

**CITY OF FREMANTLE PLASTIC BAG REDUCTION LOCAL LAW 2015 —
DISALLOWANCE**

Motion

Pursuant to standing order 67(3), the following motion by Hon Peter Katsambanis was moved pro forma on 17 June —

That the City of Fremantle Plastic Bag Reduction Local Law 2015, published in the *Government Gazette* on 24 March 2015 and tabled in the Legislative Council on 21 April 2015 under the Local Government Act 1995, be and is hereby disallowed.

HON PETER KATSAMBANIS (North Metropolitan) [8.08 pm]: I put on record that, of course, I support the disallowance motion. It is with some regret that I had to bring this motion to the house, because we dealt with a very similar issue in this place almost two years ago to the day. At that time, the City of Fremantle chose to implement a local law that would impose a condition on retailers to charge consumers if they were issuing them with one of the time-honoured plastic bags that are sometimes called single-use plastic bags. Parliament sent a strong message at the time to the City of Fremantle that although its aim was laudable—of litter reduction and the prevention of potential environmental issues of plastic bags through their misuse and getting into the rubbish stream or the broader ecosystem through water sources—it was not a matter that was best dealt with on an ad hoc basis by individual local governments. The matter is magnified in an urban environment of very small local government authorities where the potential for a series of contradictory laws is quite real. The message was sent loud and clear that the issue of plastic bags would be better dealt with at a state government level. Despite that, the City of Fremantle chose to go down the path of the local law that we have before us today. The aim of this local law is not to force retailers to charge a fee for the issue of a plastic bag; it is to outlaw the issue of a plastic bag by retailers to their customers—consumers—across the City of Fremantle. Lest anyone be under any misapprehension that I am interfering in a place that I do not represent, I will point out a very quick geography lesson in that parts of the City of Fremantle are within the boundaries of the North Metropolitan Region. I have received a few interesting emails in the last few months about this issue, and I want it to be on the record that I do represent some parts of the City of Fremantle, specifically North Fremantle. A lot of residents from the city of North Fremantle —

Hon Ken Travers: When did you last work with the council there?

Hon PETER KATSAMBANIS: I will get to that, Hon Ken Travers, do not worry.

People of North Fremantle made it very clear to me that they are supportive of this action to move the disallowance.

Again, just in case there is some sort of misapprehension out there in the community, we are all aware that local laws such as this are capable of disallowance by either house of Parliament under section 42 of the Interpretation Act. It is a device that is available to Parliament in order to oversee that subsidiary legislation such as these local laws is appropriate in all the circumstances according to the delegation. In this case, these local laws are purported to be made under the authority given to local government under the Local Government Act. This disallowance motion, therefore, is not about Parliament somehow riding roughshod over the will of a local government authority. This is the proper role of Parliament, particularly this house as a house of review, to scrutinise local laws to make sure that they are appropriate. There are plenty of headings under which we can scrutinise a local law to see whether it is appropriate. One of them is to see whether it is a law that is properly made for a particular municipality, or whether it ought to be considered and decided upon on a statewide basis. It is on that basis that I think this particular local law falls foul. As I said earlier, municipalities particularly in metropolitan areas, are small and neighbouring municipalities have the opportunity to make their own local laws.

This particular law specifies a size or a weight of plastic bag to be outlawed. Imagine if the neighbouring municipality—say, the municipality of Melville, the municipality of Cockburn or the municipality of East Fremantle—decided to bring in a local law and specified a different weight of plastic bag. Imagine the confusion that would leave, particularly for retailers who might have a store in one municipality and a store in another municipality; or perhaps an IGA store owner who has a few stores, one in Fremantle and one in the adjoining municipality; or perhaps a newsagent and all sorts of shops like that. I am not really interested in the big players in all of this; the big retailers make up their own mind and they are big enough to wear any of these decisions. The impact here is on small retailers. The other impact is on the consumer—the person who has forgotten to bring a plastic bag. Perhaps it is a low-income person who wants to do a bit of shopping and really does not need to shell out another dollar to buy one of the reusable bags on offer. Those bags are on offer today; people can buy them any time. If a low-income person forgets to take a reusable bag or a recycled plastic bag

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when they go to a retailer, that person might actually value that dollar and not want to spend it on buying another green bag like one sitting back at home. It is an unfortunate penalty to impose upon them.

If we were in a remote area such as the Mining and Pastoral Region or somewhere like that, perhaps local councils on an individual basis could make these decisions and they would not have a knock-on effect. However, in the metropolitan area it is absolutely silly for ad hoc rules to be made by every local council authority, particularly when there is no agreement with the state government and not even any agreement within local government authorities through the Western Australian Local Government Association that this is the right way to go. This local law is a unilateral action by the City of Fremantle. It confuses consumers and it confuses small retailers. So many retailers have come to me in the last few months since this disallowance motion was moved pro forma back in June highlighting their concerns. A lot of them are saying to me that they are doing it tough anyway. Fremantle is not thriving as perhaps it once was, and they are worried that people will choose to go to other municipalities if they have forgotten to take a plastic bag. In some cases, it is a matter of people crossing the road to go to the shops across the road where they can get a plastic bag. It is therefore not illogical or fanciful that this would happen. Those retailers have asked me to carry on with this disallowance and to make sure that it goes through Parliament to protect them and to protect their interests. What has shocked me, I must say, is that universally every single one of those retailers has—I use these words advisedly—begged and pleaded with me not to mention their name anywhere for fear of reprisal.

Hon Sue Ellery: By whom?

Hon PETER KATSAMBANIS: Hon Sue Ellery asks, “By whom?” It is by the council, the City of Fremantle. That is concerning because, as we know, councils have all sorts of by-law powers and all sorts of compliance officers, be they health officers or other sorts of officers. I do not ascribe any malice whatsoever to those officers or to the council; however, those retailers do have a genuine fear. I put that on the record today. I think that is a horrible situation to be in.

Several members interjected.

The ACTING PRESIDENT (Hon Simon O'Brien): Order!

Hon Ken Travers interjected.

The ACTING PRESIDENT: Order! Members, I do not want this debate to become unnecessarily heated, and that means that each member, when they take their opportunity to speak, needs to be heard in relative silence so that they can be heard. I also say that when the Chair calls members to order, that in particular is a direction that is to be observed.

Hon PETER KATSAMBANIS: I wanted to put that on the record, because I do not think that we want the sort of society in which people in a little municipality who express a differing opinion from the prevailing opinion fear reprisal. Unfortunately, that has been the case in this situation. I hope that over time that dissipates and disappears because we do not want to create a society in which retailers fear reprisals from powerful local government—or any other form of government for that matter—for supposedly not toeing the line or following through with the politically correct line of the day.

