

LOCAL GOVERNMENT AMENDMENT (SUSPENSION AND DISMISSAL) BILL 2018

Second Reading

Resumed from 14 March.

MR A. KRSTICEVIC (Carine) [12.15 pm]: It gives me great pleasure to get up as the lead speaker and say a few words about the Local Government Amendment (Suspension and Dismissal) Bill 2018, which has been promised for a long time and has finally found its way into this Parliament and the second reading debate. Hopefully, it will go through this Parliament relatively quickly. I will give a bit of background first about the sector. As people would be aware, there are 139 local governments in Western Australia, including in the Christmas and Cocos Islands. Local governments receive more than \$2 billion in rates and \$280 million in financial assistance grants each year. The total value of their asset base is around \$40 billion. They employ in excess of 16 000 staff and run projects with an annual capital expenditure of around \$1 billion. It is a very important sector that not only deals with issues at a grassroots level, but also creates jobs and boosting the economy. The sector is very diverse. We know that 90 per cent of the state's population lives in the 40 largest local governments and 10 per cent of the population lives in the other 99 local governments. The combined population of the 34 least populated local governments is one per cent of the state's population. The largest is the City of Stirling with 220 000 residents and the smallest is the Shire of Sandstone with only 100 people, but regardless of their size, they still have to comply with the act and they have to comply with this bill when it is passed. That shows the diversity of the sector and also the complications and issues that can plague the sector in dealing with the legislative requirements on so many different levels. There are over 1 200 councillors—I think 1 243 might be the exact number, but I will not stick to that—out there and we know what that is like.

What is the central issue of the Local Government Amendment (Suspension and Dismissal) Bill? Obviously, at this stage the Local Government Act 1995 does not give the capacity for the minister to dismiss an individual councillor when things are going off the rails and when the behaviour of the councillor is detrimental to the position or the operation of the council. The act gives the minister only the ability to suspend the entire council, as we have seen with the City of Perth. In brief, the bill provides the minister with a number of options: to suspend, order remedial action or dismiss a councillor. I suspect that remedial action will probably be used a lot, based on recent events over the last 15 months or so in the local government sector and in the articles that have appeared in *The West Australian* from time to time about councillors' behaviour, a council itself and also the recent article, which I will go into later, from 11 June by Kate Emery, about the amount of complaints going to the Local Government Standards Panel. Councillors are dobbing each other in to the panel in record numbers, which is quite concerning. The bill also expands the role of the inquiry panel, giving the panel the ability to recommend that a councillor be dismissed. A number of different scenarios are afforded in that for procedural fairness. They also need to give a show cause notice and have 21 days or 35 days depending on the circumstances of which process has been gone through. For an inquiry panel it is 35 days to give a reply to show cause notice or 21 days otherwise.

The show cause notice would describe the proposed actions to be taken by the minister, being suspension, remedial action or dismissal. The councillor has the opportunity to respond and then the minister needs to take that response into consideration and decide what action will be taken.

I want to touch very quickly on proposed section 8.15E, which is on page 57 of the bill, for those who are keen to follow the debate. It refers to suspension and remedial action. Obviously, as I said, the bill gives the power to a minister to suspend or offer remedial action when it is appropriate to do so when the councillor is not behaving properly and things will not improve without intervention. There are a number of specific triggers in the legislation for the minister to intervene and take action against a council member. I will list them very quickly. Factors include a council member has been charged with a disqualification offence; the department chief executive officer has referred an allegation of a serious breach of the act to the State Administrative Tribunal; the CEO suspects that the member has failed to perform their role, functions or duties under the act; the member's conduct is adversely impacting the ability of another person to perform their functions; and, the member's conduct is affecting the ability of the local government to comply with the employment principles in line with the act. As I said, the minister must first issue a show cause notice and give them 21 days to respond. This proposed section is designed to give the minister an opportunity for early intervention, rather than relying on the slower process that we have seen with the City of Perth, which has dragged on for many, many years well and truly outside what would be considered appropriate. That has led to many other complications, which eventually led to the entire council being suspended. If other avenues had been available earlier, that potentially would not have reached that point. I think that is worth noting and that is an important mechanism for the minister of the day to have.

It also allows the minister to order a councillor to undertake training, mediation or other remedial action. As I said, I think that is probably the part that will be used more than anything else. This can be done in conjunction with a suspension or it can be a standalone order. One of the things that we will follow up during the consideration in detail stage is: if a councillor is suspended I think for a period of up to two years—or maybe both councillors might

be suspended in a particular ward for a period of two years—and another election is held and they are re-elected, would the suspension continue when they are re-elected or does the suspension end when they go up for re-election? Does the minister know off the top of his head?

Mr D.A. Templeman: I will answer those in my response.

Mr A. KRSTICEVIC: That is an interesting point. I have a vague feeling that the suspension would continue if the councillor is re-elected. I am not 100 per cent confident of that. I would like to know the scenarios around that, because that obviously has a range of implications around it. The other part is proposed section 8.15K, which refers to the dismissal provisions. A different set of criteria applies here that the minister needs to consider to dismiss an individual councillor. It states here that the minister must be satisfied, based on the advice by the departmental CEO, that the council member's conduct —

... is impeding the ability of the local government to perform its functions and duties under this Act;

(ii) it is in the best interests of the local government that the member be dismissed;

and

This is the important thing: if the minister —

(b) is satisfied that the seriousness of the situation for the local government requires intervention ...

Before recommending dismissal, the minister needs to provide a report to the councillor giving the reasons and an opportunity for a show cause about why they should not be dismissed. Again, the councillor has 21 days to respond to that report. If the minister is not satisfied with the response, he can recommend to the Governor that they be dismissed. The report then needs to be released, unless there is something in it that would prejudice any legal matters. I would be interested to find out during consideration in detail who makes that decision about whether any information needs to be withheld and whether there will be legal matters. It would be interesting to know what information is made public and what is held back and whether there is any way of being able to make sure that the right parts of the report have been made public. There is obviously no disqualification period for a councillor who has been dismissed. When their position goes up for re-election or they want to go for another position, there is no issue with them being able to do that. As we have heard before, the public will decide whether the individual deserves to be re-elected based on the information available.

During the briefing, the advisers also said that in all cases the State Solicitor's Office's advice will be sought before a councillor is dismissed. I assume that is not for a suspension, but again I will go into that in consideration in detail and ask about the State Solicitor's Office advice and whether that advice will be confidential or whether parts of it will be made public.

The other part, obviously, is the inquiry panel. The bill obviously expands on that role and allows the inquiry panel to recommend to the minister that the individual councillor be dismissed. A recommendation for dismissal can be made only if the panel is satisfied on reasonable grounds that the councillor had failed or is failing to perform their roles, functions or duties; the councillor's conduct is impeding another person's ability to perform their role and functions or duties; the councillor's conduct has impeded the local government's ability to comply with its employment principles under the act; or the seriousness or duration of the conduct make it inappropriate for the member to continue. When the minister is satisfied that these criteria have been met, the inquiry panel can recommend dismissal. In this case, a copy of the report is provided to the councillor, but they are given 35 days to respond. I am not sure why it is 35 days as opposed to 21 days, but I assume there is a lot more complexity in this case because it is a dismissal as opposed to a suspension. If the minister is not satisfied with the councillor's response, he can recommend to the Governor that the councillor be dismissed. I am interested to know, if the inquiry panel recommends to dismiss a councillor, under what circumstances would the minister think that that advice may not need to be followed. Again, one assumes that if the inquiry panel goes through an extensive process, it would be very unlikely that in those 35 days new evidence would come to light that would maybe sway the minister not to follow the requirements of the inquiry panel. Again, maybe the minister can take that on notice and go through that detail.

The key part of this legislation is about regulating the behaviour of members and establishing a mechanism to cease inappropriate behaviour. However, we need to acknowledge that limitations in the current act make it difficult for the minister to suspend or dismiss when an individual councillor's behaviour is inappropriate. It is important to ensure that that matter is taken into account. A number of provisions in the act seek to regulate a council member's behaviour, such as the code of conduct and the rules of conduct. We should not think that there are no existing mechanisms to deal with this, but they are not working in the way that they need to. The code of conduct is referred to on page 197 of the act. It states that there is a requirement for each local government to adopt a code of conduct for its elected members and employees and the codes of conduct are managed by the individual local governments. They include things such as notifiable gifts, gifts disclosure and other matters

determined by the local government. The review of the Local Government Act will obviously look at the code of conduct and standardise it to create more uniformity across the sector and a bit more robustness, so that people to understand what is going on.

