractors. The member for Darling Range provided indication of one of her amendments only today. We sought informal advice from the State Solicitor and we cannot support it. I will explain why when we reach that clause in consideration in detail. We did not receive formal advice but I will read it out, and I think the member for Darling Range will understand and accept why we cannot support it. There are not 11 changes; we are accepting four and some will result in consequential changes to include definitions of words and the like so they are just administrative. The four changes will not change the tenor of the legislation and they will not change the outcome. They will not do any harm so we will accept them through goodwill.

There is no reason for me to continue to address the member's concerns because that can be done in consideration in detail more effectively when the advisers can respond to any concerns directly through me. I am comfortable that what the government is doing is a good thing. It is a much-needed change. I understand what the member said about voluntary resolutions being achieved through that process, which is already extant. It does work. The problem does not lie with those sorts of situations, and the member knows that. The problem lies in the situations that we have read about, when people are locked out from their tools because the prime contractor has gone bankrupt and there are other creditors above the subbies. We need to address that by changing the culture. This will send a message and shift the culture so that subbies know that someone is looking and there is someone to go to, and they can do it anonymously with their anonymity protected so that they are not black banned by primes, which is a threat. Those issues are addressed in this legislation. I think we can move through consideration in detail quite rapidly.

Mrs A.K. Hayden: Will the results of the report be published?

Mr P. PAPALIA: We will talk about that in consideration in detail.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clauses 1 to 3 put and passed.

Clause 4: Section 3 amended —

Mrs A.K. HAYDEN: Clause 4 amends section 3 to include in alphabetical order the meaning of “government entity”. Can the minister please explain the purpose of introducing “government entity” and why there is a need for proposed paragraphs (a) to (h)? Why has that been included in the legislation?

Mr P. PAPALIA: The purpose of inserting the new definition is to clarify which bodies or persons the Small Business Commissioner can share reports with under proposed section 14BB. Clause 4 amends section 3(1) by inserting definitions for “government entity” and “local government”. That answers the question the member asked earlier about where the reports will go.

Mrs A.K. HAYDEN: Those are the entities that the report will end up going to, but they are not entities that will be investigated?

Mr P. PAPALIA: They are the entities or bodies to which reports could go. It does not mean that they will, because it may not be appropriate that they go to every one of them, or any one of them, at the time of the investigation.

Mrs A.K. HAYDEN: My question had a second part. Can these not be investigated by the commissioner?

Mr P. PAPALIA: The definition of who can be investigated is in a later clause, not this one. These are the bodies to which the report could be forwarded. This clause does not define who might be investigated.

Mrs A.K. HAYDEN: To seek clarification, can these government entities not be investigated if there is a complaint?

Mr P. PAPALIA: Some of these entities can be investigated, but the federal ones obviously cannot be. They are not subject to our legislation. That would be acting beyond our powers. The ones that can be investigated are those that are not federal government agencies.

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Mr P.A. KATSAMBANIS: I refer to the definition of “government entity”. There is a list that includes a number of federal government entities, such as the Australian Small Business and Family Enterprise Ombudsman, the Australian Competition and Consumer Commission, the Australian Securities and Investments Commission, and the Commissioner of Taxation. That makes sense, because if the Small Business Development Corporation conducts an inquiry into any commercial activity and finds an issue that ASIC or the ACCC should look at, it should have the power to refer that report to those bodies. That makes sense, but I notice that one commonwealth agency seems to be missing—that is, the Australian Prudential Regulation Authority. I do not want to be tricky or anything like that, but the Small Business Commissioner could potentially investigate the conduct of a bank or insurance company or another body that is regulated by APRA. It strikes me as passing strange that ASIC, the ACCC, and the Commissioner of Taxation are included, but APRA is not. I seek clarification from the minister of whether that is an oversight; and, if it is, whether he will correct it; and, if it is not, why it has been left out.

Mr P. PAPALIA: I am informed that it is assumed that APRA could be informed via ASIC.

Mr P.A. KATSAMBANIS: If there is an APRA matter, it is assumed by the government that it could be informed by ASIC. If it is an issue that ASIC has no interest in, why would the commissioner not go directly to APRA? Does the commissioner have to go to ASIC and ask it to refer the matter to APRA because the minister did not include APRA in the list of entities they could go to? It makes no sense to me. If the minister wants, we can draft an amendment now and include APRA. That would make more sense to me.

Mr P. PAPALIA: I do not think it is necessary. In the event that a report had to be forwarded to APRA, it is quite reasonable to assume that ASIC could do that. The commissioner, who is the person we are talking about, could undertake to do that.

Mr P.A. KATSAMBANIS: Can the minister inform me which section of the Australian Securities and Investments Commission Act 2001 gives ASIC the power to refer a report from a state government entity to APRA?

Mr P. PAPALIA: It is not necessary. The likelihood of ASIC forwarding those reports to any of those federal agencies would be for information rather than necessarily asking for action. It might result in an action. In all likelihood, we are carrying out investigations that may result in an outcome that is of interest to the federal agencies because they may be applicable in other jurisdictions and they may be applicable nationally. We are not demanding that ASIC take action. There is a list of agencies that might be interested in the outcomes. I do not think it is unreasonable to suggest that the commissioner can forward the report to ASIC.

