

Australia. Not only will the role have the potential to more accurately report on the number of child abuse notifications in this state, but also it could crucially develop ways to break down reporting barriers in the first place. For that to occur, the role needs time to develop. If we wait another two years for the commissioner to have the capacity to start that work, we will have lost four years of the reporting of abuse. Just think about that.

I am strongly of the view that the proposed changes to the act should happen and still allow for the recommendations of the royal commission to be considered when they become available. To this end, the committee has agreed to make a formal response to the review of the Commissioner for Children and Young People Act 2006.

The committee is happy to note the announcement that the recruitment of a permanent commissioner will start soon. We do not yet have an end date for when the government expects to have a commissioner in place, but it has been more than two years, again, since it has bothered to fill this role substantively. The committee will follow the process closely, as we remain concerned about the delay in appointing a permanent commissioner.

Finally, I would like to formally thank my fellow committee members for their work and dedication to children and young people, and the work of the commissioner. I would also like to express the committee's appreciation for the work performed by our principal research officers over this time. For a short time it was Dr Loraine Abernethie, and then Ms Lucy Roberts.

ECONOMICS AND INDUSTRY STANDING COMMITTEE

Third Report — “The Management of Western Australia’s Freight Rail Network” — Tabling

MR I.C. BLAYNEY (Geraldton) [10.03 am]: I present for tabling the third report of the Economics and Industry Standing Committee entitled “The Management of Western Australia’s Freight Rail Network”.

[See paper 2300.]

Mr I.C. BLAYNEY: I rise to present the committee's third report of the thirty-ninth Parliament. Although the report is entitled “The Management of Western Australia’s Freight Rail Network”, the report is concerned with the lease arrangements and the management of the lease over the lines in the state's south west that operate currently under a 49-year lease.

There are a number of reasons for the committee viewing this as an important issue, and one that should be the subject of an inquiry. First is the importance of the network to state development, particularly given the existing and predicted freight task. Second, although the network is subject to a 49-year lease, it remains a significant and valuable state asset, owned by the government on behalf of Western Australians. Third, the negotiations between CBH Group and Brookfield Rail have seemingly reached an impasse, with the Economic Regulation Authority being involved for the first time in a floor-and-ceiling cost determination as provided under the Railways (Access) Code 2000. Fourth, the Auditor General's 2013 report noted a number of concerns in relation to the management of the lease. Fifth, at the time this inquiry was initiated, tier 3 lines were earmarked for placing into care and maintenance—something that happened on 30 June 2014. Sixth, there is concern in relation to the potential for tier 2 lines to be similarly placed into care and maintenance. Seventh, there is a lack of transparency and considerable public confusion and anxiety about the provisions of the lease and the roles and responsibilities of all parties to the lease. Eighth, there seems to be a resurgence of rail in the freight market in other jurisdictions such as the United States and the United Kingdom, which raises the question of why in Western Australia some lines have become non-operational. Ninth, the lease and subsequent variations and agreements appear to put Brookfield Rail—a natural monopoly provider—in the position of holding all the aces, to the potential detriment of state development.

In light of the above, the committee determined to undertake its inquiry in an effort to clarify matters and find ways to resolve some of the issues raised. I would like to thank my fellow committee members, the members for Cockburn, Willagee, Moore and Joondalup, and the committee staff, Dr Loraine Abernethie and Mr Michael Burton. I think I can say that this inquiry and reporting has been the most difficult and stressful work I have done in the committee since I joined the Parliament in 2008—the staff and other members may agree. I look forward to now going back to complete the committee's inquiry into floating liquefied natural gas production in the areas of opportunities and safety.

Edmund Burke was an Irish political philosopher and a Whig politician. He lived from 1729 to 1797, and is widely regarded as the father of modern conservatism. He is also generally regarded as the author of the expression “All that is necessary for the triumph of evil is that good men do nothing.” I am not saying that the committee has discovered evil; I am, however, saying that the committee has come to some decisions concerning background material or evidence to the inquiry that we could have accepted as confidential, produced a cryptic report, and walked away washing our hands. We would have left the people of the areas serviced currently by third tier rail, and maybe other tiers in the future, to their fate, wondering, as they currently do, what on earth is in the lease document and its various attachments. We could have left future miners to battle to get access to the

lines, like Karara, or walk away and use trucks, like Sinosteel and maybe Top Iron. Instead, the committee has decided to take the step of releasing with the report quite a lot of the information it has gathered. This basically reveals information on which commercial confidentiality has been claimed, which is something I as chair have agonised over and lost a large amount of sleep on for the last month or two. The decision for me was made easier in reading in the Auditor General's report that Brookfield had already sought an extension to the lease, and the rejection of a commonsense proposal from CBH to sublease the third tier lines, with an agreement that they revert to Brookfield if an alternative use is proposed; that is, another Karara. I am, frankly, amazed that such a commonsense proposal was rejected.

At that point I finally believed that the committee should place all the information it could into the public arena in the interest of all Western Australians, but in particular for the people of the eastern wheatbelt, who had literally pleaded with us to do so. I am glad that the rest of the committee agreed with me. I spent seven years going at least one hour each way every school day on a school bus on a busy highway, and then I put my own children onto the same bus for about seven years. When people in the third tier area say to me that they do not like all these trucks being on the roads and mixing with school buses, I understand what they mean because I have been in their shoes. I will now work my way through the chapters of the report, mentioning highlights from them. This is a complex subject, and so I ask anyone who has an interest to read the report carefully, and maybe a number of times.