In its wisdom, the City of Fremantle has chosen to ban the issuing of single-use plastic bags. This issue has been debated across Australia for a long time and governments have made decisions. Some governments—the Australian Capital Territory, South Australia and the Northern Territory—have decided to go down the path of banning plastic bags. The governments of Queensland, Victoria, New South Wales and Western Australia have considered this and thought that it is not the right way to go. Those governments, which represent the vast majority of the population in this nation, have decided that education about plastic bags rather than an outright ban is the way to go—that is, voluntary compliance rather than compulsion. We have chosen the path of persuasion, not prohibition, and we have chosen the path of freedom rather than force. Personally, I think that is the right way to go. I applaud that decision. Some retailers in the marketplace such as Bunnings have decided to not issue plastic bags in their stores. I was told today by Hon Martin Aldridge, who is away on urgent parliamentary business, that Officeworks does not issue plastic bags—or perhaps it charges for them; I am not quite sure. Good on it. It was debated up hill and down dale two years ago. Other retailers such as Target stopped issuing free plastic bags, but consumer backlash forced it to retreat and it returned to the issuing of free plastic bags if customers wanted them. Other retailers have instructed their counter staff to ask people whether they would like a plastic bag. When we buy one or two items, a lot of us would say, “I don’t want a plastic bag; you keep it.” That reduces the use of plastic bags. We have educated consumers. Firstly, they were educated that they do not always need a plastic bag. We have educated consumers to purchase reusable biodegradable bags. I have said before that the bag I bring to Parliament every morning—it is not coloured green, but is black and white to highlight my football team—is a reusable bag and goes with me every day into this place and every day when I go to my office. We have been well educated as a society to reduce the waste of plastic bags. When we get

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them, it is never for just a single use. As I have said before in this place, it is never single use. We use them as bin liners. I use them for my kids' muddy footy boots. I am sure, Hon Rick Mazza, that many people who go fishing use them to put their catch in! Indeed, the humble plastic bag has many uses. I am sure that many people in this place who walk their dogs take a plastic bag in their pocket for use.

Hon Sue Ellery: Several!

Hon PETER KATSAMBANIS: Several in some cases.

If we ban the issuing of plastic bags, which we all acquire free of charge in the course of shopping every day, we would have to purchase them. As I pointed out, in South Australia there was a pronounced increase—about 80 per cent—in the sale of rubbish bin liners when the issuing of free plastic bags at stores was banned. I used to commute to and work in Canberra when the ban was implemented. It caught me out a few times. I am now told that if people who go into the average supermarket in Canberra ask for a plastic bag, staff give them a nudge and a wink and point to a corner where a stash of plastic bags is under the counter. Canberra stores soon found out about the easy substitution effect if people forgot to bring their reusable bags. They would drive to Queanbeyan, which is across the road but over the border, to do their shopping. When they did their supermarket shopping, they bought their bread there. Perhaps they bought a lottery ticket, and with the lottery ticket, they bought a magazine or a newspaper. Canberra retailers were missing out. That is the point that has been made time and again when municipalities such as Fremantle come up with the idea to ban plastic bags in their tiny little patch of the world. The City of Fremantle is not an island nor is it isolated. It is not Rottnest Island, where people do not have a choice. Consumers do have choices and they vote with their feet. As I said, I am told that today in Canberra a stash of illegal plastic bags is under supermarket counters. That is not compliance; rather, it is people working around a silly law. That sort of action legitimises the fears of Fremantle retailers that have been expressed to me.

We should be making it easier, not harder, for retailers in what is a tough environment. They have a lot of competition from the majors and from online traders, and obviously many costs are imposed on them, such as rates and electricity. We should make it easier, not harder. We should not put obstacles in their way and we should not compulsorily force them to change their product offer and service offer. Many people like the fact that they are able to package a product for a customer and hand it to them in a convenient bag to take away. It could be a paper bag—good on them.

Yesterday I received a letter—I am sure that most members of the house received this letter—from the Mayor of Fremantle, Dr Brad Pettitt. I want to address some of the issues that Dr Pettitt raised. He said that the City of Fremantle plastic bag local law is consistent with the approach used in many jurisdictions around Australia, including South Australia, the Northern Territory, the Australian Capital Territory and Tasmania. They are states and territories, which is my point. This issue needs to be decided on a state basis. The city of South Australia, the shire of the Northern Territory or the borough of Tasmania did not make those decisions; Australian states and territories decided to create a level playing field for all retailers and consumers in the state. Dr Pettitt points out international examples of cities and countries that have restricted the use of plastic bags. He said that last week, shops in England were required by law to charge customers for single-use plastic bags. The last time I looked, England was a country; it is certainly not a municipality. Again, that reinforces my point. These decisions should not be made for a tiny patch of a place; rather, they should be made for the whole of a place. Dr Pettitt talked about the number of Western Australian local governments looking at this and pointed out that the government supposedly has the opportunity to enable the legitimate trialling of the local law, which could significantly change the conversation around litter, resource use and waste management in Western Australia. I want to challenge that point. A trial is something that is done after a decision-making process. A trial is when a group of people get together and agree that one or more of them is going to go away and do something and then they go off and do it. This is unilateral action by the City of Fremantle. There has been no discussion with the state government and agreement to hold a trial or any metrics put around what is to be measured in that trial. There has been no agreement at local government level. There has been no agreement through the Western Australian Local Government Association or any of the neighbouring councils or a group of councils. It perhaps could even have been done on a regional council level, which is how we handle our waste in the metropolitan area of Perth. This is unilateral action. Do not call this a trial; this is someone running off and doing their own thing, not caring about what anyone else wants to do or could do.

Later on in his letter Dr Pettitt suggests that my claim last time that there was an 80 per cent increase in the use of bin liner sales was incorrect and cited some evidence from the ACT. My claim was in relation to South Australia and not the ACT. I made no claim about the increased incidence of bin liner usage in the ACT because I did not have any information at the time and I do not believe any was available. Let us compare apples with apples and not apples with oranges, please. The mayor, Dr Brad Pettitt, then talked about the Legislative Council becoming —

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... the local government 'House of Review' and the arbiter of local governments' ability to represent its community on community matters.

As I said earlier, this is a legitimate role of this place; otherwise, local government laws could be made by local government without any reference to this place. We are exercising our legitimate role in scrutinising delegated legislation, including local government laws, and making sure that they are appropriate and that they are made within power.

I do not like being negative. I am an optimistic person—a positive and forward-thinking person. As I said earlier, I prefer persuasion to prohibition. So what should we be doing as a society? I actually think the government's decision to not unilaterally ban the issue of plastic bags is the right one because such a ban would interfere with people's choice and would not allow people to be persuaded to change their pattern of behaviour. In fact, compulsion often makes people recalcitrant and want to fight back. I think the education we have all been through over the last few decades in relation to plastic bags has been good. There is a lot more that we can do. There is nothing wrong with retailers getting together in an area, be it in a municipality, through an industry association or unilaterally as the Bunnings of the world have done, and coming to the decision that they will either not issue plastic bags, charge for them, move to paper bags or all sorts of other things that they can do voluntarily to show that they are working on re-using plastic bags. Perhaps the recycling facilities that some of the supermarkets use could be more formalised. I have used them from time to time, because plastic bags tend to accumulate. I have taken them down to my local supermarket and there is a cardboard box that I have put the plastic bags in. I am sure that at some point in time they are re-used. What we should be doing as governments, and we can do this at the state government level, the local government level or even the federal government level, is encouraging further innovative ways in which people voluntarily choose to reduce their use of plastic bags. We should not be forcing some decree from on high on people. That way, we get not only compliance but also active compliance and a society that feels it is valued rather than being forced to do something that its members do not want to do or they do not understand very well. I would be happy to champion any sort of ideas such as that and put them before any decision-makers. I am sure that there are plenty of people who could come up with more innovative ways than I could come up with on how we could continue to reduce the use of plastic bags and how we, as decision-makers, either at a state government or a local council level, can encourage that. I think we have done pretty well as a society, but I think we can do even better.