Mr P.A. KATSAMBANIS: I find that answer astounding, particularly in the context of recent issues when the Western Australian consumer protection body had to specifically refer a matter. I do not remember the name of the company that was conning people in the southern suburbs into investing in long-term real estate.

Mr P. Papalia: Sterling First.

Mr P.A. KATSAMBANIS: Yes, Sterling First. It did not give an information report to ASIC. It referred specific concerns to ASIC and asked it to investigate. We cannot predict all the circumstances that the Small Business Commissioner might be investigating in the future. I imagine there might be circumstances that require more than just a tick and flick, “Here’s a report in case you’re interested.” It might be a direct, “Hey, this is an issue that I’ve discovered but you’re the ones with the power not me” type of referral. Given everything that has come out of the banking royal commission about issues that small business has had with banks, and given what a lot of us get in our electorate offices relating to the relationship between small business and banks, and APRA being the regulatory body for banks, I would have thought that it would be one of the bodies that is spelt out in this legislation. Be that as it may, given that there is a regulation-making power in subsection (h) relating to the definition of “government entity”, does the government intend to prescribe APRA as one of the bodies prescribed under those regulations? Could the minister also enlighten us on what other bodies he believes the government might prescribe under the regulations that it is able to make under this bill?

Mr P. PAPALIA: There are no regulations. The subclause to which the member refers states —
any person or office prescribed by the regulations;

We do not have regulations for this legislation.

The member has to remain cognisant of what we are trying to achieve here and what the objective is. We are focused on subcontractors in Western Australia not being paid by a prime or larger entity on a government contract. That is what the legislation is focused on. I do not think the matter that the member raised is an issue. He wants to create an issue that does not exist. If there is a concern with any findings that are made during an investigation, we will be informing people. That is what we are doing. It will not be a Sterling First-type matter,

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because that would be another agency. The commissioner would have forwarded that investigation to an appropriate authority that would have conducted that investigation. It would then report it to other authorities if necessary.

Mr P.A. KATSAMBANIS: I am not going to press it, because, obviously, the minister does not have any intention to include that, but again he has said that his focus is on subcontractors who have not been paid. But I point out the minister's own second reading speech, and I quote —

Although the initial focus will be on behaviours that impact on construction subcontractors, these amendments will benefit all small businesses experiencing injustices, including franchisees subjected to grossly unfair contract terms, tenants being sold electricity by shopping centres at inflated profit margins, and any business experiencing bullying arising from the imbalance of power in commercial dealings.

I am not sure what is what. A minute ago, the minister told me that his focus is on subcontractors, and his second reading speech said that that might be the initial focus, but really this is for everybody else. The minister is trying to have his cake and eat it. We are trying to create legislation that is as helpful as possible to small business in the future. I am not trying to be obstructionist; I am just pointing out that there is a list of commonwealth regulatory bodies, and one that regulates a particular area of the Australian business sector that intersects with small business and is sometimes adversarial is the banking sector, and the minister has forgotten about it. I will just leave it at that. Clearly, the minister is not interested in changing it, so I will not press the matter further, I will just let the record speak for itself.

Mrs L.M. HARVEY: Under the definition of “government entity”, the legislation states —

(c) the Parliamentary Commissioner for Administrative Investigations appointed under the *Parliamentary Commissioner Act 1971* ...

Could the minister please explain a circumstance in which he thinks the Small Business Commissioner would need to provide a report to that body?

Mr P. PAPALIA: I am informed that the Parliamentary Commissioner for Administrative Investigations is appointed under the Parliamentary Commissioner Act 1971, and that would be when someone would pursue issues related to licensing or matters of that nature.

Mrs L.M. HARVEY: The minister has been talking a lot about reducing red tape. Obviously, licensing is often one of those areas that small businesses cite as being problematic for them. Could the minister elaborate a little further about matters to do with licensing?

Mr P. Papalia: No; it is not relevant.

Mrs L.M. HARVEY: Is that no, the minister does not know, or no, he does not want to?

Mr P. PAPALIA: I never talk about red tape. It is a phrase that I find offensive because it is such a condescending vacuous phrase. It was used by the Leader of the Opposition's government to suggest that it was doing something. It spent a year doing an investigation on red tape with no outcome.

Several members interjected.

The SPEAKER: Members! I am not going to send you home, but do not interject.

Mr P. PAPALIA: When the Leader of the Opposition says that I talk about red tape, I never talk about red tape. This is the first time, I would suggest, in the last two and a half years, that I have said the words “red tape”, and it is in response to the Leader of the Opposition asking the question.

Mrs L.M. HARVEY: There is nothing in this legislation that confines the remit of the Small Business Commissioner's expanded powers to subcontractors. In the minister's second reading speech, he indicated that a wide range of other matters affecting small businesses—are you listening to me?

Mr P. Papalia: Not really.

Mrs L.M. HARVEY: Not really? Could Hansard just record that the minister has just said that he is not really listening to me, and he is not wanting to provide an answer.

Mr P. Papalia: Are you finished, member?

Mrs L.M. HARVEY: That is what you get paid the big bucks for.