As I said, there are also rules of conduct. They offer a number of things that people need to be aware of. The act also provides a disciplinary framework for minor, recurrent and serious breaches of conduct for elected members. The minor breach system is intended to deter the inappropriate conduct by individuals elected that may lead to council dysfunction and a loss of trust between the council and the administration. We have seen a fair bit of that over the last 15 months with a number of councils. It is also intended to deter the impairment of the local government's integrity and operational performance and a consequent reduction in public confidence. That has taken a pretty big hit.

Obviously, the system that operates in the minor breach area is conducted by the local government standards panel. We know that members of the panel are appointed by the minister. I think there are three members on the local government standards panel. They have a difficult job. I think there is a lot of room for improvement with the way the local government standards panel operates and its outcomes. I know, for example, that when a local government councillor moves on, there is no review of their actions; it is sort of forgotten about because they have moved on. In some cases, they get re-elected down the track and all those issues are basically washed under the bridge. A whole range of things probably need to be reviewed in the context of councillors, including their behaviour and their long-term involvement. It is not just when they are councillors; they may become employees of a local government council. The question that then arises is: should those issues be reinvestigated on the basis that they have come back into the sector to make sure that those issues will not be of concern down the track? Councils will tell us that people in the administration—CEOs and others—move from council to council and, according to them, wreak havoc from council to council, but the investigation is dropped because they have moved on and they start with a clean slate when in fact the slate is not that clean at all. I think the minister has mentioned that in the past.

The more serious breaches by elected members are managed by the department through a special mechanism whereby the departmental CEO determines whether that is appropriate and the serious breach allegation is then referred to the State Administrative Tribunal. Section 5.117, "Punishment for serious breach", refers to whether the person against whom the allegation was made can be censured, should apologise publicly, can undertake training, can be suspended for a period of not more than six months or can be disqualified for a period of not more than five years. Again, there are some serious consequences under that process. I am not sure how effective that process has been. I am hearing on a daily basis that there are still many issues in the sector, and I am sure that the minister must be hearing about the same issues. There are concerns and problems. I know that CEOs across the sector have serious concerns about the sector and the way it is managed, and I am sure that they have spoken to the minister—at least I hope they have spoken to the minister or the minister has spoken to them. I am aware of their concerns and the details of the issues, as are, obviously, the councillors.

We know that the Local Government Act is being reviewed, which I agree is well and truly overdue. The act should have been looked at by the last government, because it is obvious that there are many issues. One has to wonder why we introduced an act that had so many complications and issues in 1995 and why Parliament was not able to understand some of these things in more detail. As we know, we learn from experience. Once legislation is enacted, we find loopholes and issues. Sometimes there might be too much flexibility and provisions are interpreted in many different ways by various participants, and that therefore creates issues.

One of the key principles of the review is to hold local governments accountable by strengthening their integrity and governance. The details of that are outlined on page 9 of the review. The key issue in the first phase of the review is the behaviour of elected members. Consideration is being given to streamlining the rules of conduct, which I have mentioned before, and to the revised disciplinary framework, which is very important. The review of the act has highlighted a number of issues with the current rules of conduct provisions. That is very important. A review was undertaken in 2015 to consider the minor breach system under the Local Government (Rules of Conduct) Regulations 2007. That review considered minor complaints received by the local government standards panel and looked at key concerns highlighted in the initial consultation phase. The results of that review noted that the regulations were poorly understood, over 60 per cent of complaints received related to inconsequential conduct that posed a risk and, in contrast, some clearly dysfunctional behaviour that had the potential to impact on the effectiveness of the council was found not to result in a minor breach because the conduct is not defined in the regulations or the conduct did not occur within the very narrow circumstances to which the regulations apply. The review also noted that the inflexible rules-based system is not equipped to deal with the complexities of local government culture and sometimes volatile relationships, and is vulnerable to manipulations and misuse. It is also important to note that page 44 of the review of the act states —

While the minor breach system appears to be supported in principle by the local government sector, the current system can be slow, and does not necessarily allow for early intervention to address inappropriate

behaviour. The significant number of complaints—and procedural fairness requirements—mean that the process is lengthy. The goal to deter inappropriate conduct by individual elected members may consequently be lost. A breach finding may be an overreaction to a matter which is relatively minor, and which could be better dealt with in other ways.

During the estimates process when the member for Kalgoorlie asked a question about the complaints process, the minister said —

Does a complaint take too long? If the member is talking about the standards panel process, which is focused on elected members, yes, I think it does take too long.

I do not think anybody will dispute that fact.

Other key topics in the review of the act are improving relationships between the council and the administration, and a lot of work definitely needs to be done in that space. I hope that both the Western Australian Local Government Association and Local Government Professionals Australia are working in that space—I am sure that they are. Obviously, the competency and training of elected members is an issue. I think both the minister and I are on the same page about mandatory training for elected members to ensure that they meet their obligations. Under this legislation, the minister can make members undertake that training to ensure that they understand and are doing what needs to be done. They may well have to be involved in mediation discussions so that they can resolve their issues. The behaviour of elected members is intrinsically linked with all of this. If a large component of the review of the act is about the behaviour of elected members, relationships and training, it seems appropriate to consider this bill in the same context. I understand that we need to take a holistic approach. The minister has mentioned that there are issues in the sector around people’s ability to understand their role and what they need to do and to have the right training and support. The complexities around the gift and travel provisions have been mentioned. It seems a little strange to bring in this bill at this time when we know that there are many other issues that relate to members’ behaviour and conduct and their lack of understanding. From my perspective, it would have been better to do that as part of the review of the act.

Mr D.A. Templeman: You started your speech by saying that it’s taken too long and now you’re arguing that it should be delayed. You’re all over the place. You’ve only got to read *The West Australian* today to see that.

Mr A. KRSTICEVIC: The fact that it has taken so long indicates that it was not a priority. I understand the need for this legislation, but, at the same time, the minister has said that there are issues with councillors’ abilities and their understanding of their role, that the training they get is inappropriate, that there are issues with their understanding of the code of conduct and the way they need to work with others, and that the gift provisions are a complete mess. There are all these issues, and, ultimately, by failing in some of those areas, councillors could be suspended or dismissed.

If we are reviewing the act, it would have been good to do it as part of that. I know that the minister has chosen a mechanism.

Mr D.A. Templeman: Then you would have criticised me for not bringing it in.

Mr A. KRSTICEVIC: No, I am saying that that would have been a better way to go from the start. The minister has acknowledged that although these provisions are necessary, they will be used in very rare occurrences. When questioned in the estimates committee, he stated —

I want to make sure we have robust legislation that includes a capacity to deal with people—they are very rare, but they exist—who, unfortunately, for a variety of reasons, breach the spirit of the legislation, and, indeed, the statutory responsibility they hold as elected members.

The minister understands there are all these issues and we agree that this legislation is necessary. However, the way it has been managed could have been better. I am sure that the minister would agree with that from the start. The fact that the minister said he was going to introduce it a long time ago and I am asking, “Where is it?” does not negate the fact that the act is being reviewed. When we talk about rarity, I am aware of five instances in which a council has been issued with a show cause notice. The Shire of Ashburton was suspended in 2012. The Shire of York was suspended in 2014. The Shire of Wyndham–East Kimberley was suspended in May 2016. A further show cause notice was issued. A number of council members resigned, which led to the Governor declaring all positions vacant and the appointment of a commissioner.

A representation from the Shire of Wyndham–East Kimberley came to my office to raise concerns about the lack of support it is getting from the minister and/or the department in dealing with some serious issues.

Mr D.A. Templeman: When did they do that?

Mr A. KRSTICEVIC: I think they came and saw me on Friday last week. They said they were having difficulties contacting the minister and getting him to deal with their issues. They also indicated that when the minister was in opposition, he was very keen, observant and aware of what was going on.

Mr D.A. Templeman: Whom did you meet with?

Mr A. KRSTICEVIC: I do not want to mention names.

Mr D.A. Templeman: You have in the past!

Mr A. KRSTICEVIC: Yes, but the good news is that they will write to the minister again.

Mr D.A. Templeman: They should.

