

**CITY OF FREMANTLE PLASTIC BAG REDUCTION LOCAL LAW 2012 — DISALLOWANCE**

*Motion*

Resumed from an earlier stage of the sitting.

**HON PETER KATSAMBANIS (North Metropolitan)** [5.08 pm]: Before we took that slight pause to deal with questions, I was discussing how the right of a retailer to provide a product for sale at a price that the retailer believes is reasonable and that the retailer sets is a longstanding right in our liberal democratic society. To start fettering that right requires some form of strong reasoning or grounds on the part of a government. I believe this levy unfairly infringes upon that right because it seeks to set a minimum price a retailer can charge for a plastic bag. It may be a small fee, but it is a significant fee. As a percentage of the price of items purchased, it may not matter to someone who is buying \$100 items, but if people are buying items of a small value, it could add up to a high percentage of the total cost of their purchases. Of course, it would have a disproportionate impact on people of low income. The converse argument that could always be raised to that is, firstly, a retailer does not need to offer the plastic bag at all, and, secondly, consumers can bring their own plastic bags. That is all well and good but, again, it should be up to a retailer to decide on the range of offerings they have within their store. If they want to give away a plastic or paper bag or not give away a bag, it should be up to them. If retailers want to charge a fee for the provision of bags, it should be up to them to set it. I gave the example of Target, which chose to set a fee for a plastic bag and then reverted to not charging a fee because of consumer backlash. That is all well and good in free trade and commerce.

If we impinge on retailers and consumers in this way, it begs the question: how far do we go? I guess it is open to any level of government to impose some sort of levy on, for instance, the sale of coffee in plastic cups or paper cups for that matter; the sale of soft drinks in plastic, aluminium or glass containers; or the sale of some forms of fast food and the like. I will come to the fourth limb of the committee's terms of reference in discussing that further and how it may be an appropriate public policy decision and that the interference with the right of a retailer to provide goods and services it wants to provide may well be appropriate in some circumstances. I am not necessarily sure that it is something that should be done by local law or regulation; it is something that should be properly considered in an appropriate Parliament, be it a federal or state jurisdiction.

That brings me to that fourth limb of the committee's terms of reference in relation to an instrument containing only matter that is appropriate for subsidiary legislation. Again, I am expressing my personal view that I have come to from reading the motion before the house. I am certainly not in any way reflecting on the deliberations of the Standing Committee on Delegated Legislation; I am just pointing out the terms of reference of that committee and how, from reading the motion, I have come to consider whether I think the instrument before us contains only matter that is appropriate for subsidiary legislation. I think that is the real failing of this proposed local law, because Fremantle is not an island; it is not an independent republic or a monarchy.

**Hon Ljiljanna Ravlich** interjected.

**Hon PETER KATSAMBANIS:** It is a small municipality within the greater Perth region. I understand that it considers itself unique and I appreciate that. I am sure that a lot of us who visit Fremantle visit it because of that uniqueness and its special qualities, and we enjoy that. But people visit from everywhere. Fremantle abuts other municipalities. In a greater metropolis there can be unintended consequences if one small part of that metropolis starts making laws that are different from laws in the other parts. Fremantle has decided to levy a minimum 10c on plastic bags that are offered within its municipality. Imagine the confusion if the municipality next to it or one a few municipalities away decided to offer a 5c, 20c or 50c levy for that matter. That would be extraordinarily confusing for both retailers and consumers. Imagine the confusion for a retailer that might have one or two stores within the City of Fremantle and maybe a store in an adjoining municipality, such as the City of Melville or the City of Cockburn. It happens. Some retailers run more than one store. Someone might have two or three dress stores or a couple of pharmacies on either side of the boundaries. Imagine the red tape those shopkeepers would be forced to endure if municipalities started making contradictory laws, charging separate fees or mandating different weights of plastic bags that could be provided within their municipalities. It would not be conducive to good business practice. It would be as confusing for consumers as it would be for retailers, particularly small retailers. It would impose additional red tape on them and they would have to spend their days wondering whether they were complying with one municipality's law or the other. If shops across the road from one boundary ran out of bags on one side of the street, they would not be able to run across to their other store and borrow some plastic bags for a few days. It would be illogical to impose this sort of change on a local government basis. It would be far more appropriate, for these sorts of impositions that infringe on rights and cause added administrative burdens, that consideration take place on a broader basis—on a state basis and on a federal basis.

Hon Peter Katsambanis; Hon Robin Chapple; Hon Stephen Dawson; Hon Lynn MacLaren; Hon Simon O'Brien