I know there are plenty of members who want to speak on this disallowance motion and that time is limited. There are a number of issues that I could address, but I do not want to just take up the time of the house for the sake of taking up the time of the house. Hon Ken Travers asked me what I had done to talk to people and to the council. Very early on in the piece, after I moved this motion, Hon Lynn MacLaren—I note she is away on urgent parliamentary business—approached me in good faith and asked me if she could bring a deputation of people to my office to discuss my views on this issue and to perhaps persuade me that they were going down the right path. I said, "Look, by all means. Send me an email or give me call and we'll organise that." Unfortunately, I have not had any further communication in relation to that. The City of Fremantle has chosen to be quite abusive to me. It has been quite derogatory in some of the comments that have been made privately, which have come back to me, but it has not requested any meeting with me either. My door is always open. I will see any group or person who wants to talk to me. Sadly, in this particular case, despite my door remaining open and offers being made, it seems that by either accident or design on the part of other people, that never happened. I cannot be blamed for that. As I said, I do not want to labour the point too much or take up too much time of the house.

Although perhaps well intentioned, this local law from the City of Fremantle is beyond its power because this is a law or a decision that should be made on a statewide basis to avoid unintended consequences, to avoid confusion, to not force retailers to do something that they do not want to do, and to not change consumer patterns of behaviour that would perhaps hurt the retailers in the City of Fremantle. With those words, I commend this disallowance motion to the house.

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [8.38 pm]: I am conscious that when the government lists a matter like this at the end of the night, there is limited time for people to make a contribution, so I will keep my comments as brief as I can. I am really disappointed that this disallowance motion has come before us. The key technical message the last time this matter was debated was that the provision in the regulation that set out a charge—that is, clause 6—was outside the powers of the local government to make, and on that basis there was a technical reason for the Joint Standing Committee on Delegated Legislation to reject the regulation and there was a technical argument put before the house about why Parliament should disallow the regulation. That is not the case this time. In redrafting the regulation, the City of Fremantle has removed that section.

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According to Hon Peter Katsambanis, the central argument is that the issue of plastic bags is better dealt with at a state level. That is a cogent argument. Of course, if there is any indication that the state is doing anything about this, that might be worth taking into consideration. However, the state government is not doing anything about this issue and nor does it intend to do anything about it.

Hon Peter Katsambanis has told us that he has been contacted by the residents of North Fremantle. I represent every other suburb in the City of Fremantle and those surrounding the City of Fremantle south of the river, and I have not been contacted by one member of the community and I have not been contacted by one retailer. I note that the Fremantle Chamber of Commerce supports the proposal that the City of Fremantle has asked us to support. There is no opposition locally to what has been a very public policy position by the City of Fremantle for the past three years.

Hon Ken Travers: I have not had any opposition from North Fremantle.

Hon SUE ELLERY: Really? So no-one in North Fremantle has contacted Hon Ken Travers? What we are supposed to believe, though, which I find extraordinary, is that, according to Hon Peter Katsambanis tonight, retailers have contacted him and advised him that not only do they not support the proposition, but also they are fearful of reprisal from the City of Fremantle and its officers if the retailers associate themselves with this disallowance motion. This is despite, of course, the fact that the Fremantle Chamber of Commerce supports what the City of Fremantle is doing. I do not know what happens in the northern suburbs, but I have never heard anyone claim that the officers of the City of Fremantle or, indeed, the elected members of the council conduct themselves in the unprofessional and petty manner that has been suggested by Hon Peter Katsambanis tonight. My view is that that is because it is not true. What we have heard tonight is unsubstantiated poppycock—that retailers are living in fear of the vile officers of the City of Fremantle. It is absolute rubbish!

Hon Peter Katsambanis: Go and ask them.

Hon SUE ELLERY: They are the people I represent. They are not shy in expressing their point of view about lots and lots of things, and if they felt that, they would be telling me that.

Hon Ken Travers interjected.

Hon SUE ELLERY: They cannot be named because they are scared that the officers of the City of Fremantle are going to do I do not know what. Change has to start somewhere. It is not unreasonable and, indeed, it is not new for innovation to start in the local government area. I think the argument has been overcooked a bit by Hon Peter Katsambanis introducing a sort of malevolent tone by suggesting that there is some kind of reprisal on the cards from the officers of the City of Fremantle. The City of Fremantle has addressed the technical issue that was brought to its attention when this matter was last before the house by removing the charge. This is consistent with other policies of the City of Fremantle and, indeed, it is consistent with the views of the majority of people who live in the City of Fremantle. The test of this is right now during the local government elections. If this was a real issue and retailers were living in fear of reprisal, I reckon it might have got a bit of a mention in some of the debates that are going on in the middle of the local government elections in Fremantle right now. Do members know how much coverage this issue has got in the local government elections in Fremantle right now? How many column spaces do members reckon it has got? It has got none, because it is not an issue that either consumers or retailers in the City of Fremantle feel strongly opposed to. In fact, it represents that the City of Fremantle has its finger on the pulse of what its citizens, consumers and retailers want. It is in touch with what its community wants.

I want to touch briefly on the letter that Hon Peter Katsambanis referred to that has been sent to us by the Mayor of the City of Fremantle. In his letter of 12 October, he asks us to vote against the disallowance motion, and I indicate that we on this side of the house will. He states —

- The Fremantle Council started the process to ban plastic bags over three years ago because the Fremantle community wanted change and submitted a petition to the Fremantle Council, with over 1000 signatures from community members, including local retailers, calling for a ban on single use plastic bags.
- The Joint Standing Committee on Delegated Legislation ... reviewed the first iteration of City of Fremantle Plastic Bag Reduction Local Law in 2012 and at the time formed the view that the “(Local Law) is, with exception of clause 6, within power of the Local Government Act 1995, under the Committee’s Terms of Reference ...

Clause 6 is the clause that I referred to about the charge —

- In response to this advice, the City completely removed the contentious 10 cent charge and there is no charge in clause 6, or in any other clause in its current lawful 2015 local law. It also sought legal advice as to whether there were any other clauses or issues of contention that could render the law

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unlawful. In essence, there are no legal grounds to give rise to a disallowance motion against this local law in its current form.

Reasons for support

- The City of Fremantle plastic bag local law is consistent with the approach used in many other jurisdictions around Australia ...

Hon Peter Katsambanis listed those —

- Internationally, there are a growing number of cities and countries restricting the use of plastic bags ...
- Many other WA local governments who have been watching the progress of Fremantle's local law with interest would like to see it supported so they can consider a similar approach in the absence of the WA State Government legislation on this matter.

He goes on to give other references. The conclusion that he asks us to draw is —

The City of Fremantle's plastic bag local law is strongly supported by the Fremantle community, retailers and the Fremantle Chamber of Commerce. It should be viewed as a trial and data collection exercise that will help inform the merits of a larger state-wide plastic bag ban. It should not set a problematic precedent that sees the Legislative Council involve itself in local government matters in a manner and extent that is has not previously.