Mr A. KRSTICEVIC: They have already written to the minister; it is nothing new. Maybe the minister is not aware of the issue, but the department should be because it has already been approached. I am not giving the minister a hard time. I am just mentioning the fact that they came to see me and they have concerns. Somewhere in the system, it has got lost. I am not aware where it has been lost, but they are concerned. They have serious issues. I believe all the councillors there might be brand-new. They have been to see the local member but, again, they said they were not getting any support for whatever reason. I indicated that they should contact the minister again.

Dr A.D. Buti: Why would you need to bring that up?

Mr A. KRSTICEVIC: I am saying they are not getting any support.

Dr A.D. Buti: But why did you need to bring that up in your usual, sneaky way?

Mr A. KRSTICEVIC: It is not sneaky; I am just saying that is what they told me.

Dr A.D. Buti: Do you come into Parliament and tell everyone what everyone else says to you?

Mr A. KRSTICEVIC: No, not everything, but this is an important issue for them.

Dr A.D. Buti: Maybe it was important to the minister.

Mr A. KRSTICEVIC: I am not having a go at the minister. There could be many reasons for that. I did not investigate why that is the case. To put it on the record, they did not have a go at him. They were not upset about it. They just mentioned it in passing. It is not as though they were saying —

Mr D.A. Templeman: I hope you haven't gone and dropped them in it, because you've done it before, mate. You've done it before and you know who I'm talking about.

Mr A. KRSTICEVIC: Not at all. I mention that in a positive way. I do not know why the minister is getting so upset.

The Shire of Exmouth was suspended in 2017. There have also been six occasions on which a council was suspended and an inquiry panel appointed without the use of a show cause notice: the City of Wanneroo in 1997, and the council was reinstated in that case; the City of Cockburn in 1999, and the council was dismissed; the City of South Perth in 2000, and the council was dismissed; the City of Joondalup in 2003, and the council was dismissed; and the City of Canning in 2012, and the council was dismissed. Obviously, there is also the City of Perth and a panel of inquiry has been appointed. There have been 11 instances of serious intervention in a decade. During the estimates hearing when I questioned the minister's rationale for bringing this bill forward rather than being part of the review, he stated —

... I want our Local Government Act to be modern legislation that very clearly outlines and defines the roles and responsibilities of people involved in local government, be they elected members or salaried officers. I want to make sure they have template legislation that will ensure they do things accountably and transparently and they make good decisions based on the information presented to them. I do not think our current act does that well.

I mention that in the context of this being done as part of a review. It would allow things to be done in a streamlined process, as opposed to knowing that the current act has failed in many ways and that those failures can now be used to identify individual councillors when we know that there is a problem. The minister has acknowledged that it would be very rare for this part of the legislation to be used. He has indicated that there are no systemic issues apart from maybe some training and people being able to work better together. That is one issue that has been highlighted. It is important to understand that the training and necessary skills, including understanding people's rights and responsibilities, are very important parts of this bill. I will be interested to know whether the minister has allocated any funding to training to make elected members aware of this legislation and the shortcomings of the current act, including the things they need to do to make sure they are not accidentally caught up in the provisions of this bill.

I also want to touch very quickly on the Western Australian Local Government Association and Local Government Professionals Australia. They have both indicated support for this bill. As the peak bodies, they spoke to the minister, albeit briefly. I am disappointed that the minister has not engaged in proper consultation, in line with the highly touted partnership agreement, which was a big deal. From speaking to WALGA and the Local Government

Professionals, I believe they received a confidential briefing two days before the legislation was introduced, so they did not have time to go through the 12-week process under the partnership agreement. I understand from the briefing that the minister's reasoning was that it had been an election commitment but, if I take that on board, I think about the stark contrast with the government's commitment to ban puppy farming. A working group was established and key stakeholders have been consulted. Issues are being discussed and a long process is being followed. I have no issues with that being looked at or the process it is going through, but the issue of puppy farming is going through a massive consultation process. However, to sack, suspend or dismiss a local government councillor, the minister has no time to talk to stakeholders.

Mr D.A. Templeman: Are you claiming that WALGA and LGP believe that this was not with regard to the agreement? Is that what you are saying?

Mr A. KRSTICEVIC: They said they had two days.

Mr D.A. Templeman: Is that what you are saying?

Mr A. KRSTICEVIC: They had two days.

Mr D.A. Templeman: Is that what you are saying?

Mr A. KRSTICEVIC: It did not go through the 12-week process. They did not go and consult with their sector.

Mr D.A. Templeman: You haven't read the partnership agreement.

Mr A. KRSTICEVIC: I have; it says 12 weeks for new legislation. I have spoken to them.

Mr D.A. Templeman: This will go on for ages. You are a fool. Do you know you're a fool?

Mr A. KRSTICEVIC: I have spoken to them.

Mr D.A. Templeman: Do you know you're a fool?

Mr A. KRSTICEVIC: I have spoken to them.

Mr D.A. Templeman: Have you ever realised that?

Mr A. KRSTICEVIC: I have spoken to them.

The DEPUTY SPEAKER: Excuse me for one minute. I have sat here quietly and listened to the interchange. I really think, for the benefit of everyone present, it would be better not to hurl accusations about someone's mental capacity across the chamber right now. Member, would you like to take to your feet and continue without the interjections?

Mr A. KRSTICEVIC: Thank you very much. WALGA initially raised concerns about the proposed nature of this legislation, seeking assurances from the minister that natural justice and procedural fairness would be inherent in the bill and that the circumstances in which an elected member would be stood down were clearly defined. WALGA and LGP feel that these objectives seem to have been achieved, so that is good. However, since the introduction of the bill, I have also met with a number of individual elected members. Many of these members did not know that the bill even existed. They had broadly heard of the bill but were not aware of how it would operate. This is a concern to me because elected members stand to be most affected by these provisions. When I attended the briefing provided by the minister's office, I inquired how many councils or councillors had been consulted. The answer I received was none. Of the 139 local governments and over 1 200 councillors, no consultation had occurred with a single one. As I said before, representatives of the peak body have spoken to me and said that they had two days to look at this.

Mr D.A. Templeman: That's not true. The President of WALGA is a councillor.

Mr A. KRSTICEVIC: Look, I had a meeting with them and that is what they said to me. If they did not tell me the truth, I can say only what they told me. The minister can take it up with them if he does not like what they have told me.

It is important to know that the Western Australian Local Government Association did not go out to the sector; it did not go to any of its 139 local governments—I think Nedlands is not a member—and over 1 200 councillors. I think that is a real concern. The advisers stated that there could not be consultation due to cabinet-in-confidence restrictions. That is very strange; it does not seem correct. The minister has been in the media on this, so there has been some public debate on it. On 18 May 2017 it was reported —

The State Government is considering changing the law to enable it to stand down individual councillors in response to the long-running scandal engulfing Perth Lord Mayor Lisa Scaffidi.

Local Government Minister David Templeman said the Government was looking to follow other States and adopt "stand down" provisions.

Other states already have those provisions, so we have not invented something new. Queensland, New South Wales and Victoria have stand-down and suspension provisions. On my latest information, a bill has passed in Tasmania but not yet been proclaimed. South Australia and the Northern Territory do not have these provisions. It is interesting. The bill was not introduced until March this year. In those 10 months the minister, his office or the department could have obtained the opinions of some councils or councillors. Within those 10 months the minister could have easily fitted in the 12-week consultation period agreed to in the Western Australian Local Government Association partnership agreement. I understand cabinet processes are cabinet-in-confidence, but that does not mean the minister cannot consult with the broader sector; he was comfortable talking to the media about it. Once again, that is probably in the transparent and accountable process, but it is up to the people involved in the partnership agreement to discuss whether they are happy about the way it has been done. It could easily have been done without any detriment to the bill. The notice paper has amendments to the Local Government Amendment (Suspension and Dismissal) Bill 2018. The bill took a long time to get to this place, it did not go through the consultation process, and there are obviously flaws in the way the bill was drafted to deal with the pay of mayors and the Lord Mayor. That begs the question of whether consultation might have teased out these things. If the minister had spoken to the sector, mayors and others out there, he might have had a better understanding of the issues.