---

In relation to plastic bag reduction and compulsory levies around the provision of plastic bags, as highlighted by the minister, Hon Helen Morton, this issue has been discussed, I would say, ad nauseam in both state Parliaments across Australia and joint ministerial meetings again and again, and every time the decision has been taken that it is not appropriate to impose this compulsory levy. Governments have had that opportunity and have chosen again and again not to implement a compulsory levy. It is not as if this issue has not been considered in depth. As every speaker so far has said, the issue of reducing the number of plastic bags is one that has almost universal support across the community and has been supported by everyone who has spoken on this motion. But to do so in a piecemeal manner in one municipality is not the right way to go. It would invite other municipalities to start making conflicting, contrasting and sometimes contradictory laws that would lead to confusion and further angst. We have seen the consumer backlash from a voluntary decision of one retailer to not provide plastic bags. Imagine the backlash when these sorts of laws are imposed, not voluntarily but through the imposition of local laws such as the one before us that is contemplated. It would not lead to a positive outcome for the state or for the people of this state. I do not believe it would lead to a reduction of the use of plastic bags in our community; it would just lead to substitution. It will lead to the purchase of more plastic bags that are single-use bin liners for instance, as highlighted in the committee's report. My colleague Hon Dave Grills mentioned to me that it will probably lead to people purchasing individual bags for the disposal of pet "doings" as pets are taken for walks in parks. Hon Helen Morton spoke about some members of Parliament using plastic bags to dispose of nappies. I know that nappy disposal liners are sold in stores; I believe scented ones! Nappies can be placed in them and thrown in the bin. If we ban the use of plastic bags or tax the use of them out of existence, people will start buying plastic single-use nappy disposal liners. In my opinion that would not be an appropriate outcome.

With those words, I again reiterate my support for the disallowance motion. I thank the committee for the work it did and the way it very sensibly distilled the disparate views that exist around this local law into a very good and informative report, which I hope has informed the debate for all members of the house. In closing, I once again repeat what I said at the start: the humble plastic bag is an item within our society that is occasionally attacked for no good reason. I am actually proud to stand and say it has far more than a single use. Although we want to see the use of plastic bags reduced, I do not think taxing them out of existence is the way to go. It is about educating the public about their use, re-use and reduction over time.

**HON ROBIN CHAPPLE (Mining and Pastoral)** [5:21 pm]: I rise tonight to talk about a number of items around this issue. Firstly, I would like to thank two groups of people. The first is the committee clerks who did an exceptional job in putting forward the sixty-seventh report of the Joint Standing Committee on Delegated Legislation. I also thank committee members. The committee did the work in the manner intended, in the way that it reviewed and presented information to the house. I would also like to thank the Clerks of this place for advising the committee on how to proceed on these sorts of matters. It set a really good parameter for the way the committee will work. The other group of people I would like to thank is the City of Fremantle. When the City of Fremantle realised there was some debate about this by-law, it decided not to implement its regulation, which it was fully entitled to do, until the debate had concluded. It is important that I get those comments on the record.

In relation to the sixty-seventh report of the Joint Standing Committee on Delegated Legislation, it is important to note that when it came to looking at how clause 6.6 of the Legislative Council's new standing orders operate we found that the legislation was within power. The City of Fremantle, under the Local Government Act, had the authority to make that legislation. However, there was a difference of opinion when it came to clause 6.6(b) and (d). Subclause (b) states that it "has no unintended effect on any person's existing rights or interests" and subclause (d) states that it "contains only matter that is appropriate for subsidiary legislation".

The committee countenanced a few of those issues. I will deal with clause 6.6(a) first. Section 3.1 of the Local Government Act, "General function", states —

- (1) The general function of a local government is to provide for the good government of persons in its district.

When the Local Government Act 1995 was amended, it provided significant authority and power to local government over these matters. It was something that the government of the day wanted them to take on as a role of local government; that is, to enact matters more suitable to local government than state or federal governments. Section 3.1 continues —

- (2) The scope of the general function of a local government is to be construed in the context of its other functions under this Act or any other written law and any constraints imposed by this Act or any other written law on the performance of its functions.
- (3) A liberal approach is to be taken to the construction of the scope of the general function of a local government.

I repeat that: “A liberal approach is to be taken.”

Section 3.5 of the Local Government Act states —

- (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.

That is what I think this local government has done. It has taken the lead and prescribed those matters which it believes it has the right to do.

The City of Fremantle’s legal advisers provided the committee with the following information in support of the local law being within power of the act, as quoted in the committee’s report —

*The prohibition on the sale and supply of single use plastic shopping bags by retailers in the district of the City comprises one waste avoidance and waste reduction initiative undertaken by the City that would facilitate environmental protection by reducing the waste stream to landfill sites, thereby meeting the needs of both current and future generations in a manner consistent with section 1.3 ...*

*It is also the experience of the City that single use plastic bags contribute significantly to litter within Fremantle town site and elsewhere in the district of the City. Restricting the sale of [sic] supply of single use plastic bags in a retailing context is likely to reduce this particular source of litter, thereby improving the standards of amenity experienced by persons within the City.*

*The management of litter and waste, together with other environmental issues relevant to general amenity, additionally fall within accepted notions of local government.*

A number of arguments were put forward in favour of maintaining the disallowance and a number of views were put to support the removal of the disallowance. Members have to remember that when the delegated legislation committee, a committee of both houses, moves a disallowance motion in this place, in most cases it is a pro forma method allowing the committee to further evaluate matters before it. In doing so, we state that this is a holding motion to enable the committee to investigate further. Having established that, we either have to allow it to remain or remove it. I countenance the fact that we need to remove it; others would countenance the fact that it needs to stay and be disallowed.

The local law clearly has an intended effect. Quite clearly the argument has been that it has an unintended effect. It is clearly an intended effect to alter the nature of consumers’ habits in those areas. I will talk about some aspects that have been dealt with elsewhere in Australia. After the committee’s report, I was quite surprised, after further investigation, to find out where it has been initiated elsewhere. I will come to that shortly. There is also the view, as the committee report states —

- ... By requiring retailers to charge customers for a plastic bag, the intended effect of the Local Law appears to be that retailers recover a cost that they normally would have absorbed and passed on to the customer through product pricing. Therefore, the Local Law does not create a cost impost for retailers or impinge on their existing rights or interests.