Yours sincerely,

Dr Brad Pettitt

Mayor

We will not support the disallowance. I look forward to hearing from the other members for South Metropolitan Region in the house tonight. I know that we will hear from Hon Lynn MacLaren, but I look forward to hearing from those on the other side who represent the City of Fremantle because I am looking forward to what they have to say about the proposition that the retailers in and around Fremantle are living in fear of reprisal from the City of Fremantle. The City of Fremantle has done its homework on this issue. It is representing the views, desires and wishes of its community. The test is right now in the middle of the local government elections. If it has got it wrong, this would be playing out as an issue, and it is not. I urge members to vote against the disallowance motion.

The ACTING PRESIDENT (Hon Liz Behjat): Members, as pointed out by the Leader of the Opposition, we will need to put the question at 9.45 pm, so members might want to bear that in mind when they make their contribution.

HON LYNN MacLAREN (South Metropolitan) [8.47 pm]: My contribution will be brief and to the point. It is clear that on matters of sustainability, both the council and staff of the City of Fremantle listen closely to and fully represent their community. They have a full sustainability strategy in place that legitimises their ambitious sustainability targets to 2020. Madam Acting President, you may be aware that I am a resident of the City of Fremantle. My office is in the City of Fremantle, my home is in Beaconsfield and I also have a place in the west end in Fremantle. Not only do I listen to the constituents there, but also, in my daily life, I attend the businesses that will be impacted by this local law. In one sense, it might be said that I am declaring a conflict of interest, but in another sense, I am truly representing the community in which I reside, as is the City of Fremantle.

As representatives of the community and as community leaders, the City of Fremantle fully acknowledges the need to ensure that each decision it makes and each path it takes protects the integrity of the planet. It conserves its resources and enables intergenerational equity. It embeds this in its process and in its practice. It is my opinion that this should be the mandate of all tiers of government, as it is for the Greens and the City of Fremantle on this matter, as leaders in the sector and in government in general. When the City of Fremantle started this process, over three years ago, it was not because the city wanted to misalign itself with government policy, nor because it had some renegade agenda. It was because the community had raised this matter. A petition had been submitted to the city with over 1 000 signatures from community members, including local retailers, calling for a ban on plastic bags. Would it not have been remiss of the City of Fremantle and the responsible Fremantle council not to consider this petition? Would it not have been negligent on the part of the council to ignore the community sentiment of such a large proportion of the city's total population? I acknowledge any member's right to call for a disallowance motion—members will be aware that I have done this on many occasions—where there is clear justification to do so, but I question whether it is the role of the Legislative Council to disallow a local government local law purely based on ideological or political beliefs. When there is a legitimate call from the community to change a practice, surely it remains the local government's right to govern as its community wills. Members have mentioned before that the Joint Standing

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Committee on Delegated Legislation reviewed the first iteration of the City of Fremantle Plastic Bag Reduction Local Law in 2012, and, at the time, the committee formed the view that the law was, with the exception of clause 6, within the power of the Local Government Act 1995 under the committee's terms of reference 6.6(a).

In response to this advice, did the City of Fremantle give up and go away? No. In response to this advice, the city completely removed the contentious 10c charge. There is no charge in clause 6 or in any other clause of its current lawful 2015 local law. The city also sought legal advice on whether there were other clauses or other sleeping contentious issues that would render this local law unlawful. In essence, it appears that there are no lawful grounds to give rise to a disallowance motion against this local law in its current form, which is why the committee—we will hear from committee members—came to that conclusion, I guess. The implications of the Legislative Council disallowing a local law made in accordance with section 3.5 of the Local Government Act 1995 go beyond the issue of this particular local law; they question the legitimacy of local governments making local laws. That is what members of this chamber should bear in mind tonight, because it sets what I see as an ill-advised precedent for the Legislative Council to become the local government house of review and the arbiter of local governments' ability to represent their communities on community matters.

The government being seen as a barrier to best environmental practice, should it choose to disallow this innovative and proactive law, I believe will only further cement its reputation as a government that simply does not respect the community's wish to embrace a more sustainable and equitable future. It will give rise to anti-government sentiment from the growing sustainability sector, and it will likely prompt media responses from the City of Fremantle and many other local governments that have been watching the progress of this local law with interest. This government has an opportunity to repair some of the negative sentiment that it has earned around environmental matters and enable the legitimate trialling of a local law that could significantly change the conversation around litter, resource use and waste management in Western Australian.

Madam Acting President, I have kept my remarks very brief today, and there is the wide matter of environmental responsibility that I have not engaged in. I personally know the woman who raised this petition and got 1 000 people to sign it. She has gone to these lengths and passionately campaigns against the use of plastic in our environment; she is a hero in today's community. I hope that other members will have the opportunity to debate this issue because it is the crux of the matter: there is a good cause to ban plastics in our environment; it is not some random goal. I hope that the government takes up this cause, and if this disallowance is successful, that the government will act urgently to ban plastic bags. I call on this government to take a proactive stance and to oppose the disallowance motion before us.

HON RICK MAZZA (Agricultural) [8.55 pm]: Members, there is no doubt that plastic bags have an environmental impact, but so do plastic bottles, food wrappers, the plastic bags that surround the goods that we buy from Harvey Norman and styrofoam. There is a whole raft of different plastics and rubbish that we have an environmental problem to get rid of. The humble Coles bag, as it is known in our household—whether it is from Woollies or IGA, it is still a Coles bag—is the most recycled item that we have in our household. We do our shopping and bring the Coles bag back home, and it is used as rubbish bag or for putting shoes in. It is used for all sorts of things, so it is recycled quite often. I think to pick on the shopping bag is probably a very small part of what is a major problem in our community as far as rubbish is concerned. The real issue is: if consumers are so concerned with plastic bags, they can vote with their feet. Bunnings, of course, has not provided plastic bags for quite some time, which is the reason that I do my hardware shopping at Masters, because I can get a plastic bag there and they are very, very convenient. I think, at the end of the day, the issue is responsibility and what people do with those plastic bags. It is a freedom of choice issue.

On a regular basis in this place, we see local government by-laws subject to disallowance motions, whether it is dog by-laws or all the other by-laws that we deal with. These by-laws go through and it is up to this house, as a house of review, to look at those laws. There is nothing wrong with this house looking at this issue of banning rubbish bags.

From an environmental point of view, plastic bags have a very low environmental impact compared with paper bags, which is the alternative that a lot of people want to use. The production of a paper bag is something like 60 per cent more of an environmental problem than the production of a plastic bag. I can understand that the City of Fremantle is looking at an altruistic way to deal with some environmental issues, but a shopping bag is a convenience for consumers, along with dozens and dozens of other types of plastic containers that we use every day. It is about environmental responsibility, but people can vote with their feet. Some retailers may not want to do away with plastic bags, but they should have a choice of whether they provide them or not. If consumers in Fremantle say that they do not want plastic bags, they can go to retailers that do not provide them. It is as simple as that.

Concerning rubbish disposal, maybe we have to look at other ways we can deal with the problem that we have with garbage causing problems in our oceans and terrestrially. It is not just plastic bags that are a problem; it is

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a whole host of things. We have looked at landfill. There have been discussions in this place about waste-to-energy plants, which I think the Fremantle city council was receptive to, which could deal with a lot of these rubbish bags. I will not take up too much of the house's time, because I am sure that other members want to talk on this disallowance motion, but as far as I am concerned, I will support the disallowance motion.