I have said that in the broader sense I support the intent of the bill and the need for this sort of legislation; however, I am disappointed with the consultation undertaken. There was a more sensible way of doing this, and I think everybody agrees that it would have been to do it as part of the review of the act. Just because the minister decides to do something that he thinks is a good thing ahead of the act review but does not look at things properly along the way does not mean that the opposition is wrong to point out that it could have been dealt with better. If we think we are doing things well and there is no room for improvement, that leads us to believe that the Local Government Act 1995 is perfect, was done properly and how dare anybody raise any issues or concerns about that act with the minister at the time because he has done it correctly and his department has done it properly. The minister's argument now is, "I've done it correctly; I've done it properly. There are no issues. The way I have done it is perfect, and you shouldn't be hassling me to bring it in." The minister has not rushed it in any way. It has taken 15 months to get to this point, so there has obviously been no rush. If there was a rush, it would have been one of the first pieces of legislation brought into Parliament. I think that is quite interesting.

The minister's media statement stated that he had consulted, but to the best of my knowledge the consultation took two days —

Mr D.A. Templeman: You're wrong. You're actually factually wrong.

Mr A. KRSTICEVIC: That is what I was told.

Mr D.A. Templeman: Go back, talk to them and ask them.

Mr A. KRSTICEVIC: That is what I was told. I am happy to talk to them again. I talk to them regularly.

Mr D.A. Templeman: You are factually wrong. So will you come back into the house when you find out that you are actually wrong? No—because you're gutless!

Mr A. KRSTICEVIC: I have the agreement here and it states that there needs to be a 12-week process. I know that mayors and councillors have not been consulted. I do not know whether that is not true or not. The other thing —

Dr A.D. Buti: If you don't know whether it is or not, don't say it!

Mr A. KRSTICEVIC: That is what they said to me. I can only take —

Dr A.D. Buti: Every time someone says something to you, do you just repeat it like a parrot?

Mr A. KRSTICEVIC: If a peak body such as the Law Society came to you and said, "The Attorney General hasn't spoken to us" —

Dr A.D. Buti: Don't you ever even query whether it is right or wrong?

Mr A. KRSTICEVIC: I did query it, and they said they had two days —

Dr A.D. Buti: You just said you don't know whether it's right or wrong.

Mr A. KRSTICEVIC: That is what they told me. The minister said that is not true.

Dr A.D. Buti: Yes, but is it right or wrong?

Mr A. KRSTICEVIC: As far as I am aware, it is right.

Dr A.D. Buti: Well, don't say, "I don't know if it's right or wrong" then.

Mr A. KRSTICEVIC: I am just giving the minister the benefit of the doubt. The minister is saying he consulted; they said he did not. I will take both sides and between themselves they can work out who is telling the truth. It is not for me to work out who is telling the truth. I am not going to be judge, jury and executioner.

I turn to WALGA's priorities. I assume the minister speaks to WALGA—he has indicated that he does—but its priorities were not this legislation.

Mr D.R. Michael: It's been their position since 2008, mate.

Mr A. KRSTICEVIC: No, it has not.

WALGA's priorities were regional subsidiaries and regulations. They could have been included in this bill. I am not sure whether the machinery-of-government changes have resulted in this falling over. If we go back to the estimates hearings on Tuesday, 19 September 2017, this legislation was raised. The minister said —

The simple fact is this: I believe that there should be a capacity to deal with and address individuals who may bring a council into disrepute ... That is why I and the government have given it priority. I am not interested in individual examples, quite frankly; I am interested in legislation that will allow the minister of the day to address an individual rather than have the option only of addressing the whole council.

There was also this exchange —

Mr A. KRSTICEVIC: I definitely support the spirit of the legislation.

Mr D.A. TEMPLEMAN: Good; I will bring it in next week!

On 19 September 2017, the minister said he would bring the legislation in the next week; six months later, on 14 March 2018, it was introduced. I am not sure what happened after the estimates process —

Mr D.A. Templeman: But you now say it should be delayed!

Mr A. KRSTICEVIC: You said you would bring it in in the next week.

Mr D.A. Templeman: You have been arguing today that it should be delayed and brought in as part of phase 2 of the review! You don't have any logic to your argument, mate.

Mr A. KRSTICEVIC: Not phase 2, no —

Mr D.A. Templeman: I don't know who you are meeting with! Who are you meeting with?

Mr A. KRSTICEVIC: I am meeting with the sector —

Mr D.A. Templeman: That would be really interesting! I have heard you have been meeting with a few interesting people and taking advice—very interesting people.

Mr A. KRSTICEVIC: In *The West Australian* of 16 September 2017 it was reported —

WA has a confusing mix of gift and travel reporting requirements for councillors.

...

“As a former deputy mayor myself, and after the concerns of the sector were raised last year, I know that the current regulations relating to gifts and contributions to travel are complex and need simplification,” Mr Templeman said.

The minister was identifying that there are issues in the act. This legislation was brought in because of the gifts and travel issues around the City of Perth. On the one hand we have issues with gifts and travel; on the other hand we are bringing in legislation to suspend or dismiss a councillor if they have not dealt with gifts or travel appropriately, to put it simplistically. That is all I am highlighting. It makes sense to me, as I am sure it does to everybody, that that should be the case. The minister indicated that we dragged our feet or we did not do what we said we were going to. I refer to the *Hansard* of 18 November 2015. In the third reading reply on the City of Perth Bill 2015, the current minister, talking about the former minister, said —

... as minister he has an obligation to drive his department hard in getting to an end result. He has an obligation, to protect the integrity of the brand that is the City of Perth, to actually get an outcome as soon as possible.

The current minister, during a motion to condemn the then government, said —

...“Minister, you can't keep saying ‘my hands are tied.’” The damage has already been done to the City of Perth. The councillors are fighting.

...

The premier local government in Western Australia, the council that governs our capital city, is under a major cloud and this minister and this government have done nothing about it.

That was on 21 September 2016. On 18 May 2016, the then Leader of the Opposition told 720 ABC Perth —
“My view is the council, if it can’t resolve this issue, needs to be sacked,”

...

But Mr McGowan said his call for the council to be sacked had nothing to do with politics.

“It’s not a political call, I just think it’s a call based on the facts,” he said.

“It’s the fact that those reports are out there, there’s now clearly huge dysfunction in the council as we saw last night, there’s motions of no confidence in the deputy mayor,” he said.

“You can’t hide from this issue, it’s too important, the future of the city is at stake and the confidence of people in local government more generally is at stake.”

On 11 October 2016, *The West Australian* reported —

Opposition Leader Mark McGowan called for the council to be sacked, reiterating his belief that it was no longer functional.

“We don’t live in North Korea,” he said. “There needs to be firm action taken against the City of Perth and I would support it being sacked.”

Again, that is back in 2016. In question time on 12 October 2016, the now Minister for Local Government asked the then minister —

When will the minister act to ensure that the chaos that has now paralysed the City of Perth is resolved, including the ridiculous time it has taken—now over a year—to deal with the Corruption and Crime Commission findings against the Lord Mayor?

Then, on 22 October, 2016, Perth Voice Interactive reported —

Opposition leader Mark McGowan says Labor will sack the whole council if elected in March —

That is, March 2017 —

saying it’s too “dysfunctional” and commissioners need appointing.

Even Hon Alannah MacTiernan, a former City of Perth councillor and friend of Mrs Scaffidi, who was then on Labor’s North Metropolitan ticket, was quoted in *The West Australian* on 31 October 2016 stating that, with some reluctance, she agreed that the council could no longer function. We know that this minister took a long time to suspend the City of Perth council, but when we look at the words being said back in 2015 and 2016, we would have thought that that would be the first thing that he did once elected. It would have been right up there, because the Premier was supporting it, and Hon Alannah MacTiernan was supporting it. Both were saying back in 2016 that the council should be sacked. We must remember that these ministers were all former councillors, deputy mayors or mayors, so one would assume that they know the act. One would assume that they would not be calling back in 2016 for the council be sacked for high levels of dysfunction unless that were the case, or they had no idea. I find it hard to believe that a councillor, deputy mayor or even a mayor does not understand the act or what they are saying, as well as being members of Parliament at that point in time.

On 2 March 2017, just before the election, the now Premier said —

“We have a pretty dim view of that level of propriety at the City of Perth. If elected, that dim view, I think will be reflected in what we do,” Mr McGowan told reporters on Thursday.

What did the new government do? First of all, it did nothing at all for the first 12 months, after calling for the council to be sacked the whole time. On 3 March 2017, PerthNow reported —

Mr McGowan said yesterday a WA Labor Government would “use all stops to deal with what we regard as serious matters of probity at the City of Perth”.