It actually goes out of its way to assist those retailers. The report continues —

- ... All customers have a right to purchase a plastic bag, or to provide their own. Providing bags for goods is not a requirement for retailers, from a legal perspective, and so, while temporary inconvenience may be an initial consequence of the Local Law while the community adjusts to the new requirements, no rights or interests have been impinged upon.
- ... It has also been argued by some that no unintended effect is caused as, for all intents and purposes, the Local Law is designed to create a deliberate disincentive to using/issuing plastic bags and to create incentives for retailers to offer alternatives (i.e. being able to charge for them under the Local Law).
- ... Profits made by retailers from the sale of plastic bags will assist them to effectively advertise the ban of plastic bags and provide for re-useable bag options.
- ... Despite the evidence that sales of bin liners in South Australia increased, whether this represents an increase or decrease in total plastic bag consumption is unclear.

Quite clearly, as Hon Peter Katsambanis has said, people currently use the smaller plastic bags as a method for putting rubbish in their bins. The unfortunate thing is that most receptacles that take plastic bags are too big to fit in shopping bags. Having said that, I use recycled plastic shopping bags, whenever I come across them, for my own rubbish.

Hon Peter Katsambanis; Hon Robin Chapple; Hon Stephen Dawson; Hon Lynn MacLaren; Hon Simon O'Brien

---

Much has been made about the issue that this local law is most probably better contained within state law. I want to go back to some notes on the provision of local law by the state. We must remember that in this state both Liberal and Labor governments in one way or another have been progressing the idea of proceeding with a plastic bag ban. The first time we came across that was in a 2001 debate in this house between Hon Jim Scott and Hon Peter Foss when they both concluded that we needed to do something about plastic bags. It is interesting to note that subsequent to that, in 2002, in a question on notice of the then Minister for the Environment and Heritage, Dr Judy Edwards, about the notion of banning plastic bags, I asked —

Can the Minister confirm that the Federal Environment and Heritage Minister has approached the State Government to ask the National Packaging Covenant Council to develop measures to combat plastic bag waste?

In answer, the minister said —

Western Australia is a signatory to the Covenant and a participant in this process. In addition the Minister wrote to the National Packaging Covenant Council on 24 October 2002 urging them to provide a uniform response to the issue of plastic bags in Australia, and to develop a clear list of actions and targets to be implemented and reported publicly.

In the federal arena at the same time, Hon John Howard came out and said that he supported such a covenant and wanted to see—I will come to the exact words in a minute—a 50 per cent reduction in the use of plastic bags by the year 2012.

It is interesting to note that in my dialogue with the minister, it became apparent that Western Australia is unable to act on its own in bringing in legislation for plastic bags. This is where I take on board the comments of Hon Helen Morton who said that it was more proper for a state to go down this path. Since the Hilmer report and the subsequent adoption of the national competition policy, which was entered into in 1995 by the member jurisdictions of the Council of Australian Governments, individual states are no longer in a position to unilaterally enact such legislation. Introducing a levy on plastic shopping bags now requires a national approach. The state therefore cannot do it. We have long known that and have argued for why the state cannot do it. However, we have also argued that the federal government should be doing something along these lines. The federal government, under the former Howard government, indicated that it was going to do something. Subsequently, former Prime Minister Hon Kevin Rudd, in a speech that I will turn to in a minute, indicated that the Rudd government would introduce a national ban. We have therefore come to a situation in which the federal government has not enacted a ban on plastic bags, the state government cannot enact a ban, and it is up to local government to do so.

One of the issues that we tend to forget, while debating at a micro level whether we use plastic bags as bin liners or in a broader context, is that the basis for banning plastic bags—it has been done by other towns in Australia, which I will come to shortly—is the impact and general pollution that plastic bags have on our general way of life and the marine environment. One thing people do not understand about plastic bags is that they sink. Areas of the Mediterranean Sea floor are covered by plastic bags. There is not a lot of wave motion down there and once the air is out of plastic bags, they sink to the bottom and create a mat.

It is noted that in 2000 the community going along the beach near the city of Göteborg in Sweden removed 11 464 plastic bags—just from the beach in the city environs. The estimate of the cost of cleaning up the beaches on the west coast of Sweden is in the region of €1 125 000. These costs are borne by communities in a broader sense, and they are some of the costs that the City of Fremantle, rightly, has tried to address. The Intergovernmental Panel on Climate Change report lists the top 12 marine litter items in the Mediterranean Sea. Plastic bottles are the highest at 9.8 per cent and plastic bags are the second-highest at 8.5 per cent.

**Hon Simon O'Brien:** Is that plastic bags generally or specifically plastic shopping bags?

**Hon ROBIN CHAPPLE:** Plastic bags generally.

**Hon Simon O'Brien:** Right; so shopping bags are going to be a small subset of that.

**Hon ROBIN CHAPPLE:** I would say a significant proportion, but I do not have that data and I suggest the honourable member opposite does not have it either.

**Hon Simon O'Brien:** What's the next step; get the City of Fremantle to ban plastic bottles as well?

**Hon ROBIN CHAPPLE:** I think that would be a really good idea.

**Hon Simon O'Brien:** Right. Sorry, I thought I was on the wrong planet there for a minute. I'll let you get on with it.