HON ROBIN CHAPPLE (Mining and Pastoral) [8.58 pm]: I will be brief, because I know that many people may want to talk on this disallowance motion. In 1995, we introduced the Local Government Act that we operate under now. I was a counsellor under the Local Government Act, and was involved with the Western Australian Municipal Association, as it was then, in the passage of the 1995 act. I admit that at the time, I had my concerns about the act, but the one thing the 1995 act does, which is stated quite clearly in the explanatory memorandum, is give the local authority the power to make its own decisions. I will quickly go to section 3.5, division 2, "Legislative power of local governments", which is the provision that was brought in to enable local governments to have lawmaking powers. At the time there was concern that that might be too much, but it has come into being, and local governments do a range of things now for their communities. The section of the act states —

3.5. Legislative power of local governments

- (1) A local government may make local laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.

We reviewed that in the Joint Standing Committee on Delegated Legislation and, in the first instance, we found that the notion of a fee was too far. The committee has reviewed it again and has decided that it would not move a disallowance or place a protective notice of motion on this legislation, because it is within power. I want to make that point very clear.

The other point that has been made is about banning plastic bags. Several motions have been moved in both houses during my time as a member to ban plastic bags, and under both parties, Liberal and Labor, it has been stated that it is not our responsibility to introduce legislation; it has to be national. We have never got to the stage of having a proper debate; we inhibit that debate. Here is a local government, on behalf of its community, moving in the direction that its community wants, under the powers that it is provided with under the Local Government Act 1995, and here we are acting as judge and jury over a local government. This is an appalling motion to bring before this house, and I will not be supporting it.

HON ADELE FARINA (South West) [9.02 pm]: I rise to oppose the disallowance motion. I have no objection to Hon Peter Katsambanis bringing the disallowance motion to the house, because it is the role of the house to scrutinise local laws through the disallowance process. I do not have an issue with that at all. However, the house should be guided by the report and the recommendations of the Joint Standing Committee on Delegated Legislation, which has responsibility for oversighting and takes on the committee function of scrutinising local laws on behalf the Legislative Council and the Legislative Assembly. As Hon Robin Chapple has stated, the Joint Standing Committee on Delegated Legislation has clearly said that this local law is within power and therefore should not be disallowed. We should all bear that in mind very strongly.

I listened very carefully to the arguments presented by Hon Peter Katsambanis. The strongest argument he presented was his personal view that this should be a state issue, and that it should not be a decision made by a local authority, because then we have a hotchpotch situation in which there are different laws in different situations. I would say two things in relation to that. Firstly, we have a hotchpotch situation at present. As the member stated, stores such as Bunnings do not provide plastic bags at all. Other stores, such as Target, charge 10c for a plastic bag.

Hon Peter Katsambanis: They don't any more.

Hon ADELE FARINA: They did last time I went to Target.

Hon Peter Katsambanis: When did you last go to Target?

Hon ADELE FARINA: It was not that long ago. Other stores freely give plastic bags, and others will only give paper bags. There are a range of different practices, and Bunnings, which does not give out plastic bags, does give out cardboard boxes. Everyone does it differently, so we already have a situation in which there is no uniformity across the state. I think the uniformity argument falls on its ear.

In relation to the claim that this matter is within the state jurisdiction and that the law should be made at a state level, I want to read a letter from Hon Albert Jacob, the Minister for Environment. It states —

The State Government does not regulate the use of plastic bags and has no intention of doing so. If a local government wishes to lawfully introduce and pass such a local law, that is a matter for the local government authority.

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There we have the government's position on this issue. It has vacated the space, but it is more than happy for a local government to step into that space lawfully, if the local government wants to. There we have it in writing, and I am happy to table this letter if people would like to read it. It is from the Minister for Environment to Simone McGurk, the member for Fremantle. I understand that a similar letter has gone out to a number of other Fremantle residents who have also written to the minister on this issue. It is very difficult to come to this place and argue that this is a matter that should be legislated by the state government and not by local government, when we are told by the Joint Standing Committee on Delegated Legislation that it is within power for local government to do this, and we have the minister saying that the state has no intention of stepping into this space, and local governments are welcome to it if they want it. The arguments presented by Hon Peter Katsambanis fall on their ear. There is simply no basis to those arguments at all.

Hon Sue Ellery has covered very well the issue of the slur on the City of Fremantle, so I do not intend on going over it again. We have a responsibility in this place, when we make contributions to debates, not to present slurs on organisations and individuals who do not have the capacity to defend themselves, unless we are prepared to put a name to the source of that information. It is really not very helpful to the debate at all. Not only is it unethical, but it is also a criminal offence to go threatening people. If people are being threatened, there are ways of dealing with that.

The other point I want to make is that we live in a democracy. If the people of Fremantle, and the retailers and other shop owners of Fremantle do not agree with what the City of Fremantle is doing, they have an opportunity at the local government elections to make that view known. As Hon Sue Ellery has stated, the issue has not rated a mention so far in the present round of local government elections. Clearly, this is not the only round in which the people of Fremantle can make themselves heard. If the law were passed, and after a period of practice the people of Fremantle were of the view that it was inconvenient, at the next local government election they could make that an issue and therefore effect change at that point. That is the beauty of living in a democracy.

The arguments that have been presented for disallowance simply do not hold water. We should be taking our guidance from the Joint Standing Committee on Delegated Legislation. It is within law, so there is no basis on which the Legislative Council should disallow this local law, and the Minister for Environment, as he has stated, is more than happy for local government to take up that space.

HON PAUL BROWN (Agricultural) [9.08 pm]: I stand here tonight to make a small contribution on this motion for disallowance. I have a great deal of sympathy for the City of Fremantle on this issue. It is being quite proactive, considering there is a policy vacuum in the state government, and particularly around the Minister for Environment, on this kind of environmental issue. I found it quite enlightening when Hon Adele Farina read out the contents of the letter from the minister and offered to table it. I am now even more conflicted, given the content of that letter. I had a rather large conversation today with a couple of my colleagues and Hon Peter Katsambanis about a pathway that we would elect to take on this issue, which would be to make a representation to the minister and ask him to develop state policy, and not just to say that there is no state policy. Whether it is positive or negative, we need to have a state policy, rather than saying, as Hon Adele Farina demonstrated in reading out that letter, that the minister does not care either way; it is up to local government.

We do have an environmental issue. Colleagues of mine represent regional Western Australia and I see the remnants of plastic bags littering highways and waterways. My electorate, the Agricultural Region, has two oceans, a number of rivers, and plenty of roadside verges that are impacted both in an environmental sense and as a consequence of that on the environment, and also in a visual sense for visitors and tourists who travel up there at this time of year, whether they be looking at wildflowers or taking in the beauty of regional Western Australia.

I am very conflicted about this. As I said, I have a great deal of sympathy for the actions that the City of Fremantle took. It listened to the Joint Standing Committee on Delegated Legislation and removed clause 6 and any reference to that type of language inside the new iteration of its local law. Local governments have a capacity to make laws about these types of issues. The Minister for Local Government would tell us that there are cross-boundary consequences whereby people will drive from one local government to another government to use shopping centres and retailers that have plastic bags. That may well be the case but that is a choice.

Hon Ken Travers: Doesn't that happen in regional areas with different trading hours, depending on what the local government decides?

Hon PAUL BROWN: That may well be the case, Hon Ken Travers.