If using all stops means taking 12 months to get around to a decision, that is quite amazing.

Mr D.A. Templeman: Have you changed your mind, and stopped supporting the bill?

Mr A. KRSTICEVIC: I am supporting the bill; I am just repeating what the government has been saying the whole time, and the excuses that it gives for doing the things it does. I want to make a picture here of what the minister, Hon Alannah MacTiernan and the Premier were saying, and then what they did, and the difference between the two. Let us look at 19 March 2017.

Mr D.A. Templeman interjected.

The ACTING SPEAKER (Mr T.J. Healy): Member, are you happy to take interjections?

Mr A. KRSTICEVIC: No.

The ACTING SPEAKER: Minister, please allow the member to make his contribution.

Mr A. KRSTICEVIC: An article in *The Sunday Times* on 19 March 2017 reads —

New Local Government Minister David Templeman said the Local Government Department had classified the council as being “at risk” because of “issues associated with the Lord Mayor’s situation”.

...

Mr Templeman and Premier Mark McGowan will meet the Local Government director general Jennifer Mathews this week for a confidential briefing on the council’s future.

...

Mr Templeman said the chasm within the council was putting its premium city status and reputation at risk, impacting on staff morale and affecting relations with ratepayers.

“The division that’s been clearly on display is not a good look for the City of Perth,” he said.

Of course, we know about the issues of staff morale and bullying, but that was just allowed to continue. Nothing was done about it, and it just went from bad to worse. On 18 May 2017, *The West Australian* reported —

The State Government is considering —

It is only considering, at this stage, on 18 May, 2017 —

changing the law to enable it to stand down individual councillors in response to the long-running scandal engulfing Perth Lord Mayor Lisa Scaffidi.

Local Government Minister David Templeman said the Government was looking to follow other States and adopt “stand down” provisions.

Obviously, if other states have these provisions, it would have been easy to do and could have been done very quickly, if that was what the government wanted to do. The article continues —

Mr Templeman said he was constrained by the Local Government Act, which only allowed him to take action against an entire council.

He was constrained in May 2017, but in 2015 and 2016, he, the Premier and Hon Alannah MacTiernan were saying that the council should be sacked—it was a disaster; it was a mess; they were dysfunctional; it was all falling apart. It was obvious to them that the then minister need to do something, but he was sitting on his laurels doing nothing. They said they would fix it up when they got elected in March 2017. Well, the government did not fix up anything. It let the situation continue for another 12 months, and even then, as I was following the process, it was not even about suspending the council. It was about show cause notices, finding excuses and giving reasons why the council should not be suspended. There were all these ifs, buts and maybes along the process. Obviously, as the pressure intensified, the council itself went into total meltdown. It then became impossible for the minister to be able to just brush it away without taking the matter very seriously. One would assume, with his experience in local government, having been a councillor, a deputy mayor, the shadow minister for so long and then the minister with the resources of the department at his disposal, he would not be coming up with excuses for not dealing with it.

Of extreme interest to me, as I was looking through this, was a question asked of the Premier by the member for Dawesville on 20 June 2017. He asked —

Since March 2017, has the Premier or any of his ministerial staff met or had any contact with any councillors or staff from the City of Perth?

The Premier answered —

Neither the Premier nor his staff have met with councillors or staff from the City of Perth between March 2017 and 17 May 2017.

The Lord Mayor wrote on 17 and 21 of March —

Just after the government was elected —

requesting a meeting. The Premier replied declining the request on 7 April 2017.

The Premier of Western Australia had no desire to meet with the Lord Mayor of the City of Perth or the councillors of the City of Perth, even though he was talking about how dysfunctional they were, and what a mess it was. We would have thought he would have stepped in there and suggested sitting around a table to have a chat, see what is going on, and work through the issues. With the Minister for Local Government, the Premier and the department, this could be worked through. But, no, the answer was: “Go away, I’m not interested; I don’t want to know. We’re just going to let this dysfunction continue for as long as it can, until we are forced into a corner.” This is even

though the now minister was saying back in 2015 that the thresholds had already been crossed. According to the government, the council could let the whole thing fall apart and go and harass its chief executive officer and directors by giving them all a hard time and letting them all go on stress leave and then, once it got to the stage when it was falling apart, the government still would not talk to the council, but would just suspend it and form an inquiry panel. The government could have just told the council that.

I asked questions on notice of the minister as well. I asked how many times the minister or his ministerial staff had met with the City of Perth since 17 March 2017. On 15 March 2018 I received the response that the minister and ministerial staff had met with the City of Perth council on only one occasion, on Wednesday, 28 February 2018, to advise of the minister's intention to suspend the council. According to the answer to this question on notice, since being elected, the Minister for Local Government and his staff have not met even once with the councillors of the City of Perth. I could not believe it! I went back even further and asked whether the Department of Local Government, Sport and Cultural Industries had met with the councillors since May 2015. The answer stated —

I am advised that the Department has not met with the Perth City Council.

Even the department did not meet with the Perth city council! Western Australia's premier council was spiralling out of control and heading towards disaster, but the department, the minister and the Premier were not interested; no-one wanted to know. Someone had to work it out, but they were not sure who. As I said, these are just answers to questions on notice so I can only take it at face value that they are accurate and not misleading either me or Parliament.

I asked whether the minister or ministerial staff had met with any individual councillors and, of course, they had. They had met with a number of individual councillors. They did not want to meet with the council, but they were happy to meet with individual councillors. Obviously, they met with the ones who suited them.

Mr D.A. Templeman interjected.

The ACTING SPEAKER: Minister!

Mr A. KRSTICEVIC: As far back as 31 March 2017 the chief of staff and the acting director general of the Department of the Premier and Cabinet met with Jemma Green. There have been meetings with individual councillors. I believe that there has also been a meeting with Councillor Reese Harley and maybe even the CEO on one or two occasions. It was interesting to note that they could not meet with the council, but could meet with certain individual councillors based on what was there. When I asked in question time why it was taking so long to deal with the issues of the City of Perth and the suspension, the minister savaged me, supposedly, and said, "You don't know the act. You're a fool. You don't understand things. You're just making all this up." But from the picture that I have painted all the way back to 2015, members can see that the now Premier, Hon Alannah MacTiernan, and the Minister for Local Government were all calling for the council to be sacked and they are the experts on local government because they have been mayors or deputy mayors. I have never been a councillor, so I am not an expert. They are the experts and they did nothing to help the City of Perth. They just helped it to spiral out of control. The minister did not make an effort to meet with the council even once. The minister has been to one council meeting that I am aware of.

Mr D.A. Templeman: I've been to lots of councils.

Mr A. KRSTICEVIC: I am referring to the answer given to the question on notice. He went to one proper council meeting. The City of Melville council meeting is the only council meeting that the minister has been to. He has not been to any other council meetings.

Dr A.D. Buti: Have you been trolling him?

Mr A. KRSTICEVIC: No. I asked a question on notice about how many council meetings he had been to and the only one was the City of Melville. I found it quite strange. I have been to lots of council meetings.

Mr D.A. Templeman: After going to that one I decided not to go to any more.

Mr A. KRSTICEVIC: There you go!

Mr D.R. Michael: You were nearly there every week in the City of Stirling—lurking in the background.

Mr A. KRSTICEVIC: Not lately. I have not had time. I have more important things to do.

The minister needs to get out to council meetings and sit at the back. I went to a council meeting the other day with the commissioners of the City of Perth and sat at the back. I liked what they had to say but, obviously, I sat at the back of the meeting during the Perth Fashion Festival discussion. I did not make people aware that I was there. I sat at the back and just listened and observed and went away. I did not sit at the front; I sat right at the very back. I just go and listen. I do not need people to know that I am there. I want to see how the meetings and discussions are going. I think that is very valuable and I encourage the minister to show a bit more interest in and

go to some council meetings. I know he went to a lot when he was in council. I am not sure whether things have become better or worse since those days.

Mr D.A. Templeman: Which council?

Mr A. KRSTICEVIC: I am saying that I know the minister went to lots of council meetings when he was a councillor and deputy mayor so he understands how things worked back in those days, but he has not been recently and I think that is very important. As a result of the minister's visit to the City of Melville he started an authorised inquiry.

Mr D.A. Templeman: The department started it!