**Hon ROBIN CHAPPLE:** Interestingly, this list has an element of humour—seeing the member wants to introduce an element of humour—in that one of the other significant pollutants found in the Mediterranean Sea is cigar tips! Anyway, we digress somewhat. The effect of plastic bags on the environment has been picked up by a

Hon Peter Katsambanis; Hon Robin Chapple; Hon Stephen Dawson; Hon Lynn MacLaren; Hon Simon O'Brien

---

number of local authorities in Australia. This year the Tasmanian town of Coles Bay celebrates the 10-year anniversary of its ban on plastic checkout bags; interestingly enough, it also allows the imposition of a charge for the provision of paper bags. It does not allow plastic bags, full stop. People cannot buy plastic bags even if they want to because they are banned outright, but they can buy a heavy paper bag for which a fee is charged.

Target's re-usable bag sales have raised more than \$1 million for the Alannah and Madeline Foundation, and Australia's fastest growing supermarket chain, Aldi, has never given free plastic bags at its checkouts. Coles Bay initiated the idea of banning plastic bags because it is an area of whale migration. Many studies have shown that whales identify plastic bags as being some sort of food source, and their ingestion has caused considerable suffering. Interestingly enough, the town where I grew up, Modbury in England, recently banned plastic bags based on the model of Coles Bay, Tasmania.

Many countries have initiated a ban on plastic bags. Since 2003, South Africa has not allowed the sale of plastic bags, as has Bangladesh, believe it or not. In 2008, China introduced a ban on the production and distribution of high-density polyethylene bags. In 2002, India declared that all plastic bags must be greater than 20 microns in thickness, which was an initiative to stop fine plastic bags being utilised and ensure that plastic bags would be re-used. Hong Kong has implemented an education campaign called "No Plastic Bags". In 2009 in New Zealand, a number of retailers implemented levies on plastic bags as a result of community concern, and in Christchurch plastic bags are recycled independently. In 1994, Denmark established a tax on plastic bags. On the French island of Corsica, plastic bags have been banned since 1999. In Germany all stores that provide plastic bags must pay a recycling fee to the government to enhance recycling programs. Israel introduced a plastic bag levy in 2008. The list goes on and on. In Australia, a number of municipalities have taken the issue on board. The Howard government's push on the plastic bags issue led to many local governments developing bans on plastic bags.

Companies including Bunnings and Target—although it has now taken a different position—Ikea, McDonald's, Nando's and BP do not use plastic bags. Bunnings reduced its usage of plastic bags by more than 90 per cent by introducing a charity charge of 10c for each plastic bag.

On a number of occasions this Parliament has indicated that it supports, as members opposite said, a ban on plastic bags. Since 2001 this has been a perennial issue on which someone had to take the lead, and it seems to have been the local government of Fremantle, which must be commended for doing so. A good friend of mine, Peter Andren, who has unfortunately passed away, introduced legislation in the federal Parliament for the banning of plastic bags. Unfortunately, the bill lapsed and was never followed up.

During the federal Parliament debate on the National Environment Protection Council Amendment Bill 2002, many members spoke on the values of banning plastic bags, and in fact a plastic bag working group that comprised industry, community and state commonwealth and commonwealth representatives met on 24 October 2002 to develop a range of options for a covenant council to place before government. That, to my understanding, never came to fruition and again, unfortunately, fell by the wayside. Many attempts have been made in Australia to introduce a ban on plastic bags, but there does not seem to be the will at any level within federal or state jurisdictions to do so. We know, from the comments of Hon Dr Judy Edwards, former MLA, that, unfortunately, Western Australia is not in a position to introduce such legislation.

It has been left up to local government. Local governments across this state do a sterling job of things that governments at other levels fail to do. I think it is beholden on us to allow local authorities to try to look after their environment without being marginalised by the small debate we are having now. Plastic bags are a major international pollution problem in not only our oceans, but also our general open spaces. Port Hedland has done a lot to minimise the use of plastic bags since one international commentator said when passing through it that, "Unfortunately, all we could ever see were the piles of glinting aluminium cans and the plastic bag waste permeating through the environment." The Town of Port Hedland must be commended. That town has done it a different way and has achieved some reduction; however, there is no law that prohibits Coles or Kmart from issuing plastic bags. In Fremantle the local authority is really taking the bit between its teeth and leading by example. I conclude my comments, but there are certainly a large number of local governments in Australia that have taken the bit between their teeth and I do not see why the local government of Fremantle should be treated any differently.

**HON STEPHEN DAWSON (Mining and Pastoral)** [5.50 pm]: I, too, rise to make some brief remarks on this disallowance motion. I applaud Fremantle council for the work it has done in this area. It initially surveyed residents in the area and 1 000 people signed a petition in response to this issue. The local government acted to reduce landfill. It is a huge issue faced by not only this council, but also other councils right around the state. Some of the information I received suggests that an estimated 11 million bags pass through the City of Fremantle's domestic and street waste systems every year. A number of members in this place made very valid and valuable contributions. Hon Mark Lewis talked about this idea being unprecedented. However, we should

Hon Peter Katsambanis; Hon Robin Chapple; Hon Stephen Dawson; Hon Lynn MacLaren; Hon Simon O'Brien