Consumers may well vote with their feet on this issue and go to another shopping centre, but once again, that is their choice and I suppose that is what this comes down to. I cannot remember a voluntary scheme that has been successful over a lengthy period that has not needed the backing of some sort of legislation to give it credence. To say that we can change people's behaviour regarding their use of plastic bags is like telling me that we can

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change the behaviour of smokers and drinkers without legislation to reduce their consumption or habit. There is a legitimate role for local government to make local laws about this. Although I am going to vote in favour of the disallowance—I am very conflicted—I say that with a heavy heart. I put the Minister for Local Government and the Minister for Environment on notice here tonight —

Several members interjected.

Hon PAUL BROWN: — and I say to the Mayor of Fremantle that if this disallowance motion comes back to this house about the City of Fremantle plastic bag reduction scheme and either the Minister for Environment or the Minister for Local Government has not done anything to develop policy and strategy to implement this on a statewide or metropolitan-wide basis —

Hon Ken Travers: This is the second disallowance and they had not done anything about the first!

Hon PAUL BROWN: Yes, and I have not spoken to the minister about this. I am going to speak to the minister about this so I am giving him the opportunity now. We have been talking about this for a couple of years. If the City of Fremantle wants to raise this again, it is well within its right to do that, and I say to the minister tonight that if a similar disallowance motion comes back to this house in 12 months or six months—whatever the time frame—and the minister has not given me any comfort or confidence that he is developing a strategy either statewide or across the metropolitan area, I will vote against the disallowance motion next time.

Several members interjected.

Hon PAUL BROWN: As I said, I am conflicted in this. I have a great deal of sympathy for the City of Fremantle.

Hon Sue Ellery: You've got the letter from the minister!

Hon PAUL BROWN: I have a choice, Hon Sue Ellery.

The ACTING PRESIDENT: Order!

Hon PAUL BROWN: I am not dictated to by your party!

Several members interjected.

The ACTING PRESIDENT: Order!

Hon PAUL BROWN: I have my own choice.

The ACTING PRESIDENT (Hon Liz Behjat): Order! Order! Four times, order! Hon Paul Brown has the call. Some of those members interjecting have already had their opportunities to make a contribution; others can make a contribution, time allowing.

Hon PAUL BROWN: The reason I say that is I undertook earlier today, with Hon Peter Katsambanis and a couple of members of my party, to speak to the minister. I have committed to Hon Peter Katsambanis about a pathway forward and we are going to speak to the minister. I will honour that commitment that I gave Hon Peter Katsambanis and we will vote in favour of the disallowance motion, but this is the last time. I said to the Mayor of Fremantle and the councillors that if this comes back to us and the minister has not given me any comfort that there is a strategy or policy in place, then the outcome will not be the same.

The ACTING PRESIDENT: Members, the question is —

Hon Ken Travers interjected.

Hon Paul Brown interjected.

The ACTING PRESIDENT: Order! I give the call to the Minister for Mental Health.

HON HELEN MORTON (East Metropolitan — Minister for Mental Health) [9.15 pm]: Interestingly, I represent the Minister for Local Government and the Minister for Environment in this house. Both of them have given me speaking points on this motion. I was quite interested to hear the comments being made and I will go through some of the speaking points that I have from both of the ministers on this. Let us start with the Minister for Environment's view. He talks about the fact that this is the second time et cetera, and he explains what the local law was about. I do not think I need to go through all of that. It came into operation on 20 September, 180 days after its gazettal et cetera. He mentions the fact, which I think somebody else has already repeated, that a number of other Australian states and territories have introduced legislation to regulate single-use plastic bags of less than 35 microns: South Australia, the Australian Capital Territory and the Northern Territory et cetera. He basically goes on to say that, in creating the right environment and litter-prevention initiatives in Western Australia, he takes a much more strategic approach to waste management, with a focus on things that are broader than a single product. He is really saying that this is an issue that is kind of a bit small in terms of the sorts of things that the Minister for Environment wants to be heavily involved in, as

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a state, in terms of legislation or future legislation. As Hon Adele Farina indicated, the Minister for Environment has corresponded with the City of Fremantle regarding its plastic bag reduction local law, and indeed advised that if a local government wishes to lawfully introduce and pass such a local law, that is a matter for the local government authority. However, he goes on to say that in Western Australia, plastic bags are a very, very small proportion of the total waste and litter stream that comes within the purview of the Minister for Environment.

On 5 January, the Minister for Environment announced the new litter prevention strategy. He goes on to talk about the significant number of other initiatives that are being undertaken by the Department of Environment Regulation around waste reduction and litter management. The state government is currently working with the federal government and other states, as well as industry, on a strengthened Australian packaging covenant. This is being dealt with at the moment between the states and the national governments to better manage environmental impacts and used packaging. This work is taking place at the moment. Because I know that there is at least one other speaker, I am trying to get through this very quickly. The government's focus remains on improving recycling and reducing waste and litter across all litter streams. The minister goes on to talk about how Western Australia still has the lowest recycling rates in the country at the moment and it is clear that we can do much better.

My impression of that is that the Minister for Environment is putting his focus on and effort into the work that is occurring between the state and the commonwealth to create a national outcome on this and is not particularly interested in getting involved in something as minor as a single bag issue. He is certainly saying to the City of Fremantle that the Minister for Environment does not have a major interest in the initiative that is taking place in Fremantle.

The Minister for Local Government has also given me some speaking points. His comments are a little different. He reiterates that it is a second attempt and says that the city has made a genuine effort to improve its local law since its last version was tabled before Parliament; however, this new local law contains the same major issues that led to the previous law being disallowed in 2013. He notes that the Joint Standing Committee on Delegated Legislation has repeatedly raised concerns about the legality of local laws that regulate the use of plastic bags and that even if this local law is valid, it deals with a matter that is more appropriately dealt with by statewide legislation and if the city's local law is allowed to stand, it may result in other local governments making their own local laws. We have heard comments about different ones happening around the place. He says that the result will be an inconsistent regulation of plastic bags around the state, which will increase uncertainty for retailers and consumers, and it is more appropriate for Parliament to decide whether the use of plastic bags should be regulated in a state; and, if so, how this regulation should occur. As I indicated, the Minister for Environment's view is that it should occur between the state and the commonwealth and be undertaken at a commonwealth level. That is happening at the moment. For those reasons, the Minister for Local Government supports the motion to disallow the local law.

HON SIMON O'BRIEN (South Metropolitan) [9.21 pm]: I am disappointed to once again participate in another debate about this matter and to have to remind my friends and colleagues in this place what the issue really is. It has nothing to do with the polluting and environmentally damaging attributes of plastics in general or of the specific type of plastic shopping bag that is provided for in the City of Fremantle's by-law, which is the subject of this disallowance. It is a question of jurisdiction. People viewing this debate will have the benefit of the other pages of *Hansard* that surround my contribution now, so I will be brief and take as read what has already been said.