Mr A. KRSTICEVIC: The department started an authorised inquiry. I am sure the department would have spoken to the minister and asked, "How did that meeting go that you went to, minister?"

Mr D.A. Templeman: The department initiates an authorised inquiry.

Mr A. KRSTICEVIC: Yes, I know. But I am sure the department would have asked the minister how that meeting went. I am sure the minister speaks to his department. I am sure they would have said, "You were at the meeting. What did you see?"

There is an authorised inquiry into the City of Melville. At the very least, why did an authorised inquiry into the City of Perth not start the day Labor got elected?

Mr D.A. Templeman: There was already an authorised inquiry into the City of Perth. There has been an authorised inquiry into the City of Perth up until the suspension of the councillors and the commissioners.

Mr A. KRSTICEVIC: When did the first authorised inquiry start?

Mr D.A. Templeman: I will get the exact date, but it was earlier in the year.

Mr A. KRSTICEVIC: And what was it looking at? There are lots of different issues that could have been looked at.

Mr D.A. Templeman interjected.

The ACTING SPEAKER: Order, minister!

Mr A. KRSTICEVIC: The other issue is that when the minister started the inquiry, I wonder whether the minister can restate why 2 March was left out. I do not understand. Was it a mistake?

Mr D.A. Templeman: I have explained that over and over in estimates, but the member doesn't understand.

Mr A. KRSTICEVIC: The minister did not say anything. I have read through the estimates transcript and I have no idea why 2 March was left out. The minister said it could start on 1 March going backwards —

The ACTING SPEAKER: Member, your time has expired.

MR J.E. McGRATH (South Perth) [1.16 pm]: It is an honour to follow our lead speaker, the member for Carine, on this very important subject. Before I start talking about the contents of the Local Government Amendment (Suspension and Dismissal) Bill 2018, I want to make a few comments. I was elected to this place in 2005. I do not think I had ever been to a council meeting in my whole life. I raised two kids and built a new house in Ascot. I lived in Belmont for 22 years and never went to a council meeting. I had no interest in going to local government meetings because I paid my rates. The person who built my house went to the local government and got all the authorities and approvals. It was a pretty well run council. When I went to see the builder, I recall him asking where we wanted to build the house. We said we wanted to build in Belmont and he said, "Gee!" I asked, "Why is that?" He said it was a very tough shire. I thought that was good for me. If it is a shire with tough local planning by-laws and requirements, that suited me as the builder and owner of the house. I was elected in 2005 and in all my 13 years as the member for South Perth I might have been to four or five council meetings. I have always had the view that I am the representative of the electorate in the state Parliament and the elected councillors are the representatives of the ratepayers in the City of South Perth. I get called on a lot by constituents who want me to get involved in cases in which they have a difference of opinion with council officers or the council over a wide variety of issues. I sometimes get involved and have often played a bit of a mediation role.

[Quorum formed.]

Mr J.E. McGRATH: I want to let members know that I did not make the quorum call. The record number of quorum calls has been made by the current Minister for Local Government when he was the opposition whip. No-one has called more quorums in the history of Parliament. But I do not need a big audience.

I was talking about the role that I sometimes play in the City of South Perth. I believe that, in general, councillors do a fantastic job. They spend a lot of time attending a lot of briefings—not just council meetings. They do not get

paid a huge remuneration for the work they do. They are very close to the community; they are the local, political representatives for the community. I have said in our party room before that I cannot believe that so many people have become members of this place by using their position as a councillor in local government as a springboard to get into state politics. That is good. It is actually good training. I regret that I did not have that sort of background and some role in council rather than my role as just a journalist. When lot of people get into this place, all they want to do is put the boot into local government. I cannot believe that. I say to my colleagues, “Why do you want to put the boot into local government when you were once there?” Local governments do a very difficult job. If local government was not as efficient as it is generally around the state—certainly in my area—more responsibilities would be put back onto the state government. The state government would then have to carry out tasks that are now being carried out by the local governments.

Mr M.P. Murray: A quick interjection, member for South Perth?

Mr J.E. McGRATH: Was the member ever in local government?

Mr M.P. Murray: I was. Do you think that sometimes local governments also bite the hand that feeds them?

Mr J.E. McGRATH: They do. I live in an area in which the local government is very well run, is not wasteful and is very progressive.

Mr M.P. Murray: The member’s whole area is about as big as my thumbnail.

Mr J.E. McGRATH: It is very progressive.

Mr M.P. Murray: High-rise?

Mr J.E. McGRATH: High-rise development is good. I saw the Premier on the television the other night. He said that he likes high-rise development. I am sure that all government members will all agree with him. The one thing about the Labor Party is that its members will never disagree with the Premier.

I want to make another point about what the public thinks of their local representatives. People now say to me, “You’re on the local council” and I say, “Thanks very much!” It is like getting asked if I have a pension card when I go to buy something. I say to them, “Please; I’m in state Parliament. I’m not a local councillor.” Local government generates a lot of perceptions among people. The perception that I hear about is that local government is the closest form of government to the people and the residents; it is not distant like other forms of government—state government and commonwealth government. Many local government councillors are well known in their areas. They could be the local shopkeeper, hairdresser or butcher, or someone involved in community groups who is well known. They are democratically elected and they are accountable to their community. Many aspects of people’s day-to-day life come under the jurisdiction of local government. Many things that happen in this place do not really impact too much on the lives of people. However, if something is wrong with the footpath and someone falls over or if a tree blows down or a park needs repair, local government deals with it. If a person gets a parking fine, they ring their local member—as they ring me—and say, “Can you get me out of the parking fine?” But I have to say that I am sorry and I cannot help them with that. People like their local government to stick to the basics. We have heard the old saying “rates, rubbish and roads.” I think local governments do that well. My local government, the City of South Perth, has done an outstanding job with parks, gardens, playing fields and reservations. This is the role that local governments play.

The opposition supports the Local Government Amendment (Suspension and Dismissal) Bill 2018, as our lead speaker said. We support it because for a long time people have been saying how absurd it is that if one person in a council causes a lot of grief and makes the situation untenable or unworkable for that council to continue to operate and fulfil the duties that it has been elected to do, the only way that problem can be solved is by sacking the whole council. That does not make sense.

Mr D.A. Templeman: It is unfair.

Mr J.E. McGRATH: It is unfair. We know that a lot of stuff happens in local councils. It is a bit different from what happens in this place. A lot of members here do not get on with one another, but it does not seem the same as —

Mr D.J. Kelly: On the member’s side of the house, maybe.

Mr J.E. McGRATH: We have talked to some government members too, member. Some backbench members on the other side have given us a little critique of how their members are travelling and we say that we agree that they are struggling—no names, no pack drill.

We think that this is a good bill that had to happen. The bill deals with individual councillors and, as I said, some people have behaved irresponsibly. They have used their elected positions to achieve their own personal goals or agendas with little or no regard for the people who voted them in.

Back on 25 June 2002, after an inquiry that began in the early 2000s, the council of the City of South Perth was dismissed by the Governor. That was disappointing for our community. I was not living in South Perth at the time—I had been posted to Melbourne—but I came back soon after that happened. The inquiry found that a number of breaches had occurred. That resulted in the council going back to a fresh election, following which there was a change of councillors and the election of a new mayor. We do not like to see these things happen in our community because when a local council is seen to be acting inappropriately, it can sometimes be a blight on the community. I do not think the council was corrupt, but it was found that it had acted inappropriately and did not follow the letter of the law. We know that this action taken by the Minister for Local Government and the McGowan government has a lot to do with what happened at the City of Perth. I have to agree with the comments made by the member for Carine that the council of the City of Perth has been in a shocking state for a while now. It will be interesting to see what the current government inquiry comes up with. However, there is no doubt that that council has had many problems for a long time that involve not just the Lord Mayor, Lisa Scaffidi. I believe that the Lord Mayor did not do anything corrupt, nor did she misappropriate any ratepayer funds, but she did make mistakes. She did not declare trips. If she had declared them, there would have been no problem. Someone might have raised it and asked why she was taking a trip to the Olympics, but she made a mistake. I have seen her at a lot of events. In my time as a metropolitan resident, I do not think any Lord Mayor has worked harder than her for the City of Perth. The work that she did selling our city around the world was exemplary, but it is all part of this terribly shabby outcome in which our city council has been put in the hands of government-appointed commissioners. There will be an outcome and the City of Perth will move forward; these things always happen, but it will be interesting to see what actually comes about as a result of that. As I said before —

Mr M.P. Murray: In the old days they would have put them in the stocks and thrown tomatoes at them!