Mr P. PAPALIA: Settle down; you get paid exactly the same amount and you do not do anything.

Clause 5 defines the functions of the commissioner.

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Mr Z.R.F. Kirkup: We are at clause 4, are we not?

Mr P. PAPALIA: I was just asked about the powers of the commissioner and there is nothing in the legislation suggesting that it constrains the commissioner; it does. It states what he is empowered to do. The act as amended by this bill will read —

- (1) The Commissioner has the following functions —
 - (a) to administer the day-to-day operations of the Corporation;
 - (b) to receive complaints about any matter that affects the commercial activities of small business, and do either or both of the following in relation to a complaint —
 - (i) investigate a matter complained about and any person in relation to the matter (including, without limitation, a public sector body or local government);
 - (ii) provide assistance to attempt to resolve the complaint;
 - (d) to provide alternative dispute resolution services for small businesses;
 - (e) to make representations to another person or body on behalf of a small business that has made a complaint;
 - (ea) to investigate any matter that affects the commercial activities of small business, and any person in relation to the matter (including, without limitation, a public sector body or local government);
 - (eb) to give to the Minister, or to any government entity, a report on an investigation carried out under paragraph (b) or (ea);
 - (f) to perform functions conferred on the Commissioner under any other Act;
 - (g) to advise the Minister on any matter related to the functions of the Commissioner referred to in paragraphs (b) to (f).

There are other limitations on what they can do.

Mrs L.M. HARVEY: Minister, I am trying to understand in what circumstances the Small Business Commissioner would provide a report to the Parliamentary Commissioner for Administrative Investigations appointed under the Parliamentary Commissioner Act 1971. Before, the minister said matters of licensing. What sorts of licensing exactly? Is it a licence for a dog? Is it licensing for signage with local government? Is it licensing for motor vehicles? Is it a business licence? Is it a licence to operate a cafe under the Health Act? What exactly does this body do? In what circumstances would the Small Business Commissioner provide a report on an investigation to this body? It is not unreasonable to ask why and in what circumstances this entity would be provided with a report on an investigation conducted by the Small Business Commissioner.

Mr P. PAPALIA: It is for any circumstance in which a government agency has issued a licence and it appears there has not been due process. Many of the instances the member referred to could well be the ones that result in a referral, particularly a liquor licence or a cafe or something of that nature. If due process has not been followed, it would be referred to that agency.

Mrs L.M. HARVEY: I do not think I am all that clear on that, but maybe I will write a letter to the Small Business Commissioner and he can explain it. In the context of when a report of an investigation of the commissioner may be provided to this entity, under the proposed definition of “government entity”, it says —

- (d) a body, whether corporate or unincorporate, or the holder of an office, post or position, being a body or office, post or position that is established or continued for a public purpose under a written law;

Can the minister please explain what body, corporate or incorporate, might fit this descriptor?

Mr P. PAPALIA: This briefing note states that this clause captures senior executive service organisations as listed on the previous page. Does the member want me to read them all?

Mrs L.M. Harvey: I do not have the previous page, so that would be helpful.

Mr P. PAPALIA: The member does want them read out.

Mrs L.M. Harvey: Yes, please.

Mr P. PAPALIA: It means departments and SES organisations insofar as any posts in them, or persons employed in them, or both, belong to the senior executive service; and persons employed under this part, whether in departments or in the senior executive service in SES organisations, or otherwise a local government.

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Mrs L.M. HARVEY: The minister said that he does not talk about matters of red tape, notwithstanding his media release titled “New tourist attractions get help to cut through red tape”. On issues of red tape that the Small Business Commissioner may be investigating, to which of these entities does the minister think the Small Business Commissioner might be potentially reporting on matters of red tape that are affecting the commercial activities of small businesses?

Mr P. PAPALIA: There is a list on page 101 of the legislation. This is from the Public Sector Management Act. That is the one they referred to—the list of senior executive service organisations.

Mrs L.M. Harvey: I wanted the minister to read it out because I do not have a copy of that act.

Mr P. PAPALIA: It is comprehensive. A lot of it is in small writing.

Mrs L.M. Harvey: Could we potentially have that tabled and made available to the opposition?

Mr P. PAPALIA: Yes, that is fine.

Mrs L.M. HARVEY: Mr Speaker, the minister has indicated that he is willing to table the list. Further to this list of who may be the recipients of a report of an investigation by the Small Business Commissioner, “local government” is on the list. Can the minister explain in what circumstances a local government may be the recipient of a report of an investigation by the Small Business Commissioner?

[See paper 2646.]

Mr P. PAPALIA: Can I clarify whether the member is asking whether they would be subject to an investigation or whether they would be the recipient of a report of an investigation?

Mrs L.M. HARVEY: As I understand it, this section defines entities that may be provided with a report of an investigation that the Small Business Commissioner has conducted. In which circumstances would a local government expect to be the recipient of one of those reports?

Mr P. PAPALIA: There are a lot of different potential circumstances. I have been given some examples. It might include due diligence in a tendering process for goods and services from businesses not being adhered to; contracting small businesses for the provision of goods and services done in an unconscionable way, I guess; gaining insight into the impact of local government construction projects on small businesses; gaining insight into the impact of local government laws on small businesses operating in the area—that is, if they are not complying; and informing tenancy arrangements when a government agency is the landlord. Potentially, it might be a landlord who is treating people unconscionably. There would be more, though.