---

not say to the City of Fremantle that it should not be a trailblazer on this issue. We should encourage local councils to act on these issues, particularly when successive federal and state governments have failed to act. As a former chief of staff in not only this state but also Victoria to ministers for the environment, I am well aware of the inaction of the ministers devoted to environment protection and heritage. They did not act. Hon Donna Faragher would have attended some of the relevant meetings and she would be able to confirm that those ministers failed to act. We should not be saying to Fremantle —

**Hon Simon O'Brien:** Hon Donna Faragher was a fine environment minister.

**Hon STEPHEN DAWSON:** She was a very good minister, absolutely—not as good as some of ours!—but she would be able to say that these ministers failed to act, and we should certainly not say to Fremantle that it should not act. The Minister for Mental Health said she reuses her plastic bags, but the reality is that not everybody reuses them. We have to encourage people to do that. In fact, sometimes we have to do more than encourage people—we have to legislate and we have to bring in laws to ensure that they change their behaviour. Hon Peter Katsambanis talked about the humble plastic bag being a good friend, and I have to say that the Liberal Party must be a very lonely place if the plastic bag is a humble friend of Hon Peter Katsambanis! What message are we sending to the community if we disallow this piece of legislation? Ordinary Western Australians are doing their bit to protect our unique environment for future generations. I am aware that former senator Noel Crichton-Browne has spoken in the media on this issue and made his views known. He has spoken about his concern about this legislation, and I dare say that some members on the far side will be guided by his views on this issue, and because of his views they may well vote against the legislation. I would urge them not to. This is a sound piece of legislation. As Hon Ljiljanna Ravlich mentioned earlier, the committee did not agree to all of it, but for the most part it agreed that this was positive legislation, and I certainly hope that the chamber does not disallow it.

**HON LYNN MacLAREN (South Metropolitan)** [5.54 pm]: It would be a sad day if I did not rise to defend a local council trying to ban plastic bags. This is not any local council; this is my local council. It is where I live and it is where my rates go. This local council is acting on the petition of its residents. If we do not represent the residents' will, what purpose do we have? One thousand people petitioned the City of Fremantle and asked it to do something to protect the environment. We know that Fremantle has been a leader in sustainability; we know that it has a low carbon footprint—in fact, I believe it is carbon neutral. This local government shows standout leadership when it comes to environmental sustainability. It has watched and waited as successive state and federal governments have completely failed in this waste management dilemma that plastic bag use brings us. My colleague, Hon Robin Chapple, has already brought to members' attention the fact that Coles Bay in Tasmania—members who have been there will know it is a little town in a beautiful environment, much like Fremantle—took leadership 10 years ago and decided to ban plastic bags. Did the state of Tasmania stop the town in that venture? No, the state of Tasmania did not move a disallowance motion to stop the town banning plastic bags. Coles Bay went ahead and banned plastic bags and it is now a leader in this waste management dilemma. In fact, we have a long list of councils that have taken this leadership. I have a list of municipalities in California that have banned plastic bags. I know we should not try to look overseas and say that there are places that are wiser or faster or more progressive than us, but in this case I draw members' attention to the fact that in the last five years, from 2008 to 2013, a total of 59 ordinances—that is, local councils in California—have banned single-use plastic bags in 79 jurisdictions. That is just the last five years; they just went and did it. Obviously their federal government is lagging behind too and those plastic bag bans occur at a local government level. Those local governments are not lagging behind. I draw members' attention to the fact that the model for the ban in most of these places includes a fee. When the City of Fremantle looked at how to implement this ban, it did not just pull the idea to charge 10c a bag out of the sky; it looked at what works. This is evidenced-based policy and that is why the city knows it will work to deter consumers from taking the easy option of getting a plastic bag. It is known that that a tiny fee of 10c will make a difference, and I think we have to respect that. In our roles we have to respect that the City of Fremantle has done its homework and developed a local law that its local constituents demanded. As Hon Ljiljanna Ravlich pointed out, the city worked with the Chamber of Commerce and Industry, which is the retailers, to develop this strategy. This is not being imposed from on high; it is the will of the people.

Here in Australia we know that other councils have taken similar initiatives. In Victoria, Birregurra, Cannons Creek, Murtoa, Metung and Timboon have banned plastic bags. Where are these places? Have members travelled to Timboon? I have not been to any of those places. There are also Cohuna and Leitchville. Had I been to those places, I would not have come away with a plastic bag! They introduced the same initiative as Coles Bay. In New South Wales, some places that have done the same thing and which are a bit more familiar to me, include Kangaroo Valley, Oyster Bay, Mogo, Orient Point and Huskisson, which I do not know. They have all banned plastic bags. Finally, communities in the Northern Territory that have banned plastic bags include Milikapati, Wadeye and Lajamanu, and the town of Yulara, which as the Leader of the House would know, is near Uluru.

Hon Peter Katsambanis; Hon Robin Chapple; Hon Stephen Dawson; Hon Lynn MacLaren; Hon Simon O'Brien

---

**Hon Ljiljanna Ravlich:** He wouldn't know that; he doesn't know anything!

**Hon LYNN MacLAREN:** He might know that; I have been there!

There are several key points I want to make about this list of councils. This is not space-age thinking; this is the stuff of local councils trying to reduce the waste in our environment and trying to give a good incentive for businesses to participate in the strategy. Those councils are looking at this issue from all of those perspectives. The case has been compellingly made by members before me.