Mr J.E. McGRATH: They might have down in Collie!

Looking at this bill now, as I said, I support it and I think it is good, but there are a few questions I need to ask. I would like to seek further clarification from the minister on a number of issues during consideration in detail. In his second reading speech, the Minister for Local Government referred to behaviour by councillors that is disruptive, dysfunctional or undermining of a local government. He also said that one of the triggers for an intervention would be if the minister of the day were satisfied that the seriousness or duration of the suspected failure of a councillor to perform his or her role or duties required intervention. I would like to seek the minister's response to the following questions. Firstly, how many councils in Western Australia have been sacked or dismissed using the minister's powers under the act, and on what bases? I think the member for Carine mentioned those earlier.

Mr D.A. Templeman: How far back do you want to go?

Mr J.E. McGRATH: Right back.

Mr D.A. Templeman: What, to 1899?

Mr J.E. McGRATH: In modern times; the last 30 years or so.

Mr D.A. Templeman: Your lead speaker highlighted the last 10 years.

Mr J.E. McGRATH: Yes, but I would like to go back a little further.

Mr D.A. Templeman: If you tell me, I'll try to get that information for you. How long would you like? Twenty years?

Mr J.E. McGRATH: Say the last 30 years.

Mr A. Krsticevic: It might be better from 1995, when the legislation was enacted.

Mr J.E. McGRATH: Okay, so 1995.

Mr D.A. Templeman: Since the current act was enacted.

Mr J.E. McGRATH: We will agree on that. I am a mediator here! I am getting the member for Carine to agree with the minister on something! I am like Donald Trump, bringing two adversaries together!

The next question: will there be some form of definition as to what "disruptive, dysfunctional and undermining" behaviour constitutes? As the minister knows, if these things become legal, a smart lawyer might want to ask that question. Another question is who will pay the fees, legal or otherwise, associated with the affected councillor's efforts in responding to a proposal to suspend him or her?

Mr D.A. Templeman: So any legal fees that they may —

Mr J.E. McGRATH: Any legal fees—would the ratepayers be responsible for those fees? I think at the moment the council pays them, but I would like to know the answer to that.

Are there any safeguards for dealing with vexatious complaints, especially from one councillor against another? Would there be a requirement for a complaint of a serious nature made by one councillor against another to be endorsed by a third party? That third party may be the chief executive officer, because the chief executive is there, watching everything that goes on. They attend all the meetings, they are in control of the staff and they see the behaviour of councillors both close up and from a distance. In the case of a serious complaint, would it need the endorsement of a third party? It may be that two councillors get together and say, “We’re going to make a complaint about this fellow. We don’t like him, we don’t like what he’s doing, let’s do it.” What happens then? Under the current system a complaint would have to go to the CEO or the mayor.

[Member’s time extended.]

Mr J.E. McGRATH: I never ask for a “brief” extension, because there is no such thing! We will have that written into the standing orders!

I believe that under the current system, if a complaint is lodged against an individual councillor it has to be taken to the CEO or the mayor; or, if the complaint goes directly to the Department of Local Government, Sport and Cultural Industries, maybe the CEO or the mayor must be made aware. That is proper protocol, but I am not sure. That might be something else that we could look at.

Past cases have shown that councils do not become dysfunctional just because of an individual rogue councillor. Sometimes, by the time an investigation has become warranted, a number of other council members might have become involved. There is a rogue councillor that is causing a bit of trouble, and then a couple of other councillors get involved to try to sort him out or put pressure on him, and then we find that there are more councillors involved than just one. That is another issue the minister might address in his response to our contributions to the second reading debate.

In closing and summing up, I have never been able to understand why we as politicians can make a public statement in disagreement with the policy of our party or even our government but local government councillors cannot. On this side of the Parliament, we can cross the floor and vote against our party. I do not think Labor members can do that, if they want to stay in the party, although I have seen Labor members come out and disagree with party policy in situations in which it might affect their electorate. The more I thought about it, I thought that councillors should be able to do that. Then I thought that maybe the people who sit around the council table are a bit like members of cabinet. If a cabinet minister wants to disagree with a decision that has been made by the cabinet, they have to resign from the cabinet if they are going to go out and make a public statement about it. I think local government is probably a little closer to that than we are as members of Parliament and backbench members. I think we are more free to speak than local councillors. Sometimes when councillors come to me saying, “Oh, I wasn’t happy about that”, I say to them, “Why don’t you go to the local paper?” They say, “We’re not allowed to speak. The only person who can speak is the mayor.”

Mr D.A. Templeman: On behalf of council.

Mr J.E. McGRATH: On behalf of the council, the mayor can speak. I have discussed this with the minister. I know there will be an ongoing review of local government, and I think it is overdue. I think it is a most important area of governance in our state, and the act has been in place for a long time. Some of those processes are overdue for review. Maybe a review would find that councils would become out of control if councillors were allowed to just go out and speak whenever they felt like it. We need to have a review just to sort that out. It seems sometimes that council members are gagged.

Another point is that unlike discussions in cabinet, which are kept under lock and key, council discussions are covered by the media, so if an individual councillor wants to vote in opposition to a contentious issue and says, “I’m opposed to this, I won’t be voting for it, and here are my reasons”, that will be covered by the local paper anyway. They have made that statement and that is their opportunity, I guess, and if they are smart they will ring the local paper and say, “I’d like you to at least let my ward ratepayers know that I didn’t vote for this and I spoke against it.”

Mr D.R. Michael: Are you sure you’ve never been in local government?

Mr J.E. McGRATH: Never been in local government!

The opposition supports this bill. We think it is a step in the right direction. More of our members will be speaking on this because local governments are important and we want to see them operating successfully for their ratepayers.

Mr M.P. Murray: Do you think this speech will get you another couple of buildings named after you?

The ACTING SPEAKER: Member!

Mr J.E. McGRATH: I have to thank the member for Collie–Preston because a pavilion at a new facility in South Perth was recently named. The Minister for Sport and Recreation, because it is a sporting facility, and the

state Treasurer both came along to that function in the heart of Liberal territory. They were very brave but they knew South Perth people were good people so they would not be attacked. They came along to that function and I thought it was a great show of bipartisanship. Thank you, minister.

MR C.J. TALLENTIRE (Thornlie — Parliamentary Secretary) [1.40 pm]: I rise to speak on the Local Government Amendment (Suspension and Dismissal) Bill 2018. I commend the minister and the government for bringing this forward. Many constituents in my electorate have voiced their concern about the problems, as they have seen them, with the malpractice occurring in certain local governments, particularly the City of Perth. They have seen that it is probably a problem particular to one or two councillors and have understood that the current need to dismiss the whole council is an unnecessarily complex and damaging approach; whereas if we take the approach this legislation will allow of tackling problems associated with one or two councillors, we can ensure that local government can continue in a way that is not disruptive to its operations and it can get on with its job.

My view is that local government deserves a lot more respect from and interest by the local community. The community I live in has been lucky to get voter turnout rates of up to about 24 per cent in recent elections. I think that is far too low. We have to instil in the public that local government is dealing with their day-to-day needs and they can shape the decision-making around those day-to-day needs by getting involved and making sure they know who their local councillor is, by supporting their local councillor and by helping to shape the council's composition. One way a local councillor can establish a profile and be involved in the local community is, as we do, through getting involved in local campaigns. This is a very important way for people to reach out and get to know voters and tune into their issues. We would think that a basic practice in our democracy when campaigning is to say to ratepayers, "Should I be successful at the next council election, I will take your position forward to council and vote accordingly on it", and, should the person be elected to the council, committing to take the position held to the next council meeting. However, I have been very concerned to learn that some legal advice is going around suggesting that councillors who take a view before an election should not then take it to an ordinary council meeting once elected. I am very happy to continue the discussion with McLeods Barristers and Solicitors, who are eminent lawyers used by many of our local governments. That firm is very respected for the advice it gives to local governments. I refer to a local government update that McLeods put out. It puts out a succession of local government updates on all kinds of very interesting issues for councillors and members of Parliament. One dated 10 November 2015 is headed "Council members voting with an impartiality interest". An impartiality interest is basically that if someone has an interest in an issue and campaigns against or for it, they should not vote on the matter later on when it comes before council. I will quote from the paper, which states —

A controversy has been running in a number of local governments since the coming into operation of the LG Act in 1996, as to whether a Council member with an interest affecting impartiality in a matter before the Council should vote on the matter. The controversy also applies to committees ...