Mrs L.M. HARVEY: My question about local governments being provided with a report is that, obviously, one of the major complaints that I get from businesses—I am sure the minister gets them, too—is that some of them feel as though local governments put many hurdles in their pathway to prevent them from opening their doors. What they often report, too, is that when they create a problem for the local government, punitive measures are taken by some of the officers working within local government—measures such as a go-slow process being put in place. If a small business reports an individual matter and the Small Business Commissioner conducts the investigation, it will not be difficult for a local government authority to determine which business the Small Business Commissioner may be investigating. Should the small business owner be identified, for example, as causing a problem by initiating this complaint with the Small Business Commissioner, what kind of tension will there be? What sort of authority will the Small Business Commissioner have to ensure that there will not be ramifications for that small business owner as a result of lodging that complaint and the local government being furnished with that report?

Mr P. PAPALIA: I do not envisage the commissioner furnishing the local government with a report that is going to reveal the identity of a small business. The intent with regard to investigations is that the commissioner is enabled to initiate investigations of his own accord, virtually in a random audit manner, so that if the local government were the subject of inquiry or investigation, it would never know whether that was the reason it was being checked or whether it had come about as a consequence of a report by an individual small business. That is the whole idea with the subcontractors. The intent is to protect their identity wherever possible. We credit commissioners with being capable and responsible people, and we do not anticipate that they will divulge the identity of a complainant by providing a report to an inappropriate agency, such as a local government that has been complained about. It is not compelling them, either. The commissioner does not have to give someone a report; he or she can choose to or not to. They can either initiate an inquiry and conceal the identity by suggesting that it is a random audit, or they can say that they have identified a trend in the sector that suggested it would be worthwhile their doing an inquiry into that sort of matter. I think we can trust the Small Business Commissioner to be sensible and not divulge the identity of people who make a complaint.

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Mrs A.K. HAYDEN: I note from the paper that was tabled that one of the bodies in the regulations is the Metropolitan Cemeteries Board. I think it is a bit late by the time we get to that body if there is a problem with the cemeteries board, but anyway. I refer to the proposed definition of “government entity” to be inserted in section 3(1). Proposed paragraph (h) provides for “any person or office prescribed by the regulations”. Can the minister explain which regulations, and where they are?

Mr P. PAPALIA: I am informed that it is standard practice to include that particular provision to give latitude in future should it be determined that there is a need to create regulations. There are actually no regulations.

Mrs A.K. HAYDEN: I thank the minister. That was my question. I was told that there are no regulations, so this provision is obviously null and void. It does not actually do anything and should not even be there.

Mr P. PAPALIA: No, it is silent, but it enables the creation of regulations. In the event that they are required, we will not have to amend the act; we will have the power we need to create regulations.

Mr Z.R.F. KIRKUP: I am keen to understand whether the proposed definition of “government entity” would incorporate the Western Australia Police Force.

Mr P. PAPALIA: Yes.

Mr Z.R.F. KIRKUP: What part of the proposed definition does the WA Police Force fall under? Is it paragraph (a) or (b)?

Mr P. PAPALIA: It is the senior executive service. It is paragraph (d).

Mr Z.R.F. KIRKUP: Just to confirm, I thought that the list of SES organisations was tabled previously, but I could be wrong. Does the list in that tabled paper relate to paragraph (d)? If so, the WA Police Force is not encapsulated within what was tabled. Can we have some clarification, please?

Mr P. PAPALIA: It refers to other SES organisations and the like. It is captured within the senior executive service as another potential agency. That list is very specific about other subsequent agencies.

Mr Z.R.F. KIRKUP: I might be getting it wrong. I am not trying to waste the minister’s time; I am just trying to understand it. If the WA Police Force is defined as a body, whether corporate or unincorporate, or the holder of an office, post or position, being a body or office, post or position that is established or continued for a purpose under written law, obviously it is not part of the SES because it is not defined under the Public Sector Management Act. It is not an on-schedule agency; it is an off-schedule agency.

Mr P. Papalia: But a public sector body.

Mr Z.R.F. KIRKUP: A public sector body? Is that still under paragraph (d)?

Mr P. Papalia: The Public Sector Management Act.

Mr Z.R.F. KIRKUP: The minister keeps referring to the SES and the Public Sector Management Act. Maybe I am getting it wrong, but there is no definition of that under paragraph (d), is there? Can I just have some clarification, please?

Mr P. PAPALIA: The police fall under the definition of “public sector body” and what we tabled is a list of the SES organisations, so that is in addition to public sector bodies. Paragraph (d) encapsulates all of them.

Mr Z.R.F. KIRKUP: I will finish on this point, and I do not expect the minister to respond. I do not believe the police force is a public sector body. Under the Public Sector Management Act, it is not an on-schedule agency; it is an off-schedule agency, so it is not covered by the act. If I understand the minister properly, I assume that it is a body that is established for a public purpose.

Mr P. PAPALIA: I said a public sector body. There is also any organisation set up for a public purpose under legislation, as well as all those SES organisations.