*Sitting suspended from 6.00 to 7.30 pm*

**Hon LYNN MacLAREN:** Prior to the dinner break, I briefly outlined my argument. I also said that Hon Robin Chapple outlined a compelling case to support the City of Fremantle in its attempt to ban plastic bags. Several other speakers have provided us with further information about the reasons why they feel it is more important to support this disallowance. But I ask myself, is it possible for a local government to ban plastic bags?

I have already given members a long list of local governments that have done it, which demonstrates it is possible to ban plastic bags. What it does take is leadership. I have pointed out that both Mayor Brad Pettitt and the City of Fremantle councillors have demonstrated leadership in the field of sustainability across several areas. In looking at this matter, I also looked at whether it is fair to charge a fee. Yes, indeed, it is fair to charge a fee because currently businesses provide their customers with a plastic bag. However, we can be sure that somewhere in their pricing structure they are charging customers for the privilege of taking away their products in a plastic bag. Therefore, we acknowledge the associated costs. However, I also wondered and posed the questions: Who is it that we represent in the Legislative Council? Who is it that the City of Fremantle councillors represent? At the end of the day, it is the residents of Fremantle who have petitioned their council for this ban. That is the whole reason we are here today.

I, together with other members, have made comments to initiate plastic bag bans that, for some reason or another, both federal and state governments have failed to listen to. It is a matter that residents from all around the world feel is important in order to manage this devastating source of pollution. It is clear from my reading of the report that was tabled in the council that it is open for us to decide. I have been here long enough to see that when the Joint Standing Committee on Delegated Legislation tables a report, after having examined a law it believes the Parliament should disallow, its recommendation to disallow it is clear. This is not the case here. The case here is that the council wants the Parliament to make that decision. It is fair enough for the Parliament to apply that public interest test that Hon Ljiljanna Ravlich has pointed out; that is our role as members of the Legislative Council. However, the City of Fremantle is a local government that has been making a beyond-business-as-usual commitment to sustainability for many years, particularly under its current mayor, who was, by the way, re-elected only a couple of weeks ago. Therefore, if we are talking mandates, we could say that his leadership and direction of council is certainly supported given the most recent local government election results.

The City of Fremantle is the only government in WA that can call itself carbon neutral. It commits one per cent of rates annually towards renewable energy and energy efficiency-related projects. It has two sustainability officers who are responsible for strategic and technical projects. In short, the City of Fremantle is dedicated to responding to the needs of the community, the needs of the environment, to society and the economy. Earlier I mentioned that the Fremantle Chamber of Commerce was definitely part of this move. The city initiated the development of the proposed plastic bag reduction in local law in response to that petition. At that time it believed and it still continues to believe that it has local support. I do not know how many members were contacted by City of Fremantle council members, but they were certainly very concerned that we in this chamber would potentially derail this law at its very last juncture when they are so close to achieving this goal in their sustainability direction.

I just want to talk about Fremantle. I am sure the Deputy President (Hon Simon O'Brien) will agree with me that Fremantle presents a unique retail and shopping experience. People like coming to Fremantle because it is different; it is not your typical Westfield mall or your typical shopping mall. Fremantle is a city that is steeped in character and history. Many of the businesses that survive are boutique businesses. A lot of them know their clientele really well—I am thinking of Bodkin's Bootery in High Street or Japingka Gallery, which has been a very long-term Aboriginal art gallery. There are many interesting shops selling beads and jewellery. Fremantle provides a wide range of retail products. People go there because it is unique. They do not go there because it is enclosed and climate controlled, and offers the products that we would get anywhere else. Therefore, it is okay for the councillors representing the City of Fremantle to be the first people in this state to initiate this local law prohibiting plastic bags. They have helped to educate the community about why they are doing it.

I do not know whether members have received the City of Fremantle "BYO Bags Freo" materials that they prepared to educate the population about why they are undertaking this initiative. However, this is the public education campaign that Hon Peter Katsambanis had made mention of; namely, that part of the change we need

Hon Peter Katsambanis; Hon Robin Chapple; Hon Stephen Dawson; Hon Lynn MacLaren; Hon Simon O'Brien

---

to see in the world is public education. We need to teach people about why plastic bags are an issue in the environment and how we can do better. The City of Fremantle organised those materials to be prepared and circulated. It covered who in the world would ban plastic bags, which I had discussed earlier in my comments. The material talks about how it is a positive step towards sustainability. I do not want to be repetitive, but many members have already talked about single-use plastic bags not being okay for our environment. They can be used once or twice but they take hundreds of years to break down in landfill and, even worse, often end up polluting our natural environment and becoming a major threat to wildlife.

That is the issue about plastic bags in a nutshell. I think we can all agree that there is widespread opposition to plastic bags in general. When I looked at the disallowance potential here, I looked at how many plastic bags we use. Collectively, we use millions each year. As Hon Stephen Dawson mentioned, each year 11 million bags pass through the city's domestic waste and waste bin systems. Many community members have been working towards a reduction of plastic bag use. Australians still use over 4 billion plastic checkout bags a year, all made from non-renewable fossil fuels.