Let me come to the key points. I, too, have received a letter from Brad Pettitt. I have sat down at Gino's and spoken about this with him. I have sat down over lunch with Josh Wilson, the Deputy Mayor of Fremantle, and another greenie on the Freo council and had a word. I have spoken to a number of people in and around the Fremantle council. I acknowledge also the correspondence I have received from people in and around Fremantle, including Robert Peters, Mike Kenny, Alia Leadabrand, Rachel Pemberton, Emma Jack, Patricia Winnacott and Michelle Howard. I thank them and I have no doubt about what motivates them and the sincerity with which they hold those views. But I come back to the central point of my opening remarks: this is not a debate about environmental sustainability and plastic bags affecting the world's oceans. It is a debate about jurisdiction. That is where this house, as with the other place, is similarly relevant to whether local laws stand. That is the fact of the matter. We all care about the environment; therefore, I was dismayed, having spoken with Brad, Josh and others, and having appreciated the genuineness of their sentiments which I begged to point out to them are misguided in the way I have just described, so I did go in good faith to see others in the state government. When I raised this with the Minister for Environment, his response was a bit different from that described in the letter to Simone McGurk that Hon Adele Farina read out. He was a bit more blunt in his assessment. Yes, he said all those things in the letter, and he said a bit more because he was talking to me about the matter and not responding to a representative in Fremantle saying, "Well, it's up to the council; that's fine." He pointed out, as

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we have just been reminded by the minister representing the Minister for Environment, that this is not a major contributor to the waste stream, or however he put it, that affects our environment. If we were to legislate statewide to ban some type of plastic or other, this is not what we would target. There would be no point. I do not think that is in the letter. His attitude was “If local councils want to do this sort of thing, let them go for it and they can stew in their own juice”, or words to that effect. I was a bit disappointed by that because I wanted the government to stand up and say it would definitively state a position on this, but all we have is the view of a single Minister for Environment that he does not intend to take anything forward at this stage. “Let local governments run off and do whatever they want.” I am also cognisant—the house has now been acquainted with it—of the Minister for Local Government’s view. He has real reservations about a local government legislating on this or any similar matter. That is what this debate is all about. If one local government is allowed to make laws—it is highly debatable whether they are entitled to make laws about this—banning in this case plastic bags, that same council or any other council could go on and make laws banning other things. Then we might find that the current loyal opposition’s sanctimonious attitude is quite different, but they cannot pick and choose. I listened closely to Hon Lynn MacLaren’s remarks, as I always do, desperately searching for some granule within her remarks that I could agree with and I found it, even though I think she was quoting Brad Pettitt when she said it, and that there is a matter of precedent involved in this debate —

Hon Lynn MacLaren: Thank you.

Hon SIMON O’BRIEN: — and that is what concerns me. If just one local government with some people ideologically inclined—I think the member’s word again—to unilaterally ban plastic bags today for some of the people I represent in the South Metropolitan Region, not all of them but just those in the Fremantle municipality, what else would that mean for the people I represent inside Fremantle or outside? What would be banned next? What would attract their ire? What else would half a dozen people decide and email me about to say, “We’re genuinely concerned about the future of the planet, therefore you need to ban this or that or something else.” It is not their prerogative to do so. With the greatest of respect to Hon Robin Chapple, in his excerpt from the Local Government Act 1995—a bit of legislation that is good for use only as a doorstep in my view—he misinterprets the effect of what he referred to in his remarks.

I want to conclude by saying that I have the greatest respect for the well-motivated people in the City of Fremantle who would like to see something done about plastic bags. I am a little disappointed that the Minister for Environment does not want to take hold of this matter to sort it out. I restate the view that I have stated time and again in this place, and I hope it endures in the view of the house collectively, that this is not a matter on which we should allow individual local governments to legislate, as it will affect some Western Australians in a way that will not affect other Western Australians in what is, after all, a pretty fundamental activity. With due respect to everyone involved in this debate within here and without, those are the reasons why this disallowance has to be upheld.

HON KEN TRAVERS (North Metropolitan) [9.30 pm]: I want to make a couple of comments. It has been interesting to listen to the debate this evening about the merits or otherwise of a ban on plastic bags. Although I recognise that this house has a right to review legislation and to disallow it, we need to be very careful about the principles on which we adopt those decisions. We have an act of Parliament, the Local Government Act, that provides for local governments in this state to have power to make decisions. The first test before any matter comes before us for disallowance should be: is the local government operating within the scope of the legislation? Does the head of power exist within the Local Government Act or some other act to give the local government the option of doing what it is doing? The Joint Standing Committee on Delegated Legislation, as a committee of this house, goes through diligently on a daily basis the legislation that local governments make, and examines whether the process they have gone through to develop the legislation is within the scope. The City of Fremantle brought forward a proposal to ban plastic bags. The proposal went to the delegated legislation committee; the committee found fault with that proposal; it reported to this house; and although some of us wanted to see that legislation succeed, this house correctly disallowed that legislation. The City of Fremantle went back under the head of power of the Local Government Act, addressed the issues that had been raised by the committee and put forward another proposal for a local law. That proposal went to the delegated legislation committee and I understand that the committee examined the legislation. There is no report before this house that says that what we are dealing with today is beyond the scope. The arguments from the straw men that Hon Simon O’Brien has just put to the house, that somehow this is not within the purview of local government, is wrong. If the local law is not within the purview of local government and is beyond the power given to it by the Parliament, the state of Western Australia and the Governor, then that would have been reported to the house by the delegated legislation committee. Local government can make this law. Local governments enter into new areas all the time. I remember when the City of Joondalup wanted to bring in a ban on smoking on beaches, and I remember when other local governments have gone ahead and expanded on what they do. The important thing is that when they do that, they talk to their communities; they go through a process. We allow and empower local

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government to make a decision and to listen to their communities. Like Hon Sue Ellery and like Hon Peter Katsambanis, I represent a very small part of the city of Fremantle in North Fremantle. I have not been inundated with complaints. When this law went through the local council, it is not as though it was snuck in in the middle of the night; this debate has been going on for a considerable time. If members of the local community were upset about it, they would have raised it. This debate today very much comes down to how much we as a Parliament respect the rights, the roles and the responsibilities of local government.

I know that there are some good people on the other side of this chamber, because I know that they stood up when their executive wanted to steamroll local government in this state by trying to do tricky amalgamations and all the rest of it. In the early stages of that, there were good people on the other side in the Liberal Party—the National Party came rolling in later in the piece with its flip-flop—who recognised that it was important to acknowledge the power of local government. Those people need to stand again tonight and not allow their government to go through this disallowance process. Let us be clear about this. Although Hon Peter Katsambanis moved this, it is now clearly—as we heard from the minister—a decision of the government supported by all the different elements of the government, to override the rights of local governments to make local laws that, having gone through a local process, are clearly within their power to make. If the City of Fremantle got it so wrong and the world as we know it in the City of Fremantle—as claimed tonight by those on the other side—will end as a result of this, that is democracy. We are a bankrupt state because of democracy. We have problems in WA because of the state government; that is democracy. We do not ask the federal government to come riding in and suddenly tell it to stop WA doing what it is doing. This is about letting local government get on.