Mr Z.R.F. KIRKUP: Just so I can clarify this, the member for Hillarys asked a question about the Australian Prudential Regulation Authority. It would have been a body established for a public purpose.

Mr P. Papalia: Yes, but these are state bodies.

Mr Z.R.F. KIRKUP: I appreciate that. Obviously, in this case, this is specifically restricted to the Western Australian jurisdiction, except for other commonwealth jurisdictions that have to be stipulated. I appreciate that clarification, minister.

Mrs Alyssa Hayden; Mr Sean L'Estrange; Ms Libby Mettam; Mr Kyran O'Donnell; Dr Mike Nahan; Mr Stephen Price; Ms Jessica Shaw; Ms Lisa Baker; Mr John Carey; Ms Janine Freeman; Mr Yaz Mubarakai; Mrs Liza Harvey; Mr Zak Kirkup; Mr Peter Katsambanis; Mr Dean Nalder; Mr Tony Krsticevic; Mr Paul Papalia; Dr Tony Buti; Mr David Templeman

Mrs L.M. HARVEY: Going back to the comments made by the member for Hillarys earlier about the Australian Prudential Regulation Authority, the minister's adviser said that the commissioner could provide a copy of the report to APRA via the Australian Securities and Investments Commission. This legislation has clearly articulated a large number of organisations that have been captured as appropriate for the commissioner to provide a report to. Specifically, commonwealth bodies established under commonwealth acts of Parliament have been named independently. I seek the minister's assurance that there is an ability for commonwealth bodies such as APRA, established by a commonwealth act of Parliament, to be prescribed as an appropriate entity to provide a report by way of regulation. It seems to me that there may be a problem to include APRA by way of regulation, given these other commonwealth institutions have been specifically identified because they are established by a commonwealth act of Parliament. Can the minister give me his guarantee that APRA could potentially be the recipient of a report from the Small Business Commissioner? By the way this legislation is drafted it would seem that these commonwealth institutions need to be specifically prescribed in the legislation.

Mr P. PAPALIA: No, essentially the list was specifically narrowed, so it intentionally did not include APRA. It was not seen as necessary. There was no particular requirement for that. The federal Ombudsman and small business commissioner has already investigated the banking royal commission findings and the agency did not view that as being necessary.

Mrs L.M. HARVEY: Further on this, construction businesses often struggle to be competitive when it comes to insurance because of the high-risk nature of the industry. A small tradie-type business in the construction sector may be having trouble with general insurance, reinsurance, life insurance products or issues with the banks of unconscionable practices or unreasonable demands for information with respect of loans over equipment et cetera. It is not expected that the business would bring those matters to the Small Business Commissioner. Does the minister expect that it would then need to take those complaints that fall under the remit of APRA to a different commonwealth body to have them investigated and not our Small Business Commissioner?

Mr P. PAPALIA: We heard from the member for Jandakot earlier this evening that the Small Business Commissioner has already successfully intervened as an advocate on behalf of a small business that encountered the challenge with insurance, but that is not part of what we are doing here. We are looking to provide the Small Business Commissioner with additional powers to investigate whether subcontractors are being treated fairly, initially in the construction industry and government contracts, but potentially that power can be applied to some of the other matters that we have referred to.

Mrs L.M. HARVEY: Further to that, I know the minister's fallback position is that the commissioner has been given far-reaching powers and the intention is that he will use them in the interests of improving the subcontractor scenario in Western Australia, but this legislation specifically widens the remit of the Small Business Commissioner's investigative powers to any matter that affects the commercial activities of small business, so even though he just said that the Small Business Commissioner advocated for a small business that was having trouble with insurance, this legislation will in fact broaden the remit of the Small Business Commissioner to investigate any matter that affects the commercial activities of small business.

Mr P. Papalia: No.

Mrs L.M. HARVEY: That is what this legislation does. We need to understand whether that is the case. There would be a scenario for the Small Business Commissioner to provide a report to the Australian Prudential Regulation Authority about some of those matters.

Mr P. PAPALIA: The Leader of the Opposition is talking about the same sort of situation. In the event that that advocacy is not successful, the Small Business Commissioner may refer that situation to APRA as another authority, in the same way as he does right now. That would have happened right now. He does not need this additional change to the legislation to enable him to do that. Many members on the opposition side have asked that we not duplicate the powers of other authorities. It is the case that powers will not be duplicated, or the role will not be duplicated. I think there is an amendment that we will refer to later on. We are not there yet, but a later clause limits the actions so that he will not duplicate the powers of other agents. Opposition members asked that that not be the case because, as the member suggested, it would not be appropriate and would just be creating unnecessary additional work.

Mrs L.M. HARVEY: Under this definition we see a department of the public service. There is also a definition in the original legislation of a public sector body. Is there an expectation that the reports of the Small Business Commissioner will be made available to the Minister for Small Business, or to any minister in the government, if the report is relevant to their portfolio? What privacy protections will be put in place for the provision of these reports around the complainants and their particular circumstances?

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Mr P. PAPALIA: There is a nondisclosure policy for recipients of the commissioner's reports, and I understand that the shadow minister has been given that. I am happy to table it. Obviously, that is not necessary with the minister, but other agencies that might be receiving a report would have to comply.