I visited Adelaide nearly six years ago, and there were no plastic bags in sight. If someone wanted a bag from Woolworths in the town centre, they had to pay to get one. This is not a new concept. It is not difficult for local governments to do. In fact, Western Australia is way behind in implementing this measure. I was surprised when members on the other side stood up and opposed this very important initiative. We could keep it going, support the local council and encourage other local councils to do it; but, no, instead of doing that we are hung up on —

**Hon Phil Edman:** You weren't even in the chamber.

**The DEPUTY PRESIDENT:** Order! Even by interjection, there is a convention in this place that a member who is not in the chamber is deemed to be absent on urgent parliamentary business. I hope members will not forget that.

**Hon LYNN MacLAREN:** I assure you that the audio visual system in my office is working quite well and I heard every single word in the chamber. I am responding because I am very disappointed with what has been said so far. It is important to me and my constituents that these issues are aired, that we recognise how important this issue is, that we move beyond what I consider to be insubstantial arguments and permit this local law to be passed and do not continue to perpetuate the notion that local councils are not empowered to do this. It is our right and responsibility to do it. Tonight we have that opportunity.

I know a lot of my constituents are concerned about this debate and will read the debate in *Hansard* and reflect on whether the government of the day is actually looking after their best interests and the interests of the bigger picture—the planet. It is very disappointing that tonight, due to the overwhelming opposition to this law, we are about to disallow a local law for a community that is trying to do the right thing. Mr Deputy President, I know it is not easy to hear the remarks I am making about the direction we are about to go, but it is important that I put on the parliamentary record my support for the City of Fremantle and its initiative and positive leadership in this direction. I strongly urge members to oppose any disallowance of this local law.

**HON SIMON O'BRIEN (South Metropolitan)** [7.44 pm]: I firstly compliment Fremantle Mayor Brad Pettitt, who I have spoken to once or twice today about this matter, and his colleagues at the City of Fremantle for the way that they have conducted themselves in this matter. I understand that the by-law being debated was formulated by the City of Fremantle in January, but because of the uncertainties of it being debated and resolved here now it has not yet been implemented. There is an admirable, mature and professional approach, and perhaps something that other agencies would care to emulate when introducing changes that might be held up for disallowance also.

I want to quickly explain what this debate is and is not about. We have again just had a debate on the issue of banning plastic bags. That is what has been given an airing today, but that is not what this is about; that is what we are bound to get whenever the subject comes up. The proponents will say that the City of Fremantle is showing leadership and reducing a waste management problem, and all the rest of it; opponents, of course, would and have pointed out that the initiative could potentially be counterproductive as the average Western Australian household uses plenty of plastic bags not captured by this by-law for a whole lot of things, including for shopping.

The other day I went to get a whole lot of fruit and vegetables from a place that prides itself on fresh fruit and vegies, and took along, as I always do whenever I am shopping—because I do the grocery shopping at least in our household—substantial reusable plastic bags, which I suspect are no more friendly to the environment than a bunch of thin plastic bags might be. I do try to do my bit. When I got to this particular shop, I put a number of purchases into each of those bags. Guess what they all had to be loaded into? They are loaded into other plastic bags that are not captured by this by-law because they do not have handles. Are we saying that if a person is

Hon Peter Katsambanis; Hon Robin Chapple; Hon Stephen Dawson; Hon Lynn MacLaren; Hon Simon O'Brien

---

going to get half a dozen tomatoes, for example, they have to be taken home loose? I do not know. That is the sort of debate we have revisited yet again, but that is not what this debate is about.

If anyone is following this debate—I know they will be—I want them to understand what we are deciding here tonight. It is not a re-run of the merits or otherwise of banning plastic bags for shopping or for anything else they might be used for. I am not going to canvass all of that, though I could point out the incongruity where some local councils provide free plastic bags and say they have to be taken when a person takes their dog for a walk in case that dog leaves a deposit in the park. Councils provide plastic bags to pick up the dog's business and to make a deposit into the bin provided by council for that purpose so that can be taken off and put into landfill.

**Hon Peter Katsambanis:** I hope it's not your business; I hope it's your dog's business!

**Hon SIMON O'BRIEN:** It is binning your dog's business! Let us not take up any more time arguing about that, because that debate will continue. I think society is having a more mature approach to this. I have just mentioned, for example, how I have a bunch of reusable bags in my boot, which I take shopping. That means I do not use five or six grey plastic bags to carry home groceries, but by gee, there is a lot of other plastic that goes into those bags, in packaging or in other ways that the goods are sold to me. That is enough of that for now.

What is tonight's debate about? This debate is about the disallowance of what is acknowledged as a unique law in Western Australia, which has a couple of interesting features. In discussing this matter with the Mayor of the City of Fremantle, he would say that once the matter is resolved, we can disallow it if we like. He said that if we are offended, as the committee seems to be, by this aspect of requiring a retailer to charge its customers for an authorised type of carry bag, by all means we should disallow it, but the council will simply turn around tomorrow or the next day and reintroduce the same by-law without that provision.