If this house knocks off this disallowance tonight, I suspect it will be a great challenge for the new president of the Western Australian Local Government Association. The new president of WALGA will have a massive challenge, because she will have to get out into the community and stand up and argue for local governments to be recognised and responsive. This issue is fundamental. I find it extraordinary that this motion about removing local democracy from local communities, removing the capacity of a council such as the City of Fremantle, is coming from conservative members. The way in which the City of Fremantle has been spoken about tonight by members opposite, and the suggestion that the council will seek retribution against its local residents if they speak and campaign against this bill, is an absolute nonsense. I am no great fan of the politics of the Mayor of the City of Fremantle, but I know that not to be the case. I know that the CEO of the City of Fremantle would not pursue people in that way. It is a disgraceful suggestion to put before this house that there is not even an ongoing debate in the City of Fremantle because residents feel that they will somehow be persecuted by this evil empire! That is a slur not only on the City of Fremantle, but also on local government in the state of Western Australia. I know that there are good people in the Liberal Party who are members of local government in Western Australia, and I might make a point of seeing whether I can ensure that the speeches given by members opposite are sent out to local government councillors so that they will understand what their representatives in the Legislative Council from the Liberal and National Parties think and say about local government. Members opposite should never again come in here, flip-flop around and pretend that they are the friends of local government when they intend to remove the fundamental right of local governments to make decisions in consultation with their local communities. And if they get it wrong, the decision is not for this house. This house's job is to determine whether it is within the head of power and whether a proper process has been undertaken to get to that point. Beyond that, the decision should be left to the local electors. There are elections going on at the moment in the City of Fremantle, as there are in every other part of the state of Western Australia. If this was such an issue in the City of Fremantle, I would expect that many candidates would be putting up their hand in those local government areas and saying, "Vote for me in the north ward of the City of Fremantle because I will overturn this local law." To the best of my knowledge—Hon Sue Ellery knows the area better than I do—I have not heard a campaign around that issue. I do not think there is that outlook, because the City of Fremantle is a particularly unique part of the state. It sits behind the City of Vincent as one of the progressive leaders of local government in Western Australia. They will be the sorts of councils that bring in more local laws that push the boundaries.

The City of Joondalup, a conservative council compared with those two, has also challenged it and brought in laws with respect to cats and to smoking. We have allowed some of those to go ahead when they have been done properly, and it has been up to the members of the local community to have their say in those processes. Let us not think that this debate tonight is plainly and simply about whether we think there should be a ban on bags in our local area. That is not what the debate tonight is about and no-one should suggest that it is. This is a fundamental debate about how this house respects local government and whether it believes local government should have the capacity, within the powers given to it under the Local Government Act, to make decisions in consultation with its community. That is why I will be very proudly opposing this disallowance motion. I urge other members of this house to oppose the disallowance motion, even if they hate the idea of not being able to get bags. When I went shopping in South Australia for the first time, it was annoying not to be able to get a bag.

Hon Peter Katsambanis; Hon Sue Ellery; Hon Lynn MacLaren; Hon Rick Mazza; Hon Robin Chapple; Hon Adele Farina; Hon Paul Brown; Hon Helen Morton; Hon Simon O'Brien; Hon Ken Travers

But this motion comes back to the fundamental question about local government and what its roles and rights are and whether we are going to trample on them. That is the fundamental question here today. The council clearly has the power to do it under the Local Government Act. It has clearly gone through the right process. It would be completely wrong and a slur and a slight on all local governments if we disallowed this local law tonight.

HON PETER KATSAMBANIS (North Metropolitan) [9.41 pm] — in reply: Time does not allow me to cover all the points that were raised in the debate. I actually welcome the debate. I thank all the members who participated in the debate. In the main, it was a good debate because there are differing views on this issue. I should clarify 100 per cent, because I believe that some members on the other side have deliberately misrepresented what I said, that I did not make any attribution towards the motive of the City of Fremantle. I did not accuse the City of Fremantle in my contribution of supposedly seeking to take retribution.

Hon Darren West: You did, and *Hansard* will prove it.

Hon PETER KATSAMBANIS: I have the right of reply, okay? The member had a chance; I have the right of reply.

In fact, what I said was that I had absolutely no evidence whatsoever to indicate that the concerns of those people were actually real.

Several members interjected.

The PRESIDENT: Order!

Hon PETER KATSAMBANIS: However, as ill-founded or irrational as any concern may be, if someone holds that concern and expresses it to me, I will repeat it. I went to great lengths to point out that I had no evidence to suggest that officers or any other person at the City of Fremantle would act in any sort of malicious manner. I made that very, very clear. Hon Ken Travers should not twist my words around, he should not misrepresent my words and he should not get up on his high horse so that he can send off the little notes that he suggested he might want to send to various people and annoy them—his junk mail. Do not come in here and put words into my mouth that I did not say and expect me to sit down and cop it, because I will not!

Several members interjected.

The PRESIDENT: Order! You can only speak one at a time in here. You do not have to shout; the acoustics in this place are pretty good, and there is amplification.

Hon PETER KATSAMBANIS: If any members made those attributions towards me through some misapprehension, I apologise for suggesting that they did it deliberately, but I believe that some did do it deliberately.

In relation to some of the other issues that were raised, Hon Lynn MacLaren suggested that somehow or other this was some sort of ideological issue or crusade. This is really a matter of practicality and good government. I have made that point clear all along. This is to avoid confusion. This is to ensure that retailers and consumers have a level playing field across the whole of Perth and, preferably, the whole of Western Australia. It has nothing to do with ideology. I think it was given away who the ideologues are. Although this is a local law about plastic bags, Hon Lynn MacLaren continually referred to plastics. I understand that the Greens have an issue with all plastics. I get that. That is their ideological viewpoint. It may also be a practical viewpoint. As other members, including Hon Paul Brown, pointed out very clearly, litter is a problem. It is a massive problem all over the state. It is not limited to plastic bags; it is also bottles, cans and the like, and people dumping household rubbish. Litter is a major problem. That is why, as Hon Paul Brown rightly pointed out, a few of us got together today and suggested a bit of a way forward whereby we could seek the good counsel of the ministers involved in this to ensure that there is a long-term strategy going forward that would build on the strategies that are in place for litter, which the Minister for Mental Health discussed in her response and which come from the Minister for Environment. With those few words —

The PRESIDENT: Order!

Hon PETER KATSAMBANIS: — because I do not want to drag it on anymore, I commend the disallowance.

The PRESIDENT: Order! Time having elapsed, I am required to put the motion.

Division

Question put and a division taken with the following result —

Extract from *Hansard*
[COUNCIL — Tuesday, 13 October 2015]
p7104b-7118a

Hon Peter Katsambanis; Hon Sue Ellery; Hon Lynn MacLaren; Hon Rick Mazza; Hon Robin Chapple; Hon Adele Farina; Hon Paul Brown; Hon Helen Morton; Hon Simon O'Brien; Hon Ken Travers

Ayes (18)

Hon Martin Aldridge
Hon Ken Baston
Hon Jacqui Boydell
Hon Paul Brown
Hon Jim Chown

Hon Peter Collier
Hon Brian Ellis
Hon Nick Goiran
Hon Dave Grills
Hon Nigel Hallett

Hon Alyssa Hayden
Hon Col Holt
Hon Peter Katsambanis
Hon Mark Lewis
Hon Rick Mazza

Hon Helen Morton
Hon Simon O'Brien
Hon Phil Edman (*Teller*)

Noes (9)

Hon Robin Chapple
Hon Stephen Dawson
Hon Sue Ellery

Hon Adele Farina
Hon Lynn MacLaren
Hon Sally Talbot

Hon Ken Travers
Hon Darren West
Hon Alanna Clohesy (*Teller*)

Pairs

Hon Liz Behjat
Hon Donna Faragher
Hon Michael Mischin
Hon Robyn McSweeney

Hon Amber-Jade Sanderson
Hon Samantha Rowe
Hon Martin Pritchard
Hon Kate Doust

Question thus passed.