Mr Z.R.F. KIRKUP: I am finding it difficult to reconcile proposed paragraph (d) with everything else. I appreciate the broad nature of proposed paragraph (d), which reads —

a body, whether corporate or unincorporate, or the holder of an office, post or position, being a body or office, post or position that is established or continued for a public purpose under a written law;

I am curious whether a local government, a department of the public service, or the Parliamentary Commissioner for Administrative Investigations appointed under the Parliamentary Commission Act 1971 would fall into that category.

Mr P. Papalia: No, they don't, and that is why they are listed.

Mr Z.R.F. KIRKUP: I appreciate that the minister just said that they do not, and that is why they are listed. Just to clarify, a department of the public service does not fall under proposed paragraph (d), but the Western Australia Police Force does.

Mr P. PAPALIA: We may have misheard what the member said, because the Department of Local Government would, but a local government would not, and that is why a local government is listed.

Mr Z.R.F. KIRKUP: I appreciate that. I thank the minister very much for that clarification. Is the Department of Local Government, Sport and Cultural Industries captured under paragraph (d) of the definition that is proposed to be inserted in section 3(1)?

Mr P. PAPALIA: Yes.

The SPEAKER: Minister, were you going to table a paper before?

Mr P. PAPALIA: I said we could, but I was not asked to.

The SPEAKER: Okay, thank you.

Mr P. PAPALIA: The opposition has it.

The SPEAKER: We would have to table it if you were going to table it.

Mr Z.R.F. KIRKUP: The minister confirmed that the Department of Local Government, Sport and Cultural Industries would be categorised in proposed paragraph (d). I am curious about why he has created proposed paragraph (a), given it specifically refers to a department of the public service.

Mr P. PAPALIA: I am not really sure what the member is concerned about. Proposed paragraph (a) is a department that is —

Mr Z.R.F. Kirkup: I'm concerned about the minister's inability to bring good legislation to this place.

Mr P. PAPALIA: The proposed definition of "government entity" states —

- (a) a department of the Public Service;
- (b) a local government;

The definition continues down the page.

Mr Z.R.F. KIRKUP: I am trying to establish why, if a public service agency will be created under proposed paragraph (d), which the minister confirmed it will, paragraph (a) is also needed. Why is there a duplication in that case of two paragraphs that capture a single agency? If so, can the minister confirm once again that the WA Police Force comes under proposed paragraph (d) and not proposed paragraph (a)? He previously confirmed which provision the WA Police would fall under, but he has not specifically named it here. I am trying to establish how the police would have been established and, secondly, why there is duplication of proposed paragraph (a). If a public sector body is captured under proposed paragraph (d), as he has previously confirmed, why is there a need for proposed paragraph (a)?

Mr P. PAPALIA: Member, if earlier we did not say that proposed paragraph (a) was a public sector agency and we should have done, and he has caught us out for that, then congratulations! I think we are going nowhere with this. If he wants to keep talking about it, that is fine, but I am losing interest.

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Mr Z.R.F. KIRKUP: I appreciate that the minister is losing interest, but it is his job. The minister has brought legislation to this place and wants to hold us here now at 12.30 am or thereabouts. I suspect we will be here for another couple of hours, only to resume sitting again at noon today, due to the minister's inability to bring cogent legislation to this place and prove it can be managed appropriately. I am suggesting that the minister does not know what falls under what agency. He has brought in legislation with a definition that is quite broad under proposed paragraph (d) and has possibly doubled up on the definition in proposed paragraph (a), and he cannot reconcile the two. We asked where the Department of Local Government, Sport and Cultural Industries would fall within the definition, and the minister said it would fall under proposed paragraph (d). It is in either proposed paragraph (d) or proposed paragraph (a). Why are two paragraphs needed that define and capture the same agency?

That being said, I appreciate that the minister is losing interest in this, but this is his job, and I think that he should show some respect to this place and do it properly. We can move on if that is his wish, because I am sure we can ask far, far more questions that take us long into the night if this is the way the opposition and the parliamentary process will be treated.

Mr P. PAPALIA: Member, as I said, if we said it incorrectly earlier, it was an error of speech; it is not an error in the legislation that has been drafted. The legislation is correct. We inadvertently answered incorrectly earlier on.

Mr Z.R.F. KIRKUP: Just to clarify, the legislation is right but the minister was wrong.

Mr M.P. Murray interjected.

Mr Z.R.F. KIRKUP: Mate, it is tomorrow morning—look at your watch!

The SPEAKER: I do not need to, I have a clock up there. Come on, guys! I am quite happy to sit here all night but just remember that the bar closes at 2.00 am and Hansard reporters go at 2.00 am. If members want to be here all night, they might be on their own.

Clause put and passed.