It is a concern that this advice has been given. I have heard also that when newly elected councillors undergo training—it is good they have an opportunity for training once they are elected—and learn their responsibilities and the council's operations, they have been told by Denis McLeod and others that if they have campaigned on an issue, they should not vote on it. This has been brought to my attention by a newly elected councillor at the City of Canning, Sara Saberi, who campaigned last September and October in the lead-up to the last local government elections against a bus route going through the Canning River Regional Park. Understandably, the City of Canning is very concerned about the level of congestion along Albany Highway where it runs in front of the Carousel Shopping Centre and the commercial precinct along there. It is true that that strip of Albany Highway gets very heavily congested. The City of Canning has been doing the right thing and looking for an alternative. One idea was to get the buses off Albany Highway and create a bus expressway that would run through the Canning River Regional Park alongside the river. Naturally, this was very upsetting for lots of local residents who had bought properties because of the proximity to the Canning River Regional Park. It was upsetting to people to think a bus expressway would be going through where there is a very narrow bike path. It was clearly going to totally change the amenity of that precious recreational green space in the City of Canning. There are many excellent features there but this would seriously damage it, so Councillor Saberi campaigned very strongly against it. Her opponents for that ward, the Beeloo ward, were on the fence mostly about the issue. But she was very clear and was on Channel Seven news saying, "If I'm elected, I'm against this and I'll do everything I can." However, once elected she was told that she should not vote on this issue. As it turned out, because the democratic process worked well in this case, the community, through a particular candidate for council, was able to bring together a campaign and let the community's voice be heard. The City of Canning, therefore, heard that the bus route through the Canning River Regional Park was very unpopular and any connection to the redevelopment of a Bunnings site and some property development there should be completely disregarded. In the end, I think there was a unanimous vote against the bus route going through the regional park. That came only after one councillor was prepared to go hard on the issue. I am very concerned that this legal advice suggests that if people campaign on an issue as a candidate for council, are successful and go on council, they are not allowed to vote on that issue. It seems to be completely contrary to good democratic practice. We want people to put up their hands for council

and to run on issues. We want them to get engaged and be passionate local community members, to use campaigns to broaden their support base and to deliver on it. That is how many of our state political campaigns are run and that is how it should be at the local council level.

This issue needs resolution. I raise it in the context of this second reading speech because it is all about the pitfalls that could be seen to be there for a newly elected councillor. A councillor might feel that if they fall foul of this and if they accept the view put forward by McLeods, they could find themselves suspended; they could find themselves running afoul of the accepted process. Clearly, that is not good enough. We need to have that clarity. That is slightly different from the situation that an elected councillor finds themselves in. They are often called upon to declare their position before a matter is brought before council. Once they are an elected councillor, it is perhaps true that the position changes, that they need to hear arguments from all sides and then when the time comes to vote, they can let their position be known. To do that in a collegiate manner with the other councillors is very important as well.

I must recount an amusing episode of a very successful ABC television series from the early 2000s, *Grass Roots*. I recall the mayor of a shire known as, I think, Arcadia Waters, Mayor Col Dunkley, standing at a place called Coffin Point with property developers, saying, “Mates, Coffin Point, we are going to get on; this is going to be a major property development for the area. It would be called Paradise Cove, of course. Coffin Point will be completely transformed.” Mayor Col Dunkley had been talking to local people. He presented himself before a packed community hall and by the end of the episode people were saying, “We don’t want this development at Coffin Point. We love this bit of beachhead.” The assembled crowd was furious that there could be any question of a property development at Coffin Point. Col Dunkley said, “This development is not going ahead and it will only be over my dead body if it is to go ahead.” We can see that influence can be brought to bear on councillors, even when property developers are in the background as well, to make sure that things do not happen. We need our councillors to be out there properly engaged with their communities, listening to the issues of the day and to people’s concerns. We must allow councillors to make a stand on a particular issue before they are elected and to take that to an election. The alternative really does not bear thinking about. I will conclude on this point. The alternative would be that we would have people presenting themselves as candidates for councils whereby they do not take a stand on any particular issue at all, they remain totally neutral on everything and are basically just saying “Vote for me, I am a nice person”, not standing for anything. That would be terrible for our democracy. We must enable councillors to make their position clear and to take that position to a council and vote on it. They might still lose, they might not be able to win the argument, but at least they would have done their duty in representing the people of their area.

I thank the minister for the legislation before us. It goes a long way to addressing the concerns of the people in the Thornlie electorate about how we can deal with the occasional malpractice. People are very keen to know that we do not have to sack a whole council, that we can just deal with an individual councillor when that is necessary, that there are the necessary safeguards and checks in place, and that we can hope and continue to build that confidence in local government that will, in time, see a much greater voter turnout rate. It is very important, useful and good that we are seeing a stronger interest in people running for council. I think more people are applying to put themselves forward as candidates. This comes on the back of a report that the minister was involved in releasing, known as the “pale, male and stale report”, that explains that the composition of too many local governments is mostly white Anglo-Saxon background, male and rather old as well. I think we are moving away from that. Thankfully we are getting to a situation in which our local governments reflect our communities. I note in passing that the City of Gosnells has a very good gender balance now. I am particularly proud of that. There is a bit more work to be done, though, when it comes to ensuring that we have ethnic diversity represented in our local governments, but that is something we can work on. The first thing to do is to ensure that we lift the voter turnout rate. That will then lead to our councils better representing the communities that they are supposed to represent. I commend the bill to the house.

MR P.J. RUNDLE (Roe) [1.54 pm]: I rise to speak briefly on the Local Government Amendment (Suspension and Dismissal) Bill 2018. I would like to make some points to the minister and some of them probably flow more towards local government reform, which I am sure the minister will be enthusiastically looking at over the months ahead. I would like to put on the record some of those points, because in the electorate of Roe, which is 106 000 square kilometres and is covered by 18 local governments, I am running into certain problems within those local governments. To be honest, a lot of them are related to the executive, not so much the mayors and councillors, so I will speak briefly about that. I will just read from one of the minister’s briefing notes. It states —

The Local Government Act 1995 provides the framework within which local governments operate. The act is based on the principle of general competence—that is, that local governments are in the best position to make decisions for their local community and should be given the autonomy to do so. There are, however, clear limitations on this power in a number of areas. There is no ability to suspend or dismiss an individual council member.

...

There is no ability to suspend or dismiss an individual council member.

That is exactly right. I would also add to that “a chief executive officer or another member of the executive team”. I am in favour of this bill. I understand why it has been brought forward. I understand the limitations and the track the minister is on when he has had certain councillors and mayors being disruptive and causing headaches in general, but we also need to relate it to our executive. Listening to the member for Thornlie, I found it quite interesting and bizarre that a councillor who campaigns on an issue cannot vote for it. We have deteriorated to a stage that the Local Government Act is not serving our community, to be quite honest. I just wrote down a short time ago that local government has evolved into a situation in which councillors do not get any thanks for what they do, they cannot say anything, they cannot do anything, and they cannot challenge the executive. What is the point of going on the council? Good quality community people put their hand up, thinking they will do the right thing by their community. They might have an issue to take up on behalf of their neighbours or people in the neighbourhood, but all of a sudden, as the member for Thornlie said, according to legal advice, they cannot then vote on the issue they brought to the election, which is quite bizarre. As I said, good community people generally go on the council. We see the odd property developer and the odd person with a special interest on the council, but generally, in my experience, it is people who have the right intention and who look forward to doing the right thing by their community. I believe that training, including Australian Institute of Company Directors training, is very important for our elected members and it should be compulsory in the reform that the Minister for Local Government will no doubt be bringing on later in the year.

I would like to put on the record my concern that the balance has gone too far away from council members and the influence of CEOs has become a lot greater. That is where the balance under the Local Government Act 1995 has become too lopsided. There are 18 local governments in the electorate of Roe and I have a lot of interaction with them. Sometimes I even stray down to the electorate of Albany, Mr Speaker. As regional members, we certainly have a lot of interaction with our local government mayors and CEOs.

Debate interrupted, pursuant to standing orders.

[Continued on page 3331.]