**Hon Ljiljana Ravlich:** That's exactly what they should do.

**Hon SIMON O'BRIEN:** It might, but again that is not the answer required. I can find quite a number of problems with this by-law in a cursory examination of it, but it is not my job to write a council's by-laws for it. I am more than happy to discuss it if that might help. As I have said before, this is not about the policy of whether we ban plastic bags; that is not what we are deciding here tonight. Members should not kid themselves if they think it is. It is about whether we as a state Parliament will entertain the idea that local governments can just go on their merry way, making up these rules and regulations and putting them on their community. I do not care if a local government has a petition from 100 people or 1 000 people to say that it ought to come in with a by-law about banning plastic bags, because there is more to making good laws for the community than simply responding to a petition. This is not about making a good law, no matter how well motivated the good folks of Fremantle local government are, and I will vouch for them. That is not the issue either. The issue is who should make laws, if any, about plastic bag regimes and who should decide whether retailers should be required to be agents of that law and must, under threat of prosecution, take 10c or whatever from their customers in exchange for any carry bag they provide, or whatever other details might be included in the scheme. It is not up to us today to worry about what a scheme might contain, but I know this: it is not up to the City of Fremantle to decide that it will go it alone. I will tell members what will happen; we will end up with 142 or so different regimes for what happens with plastic bags. That would be stupid. It would bring the law into disrepute if every municipality had its own separate approach to a plastic bag restriction scheme. It might be different in Melville, Canning, Gosnells and Armadale. That would be absolutely absurd.

The criticism alluded to by a number of members that the state government has failed to get it right or to pick up its responsibilities, if they are to be picked up in this, may well be fair enough. Therefore, perhaps the state government needs to address this question in one way or another. But one way it can do it, for now, is by noting that a local government should not be allowed to make these laws and go off on its own to provide for these things that should be provided for at another level of legislation. That is not what local government is there for. Judging by the reaction of the chamber in response to what I am saying—which in this case is relative silence—I think people are thinking about what I am saying, and I hope that they recognise that I am making a pretty good point. But if they do not and they are not persuaded and are going to persist and say, "We really, really want to ban plastic bags"—even though they are in some fantasy land where they are not banning plastic bags and are just doing something symbolic and ultimately hollow—they should consider this: if we want to defend the right of a council to have a few petitioners say it will bring in a local law about plastic bags, what will we do when a local government brings in another local law that says all retailers must provide plastic carry bags? What will we do then? It is exactly the same —

**Hon Robin Chapple:** It is within power under the Local Government Act.

Hon Peter Katsambanis; Hon Robin Chapple; Hon Stephen Dawson; Hon Lynn MacLaren; Hon Simon O'Brien

---

**Hon SIMON O'BRIEN:** It is not within power for local governments to go off on tangents and invent new laws in this manner. What will they do next? For the good of their community, they will ban Kentucky Fried Chicken in the municipality of Gosnells!

Several members interjected.

**Hon SIMON O'BRIEN:** I did not realise it was such a sensitive issue. We will allow it in Gosnells, but let us ban it in the City of Wanneroo. Are we going —

Several members interjected.

**The DEPUTY PRESIDENT (Hon Amber-Jade Sanderson):** Members!

**Hon SIMON O'BRIEN:** That is the sort of thing we as a state Parliament risk if we uphold the view that local governments are in power to do the sort of thing that we are considering now. They are not, and it would be silly for us to pursue the course of action being contemplated by those who want to uphold the power of, in this case the City of Fremantle, to do it. In my remarks I have acknowledged the professionalism and the commitment of the mayor and officers of the City of Fremantle.

**Hon Ljiljanna Ravlich:** They'll know it's just lip-service.

**Hon SIMON O'BRIEN:** That was a stupid and immature interjection.

Several members interjected.

**Hon SIMON O'BRIEN:** I meant that as a compliment! It shows Hon Ljiljanna Ravlich has at least one area of expertise because she is quite consistent in it! I better impress you, Madam Deputy President. I respect the motives of the City of Fremantle and the way it has gone about it. I recognise and, indeed, try to promote the view that we need to do something about plastic bags. It is probably up to the state government, if legislation is to be the answer, to introduce that. But already the Western Australian community, through retailers such as Bunnings going away from providing plastic bags, is moving towards a society that is free of the need to rely on the polluting and evil plastic bag. However, there is still a place for them in our society. It is a debate that will continue to be had, but the debate tonight is about whether we want councils going off and suddenly inventing a lot of new laws about what people and retailers and their customers can do in their own private transactions. That is something that needs to be resisted quite firmly and positively, and that is why the disallowance should be upheld and agreed to.

*Division*

Question put and a division taken, the Deputy Chair (Hon Amber-Jade Sanderson) casting her vote with the noes, with the following result —

Ayes (20)

Hon Martin Aldridge  
Hon Ken Baston  
Hon Liz Behjat  
Hon Jacqui Boydell  
Hon Paul Brown

Hon Peter Collier  
Hon Brian Ellis  
Hon Donna Faragher  
Hon Nick Goiran  
Hon Dave Grills

Hon Nigel Hallett  
Hon Alyssa Hayden  
Hon Peter Katsambanis  
Hon Mark Lewis  
Hon Rick Mazza

Hon Robyn McSweeney  
Hon Michael Mischin  
Hon Helen Morton  
Hon Simon O'Brien  
Hon Phil Edman (*Teller*)

Noes (11)

Hon Robin Chapple  
Hon Alanna Clohesy  
Hon Stephen Dawson

Hon Kate Doust  
Hon Adele Farina  
Hon Lynn MacLaren

Hon Ljiljanna Ravlich  
Hon Amber-Jade Sanderson  
Hon Sally Talbot

Hon Darren West  
Hon Samantha Rowe (*Teller*)

---

Pairs

Hon Col Holt  
Hon Jim Chown

Hon Ken Travers  
Hon Sue Ellery

Question thus passed.