New clause 4A —

Ms J.J. SHAW: I move —

Page 3, after line 17, to insert —

4A. Section 11 amended

In section 11(2):

- (a) in paragraph (fc) delete “bodies —” and insert:
bodies and government entities —
- (b) in paragraph (fe) after “Minister” insert:
or any government entity

I will be very brief in outlining the reasons for moving the amendment. Section 11(fc) enables the corporation to assist public sector bodies in developing legislation policies and administrative procedures that take into account small business interests, improving the capacity of small business to comply with legislative and other requirements and simplifying and minimising small business compliance requirements. The proposed amendment will expand the advisory role of the corporation. The Small Business Development Corporation provides advice to state government agencies during the development of legislation and regulation, focusing on how proposals will impact small business. It would assist small businesses if the SBDC could provide this advisory service to government entities, which include local governments as defined in the amendment bill. Local governments obviously play a significant role in setting and administering regulatory activities associated with the operations of small business. For example, they are responsible for planning and building approvals for business premises, environmental health approvals and inspections and food premises approvals and inspections. Local governments also provide a good opportunity for small businesses to secure contracts to supply goods and services and undertake construction and maintenance of infrastructure. Including local governments in the provisions of section 11(fc) will allow the SBDC to expand its advisory services through the Small Business Friendly Local Governments initiative. The SBDC's experience and understanding of the WA small business sector makes it an expert source of advice for local governments on streamlining administrative processes associated with approvals, simplifying administrative documentation required of small business and improving small business experience when tendering for contracts by simplifying tender documents and processes and improving the interface between local government staff and small business. It is helpful to include “government entity” because this will include the federal bodies that were

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discussed in the debate previously. As with local governments, small business must interact with government entities and commonwealth regulators so it would be helpful if the SBDC was equally able to expand its advisory role in that respect.

Section 11(fe) enables the corporation to investigate and report to the minister on emerging trends in market practice that have an adverse effect on small business. The amendment will insert the term “government entity” to allow the corporation to provide government entities with an investigative report. Government entities would benefit from receiving reports on emerging trends in market practices. Local governments in particular could use the information contained in these reports to support small businesses in their area. It would be useful for due diligence during tendering processes to gain insight into the impact of local laws on businesses operating in their areas and informing tenancy arrangements. With respect to government entities, we have discussed the listed government entities. They have a role in supporting small business nationally through regulating markets, consumer and corporation law, administering the Australian tax system and advocating on policy issues.

There is obviously a clear benefit for WA-specific intelligence in the form of commission reports on emerging trends in market practice. If it is considered how frequently Western Australia seems to be left out in the national debates, I think it would be very useful for the commissioner to be able to provide that.

Mrs L.M. HARVEY: Yet again, here we are with legislation that the government says it wants to get through urgently. It is 12.35 am on 14 August —

Mr M.P. Murray interjected.

The SPEAKER: Member!

Mrs L.M. HARVEY: This amendment was drafted on 31 July 2019. That was two weeks ago. The opposition had briefings and conversations with the minister’s office this morning and over the last week, and the government has pulled this stunt at 12.35 am, two weeks after the amendment was drafted. The government has given us no opportunity to be briefed on this amendment. We had a discharge from the member for Swan Hills about why this amendment was needed, but the government denied us the opportunity over the past two weeks to understand what the member has put forward. She was busy reading her dissertation on why this amendment is required while we were trying to get across where it fits into the legislation, so none of us have a clue about what she has just said. We were concentrating on where it would sit within the legislation. Could the minister please explain to the house when he became aware of this draft amendment and why it was not listed on the notice paper?

Mr P. PAPALIA: I apologise for the lack of notice. It is intended as a clarification and nothing more.

Mrs L.M. Harvey: It was a very long description of a clarification.

The SPEAKER: Hear the minister out, please.

Mr P. PAPALIA: It was a very fulsome description.

Mrs A.K. HAYDEN: I have to share the comments made by the Leader of the Opposition. We have spent a good five days working through this legislation with the minister’s office. We have been open and transparent and have tried to work through every aspect of our concerns. We were not given a heads-up on this amendment, and it was not tabled on the notice paper as it should have been. I find it disrespectful to the procedures of this place and to every member of Parliament, including the opposition. I find it absolutely disgraceful that it was drafted on 31 July and that has been sprung on us now at nearly twenty to one in the morning. We are sitting here now because many government members spoke on this legislation—more than our members. The government wanted to push this through tonight and then into the wee hours of the morning and then said that we were wasting time. It has now pulled this stunt! I think it is absolutely ridiculous. We have not had time to understand the high-speed garble read out by the member. I do not how we are meant to consider this.

Several members interjected.

The SPEAKER: Members!

Mr S.K. L’ESTRANGE: I would like to add to the comments of the Leader of the Opposition and the opposition Whip.

Point of Order

Dr A.D. BUTI: I thought that this was supposed to be consideration of the content of the bill before us, not about the procedures. That can be brought up in the third reading debate. We are looking at the content of the bill.

Mr S.K. L’ESTRANGE: We can speak to the motion.

Mrs Alyssa Hayden; Mr Sean L'Estrange; Ms Libby Mettam; Mr Kyran O'Donnell; Dr Mike Nahan; Mr Stephen Price; Ms Jessica Shaw; Ms Lisa Baker; Mr John Carey; Ms Janine Freeman; Mr Yaz Mubarakai; Mrs Liza Harvey; Mr Zak Kirkup; Mr Peter Katsambanis; Mr Dean Nalder; Mr Tony Krsticevic; Mr Paul Papalia; Dr Tony Buti; Mr David Templeman

The SPEAKER: It is not a motion, it is an amendment.

Mr S.K. L'ESTRANGE: I am speaking to the amendment.

The SPEAKER: As long as you speak to the amendment.

Mr Z.R.F. KIRKUP: Just to clarify, this is not a motion to amend; this is the amendment. Or is this a motion to amend?

The SPEAKER: It is an amendment, so you have to talk to the amendment.

Debate Resumed

Mr S.K. L'ESTRANGE: It is very difficult to speak to the amendment given that we do not know what it is about. Maybe we should adjourn and get a copy of it so that we can review our notes and then spend the morning looking at it because it was quite extensive. The explanation given by the member for Swan Hills was quite detailed, and some of us found it difficult to keep up because she was speaking so fast. She was reading so quickly, and there was so much content in what she read. If we could get a copy of the amendment, it would certainly help us proceed with consideration in detail. After all, this is the Parliament of Western Australia and consideration in detail proceedings are an important aspect of how we process bills in this place.

Mr P. PAPALIA: I apologise for the nature of the provision of the amendment, bearing in mind that none of the opposition's amendments were on the notice paper. I learned of those this morning. The same observations with respect to lack of notice could be made. All the amendments are fairly reasonable; they will not significantly change the legislation. I will outline the intent of the amendment. The amendment to section 11(2)(fc) will enable the corporation to assist public sector bodies develop legislation, policies and procedures that take account of small business interests, improving the capacity of small business to comply with legislative and other requirements, simplifying and minimising small business compliance regulations. The amendment to section 11(2)(fe) will enable the corporation to investigate and report to the minister on emerging trends in market practice that have an adverse effect on small business. This amendment will allow the corporation to provide this assistance to government entities, which includes local governments and specified commonwealth entities. It will also allow the corporation to provide reports to the government entities.

Mrs L.M. Harvey: Perhaps you can provide us with your file notes because clearly you have been briefed on it.

Mr P. PAPALIA: I understand that the member is upset. The reason we are here at this time of night is not entirely the responsibility of the government; the opposition had a part to play in that as well. Why amend section 11(2)(c) to include government entities? The SBDC provides advice to state government agencies during the development of legislation and regulation, focusing on how proposals will impact on small businesses. It would assist small businesses if the SBDC could provide this advisory service to government entities, which includes local governments, as defined in the amendment bill. When the corporation undertakes an investigation into market trends impacting small business, it would be beneficial to the sector if those reports were made available to government entities. Local governments play an important role in setting and administering regulatory activities of small businesses. Commonwealth regulators impact on small business through their regulation of individual businesses or by taking action against practices impacting on the segments of the sector.

That is the reason for the amendment. I understand that the opposition is upset about the nature of the amendment being moved. Nevertheless, it is not that complex. The reason it is happening at this time of night is that members from both sides of the chamber, without me necessarily asking or encouraging them, have made contributions, which is their right.

Mr P.A. KATSAMBANIS: I am really concerned about what I have heard. I tried as hard as I could to follow the race call that was the description of the amendment moved by the member for Swan Hills. Firstly, it seems to me as though the amendment seeks to expand the scope of the act well beyond what was the scope of this bill to start with. Secondly, and probably equally as importantly, I have heard the explanation from the minister that effectively we are trying to give the Small Business Development Corporation and the commissioner the power to advise local government as he would currently advise public sector bodies. However, that is not what this amendment does. This amendment does not include the term "local government" so that we can then move from "to assist public sector bodies to develop legislation" et cetera to read "to assist public sector bodies and local government to develop legislation". It will read, "public sector bodies and government entities". Government entities has a specific definition that includes a series of commonwealth government agencies. Apart from the fact that I very much doubt that commonwealth government entities would welcome a legislated provision in Western Australian legislation to provide them with advice, I am not even sure that it is constitutional to provide this sort of definition. To me this smells like a rushed job, somewhere along the line. We would accept local government. I do not think

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many people would have a concern if the term was “local government”, but the definition of “government entities” is so broad it includes federal government agencies. I am not necessarily sure that the explanation that has been given and the words that are used marry up. At this late stage at night when all we have had is a piece of paper, we are trying to marry it up, we do not have a marked up copy of the act, and we do not have the explanation from the minister, it is—I was going to say, “verging on abuse of Parliament”, but I do not think it is. It is treating us with significant disrespect and not allowing us to properly scrutinise what is being done.

Mr P. PAPALIA: I gave the member an explanation. I have apologised for the nature of the introduction. The timing is as a result of contributions from both sides of the house. It was not planned, on my behalf, that we would be here at this time of night. It was not anticipated. That aside, I concede and I apologise again for the nature of the introduction. I concede that a little more time for an adjournment is reasonable, and I ask the Leader of the House to adjourn.

Mrs L.M. HARVEY: I have one question before the Leader of the House adjourns the house. Can the minister please explain why when this amendment was drafted on 31 July it was excluded from the briefings given to the opposition?

Mr P. PAPALIA: I do not know, member. It was not done intentionally. I accept the blame and the responsibility. Debate adjourned, on motion by **Mr D.A. Templeman (Leader of the House)**.

House adjourned at 12.48 am (Wednesday)