As the member for Geraldton, I have taken a keen interest in the development of the Karara mine and its railway and port facility. I have visited the mine maybe 10 times, and its main shareholder, Ansteel, at Anshan in Liaoning Province in China. I travelled the line to Morawa from Geraldton, when it was being upgraded from one end to the other, with my friend Bruce Eldridge, the permanent way superintendent of the north. I was asked to open the rebuilt line at Queens Park Theatre in Geraldton, which I did. Observation, and what I have learnt, tell me that Brookfield knows how to run railways. They are railway people, as they say. I do not have any issues, from what I have seen and heard, that the railways are run properly.

The Western Australian freight task is growing, and of course it needs to be efficient. Some evidence to the committee has indicated that, in relative terms, rail is gaining in competitiveness against road, and will continue to do so. The tonnage carried on rail has grown since the lease by 113 per cent, and should, and needs to, continue to grow.

Initially, the lease was sold along with the rolling stock. The case is strong for vertical integration of above and below rail, in low tonnage lines. Indeed, we have probably come to this point—the closure of the third tier rail lines—because the separation of above and below rail on low tonnage lines finishes them. Effectively, a vertically integrated operator maintains lines like the third tier, with revenue from them, as a means of getting freight onto the rest of its network—that is, it is a break-even situation. Break the vertical integration, and the ability to do this is gone. At the time of the sale of the lease, vertical integration was the clear preference of the government. However, it was not put into the lease, so down the track Wesfarmers took its profit and the above and below-rail operations were sold to separate companies. The government had not retained a right to give assent to this. At the time of the original sale, a press release was put out, claiming that the purchaser was to invest \$400 million in track and rolling stock over the following five years. Once again, this was not in the lease, and seems at that point to have been forgotten. The Department of Transport was not involved in the sale process. If it had been, maybe the marshalling yards around the network would not have been sold to the then above-rail operator—something that has become a barrier to new entrants.

Over the next few years, other issues were starting to emerge. The government, through various consultations, arrived at the strategic grain network review, which was the origin of the classifications of tiers 1, 2 and 3. Tiers 1 and 2 were seen as viable, and tier 3 as unviable. Tiers 1 and 2 were slated for investment, and tier 3 for closure. The government put a mixture of funds into rail, roads and the Brookton strategy. I will not elaborate here, but investment in the last two was not what was intended. At this time, the single-desk marketing structures were abolished, which led to conclusions that growers would choose to cart a lot of their grain directly to port, which basically did not happen. The SGNR also seems to anticipate a sharp fall in grain production in the eastern and south eastern wheatbelt. This has not been realised. Advances in production by measures of water use efficiency indicate that production is being maintained, and growers are confident of their future. Shortly after this, Co-operative Bulk Handling Ltd introduced its own advanced rolling stock, and a skilled operator from the United States, Watco. One of our witnesses, Dr Fred Affleck, was the chair of the SGNR committee. On the subject of the CBH rolling stock, he said that it has quite fundamentally changed the way in which the business of grain freight conveyance in Western Australia is conducted. In CBH's opinion, with its rolling stock, tier 3 is absolutely viable.

The SGNR document is now really quite outdated, with the assumptions in it having been challenged as outlined. It is no longer a document on which to base grain freight policy. However, the real crucial change to the original lease was introduced at this time. Until this time, the lessee had a choice of what to do with third tier rail. It could be kept fit for purpose, to the standards of the original lease, or, via a complicated process, be returned to

government. However, at this time, an amendment was introduced into the lease to allow the lines to be put into what was called “care and maintenance”. This effectively means that Brookfield does not have to maintain the lines to an operational standard and it does not have to hand them back, but it can deny their use to anyone else. This is the origin of the current situation. The committee has concerns that this arrangement may be extended to other lines in the future.

The Railways (Access) Code 2000, administered by the Economic Regulation Authority, is an attempt to stop the lessee from abusing monopoly power. Its current use by CBH, being its first in 15 years, would lead to the conclusion that it is ineffective. The other catch 22 of this situation is that it has been difficult to review an ineffective process that has never been used. There are many aspects to the code that are complex and difficult to understand. The code is important because a privately run monopoly cannot be called a “robust, contestable market”. In the words of Dale Park, of WAFarmers —

when we are looking for efficiencies in an industry, we either have transparency ... or you have competition. One of the problems is that with the grain on rail freight, we have neither.

A way to have a better informed market may be to have a public information board that carried the agreed rates for contracts.

We have considered two case studies of the code, the first being the Karara mine in the midwest—Western Australia’s first magnetite mine—and the other being the CBH access proposal. The process is very lengthy, and, in the case of Karara, there being no obligation to upgrade the line by the lessee meant that direct negotiation was the only way to achieve an adequate line. Karara ended up having to provide some \$300 million in bank guarantees, sign a 15-year take-or-pay contract and accept being excluded from use of the code for the term of the contract. It is hard to see the Karara experience as being attractive to foreign investors looking to start a new mine. The management of the lease by the Public Transport Authority was looked at closely. The chosen model is called “light touch”, whereby the interests of the state and the lessee are well aligned. Light touch may be adequate in these circumstances, but when these interests are not well-aligned, a heavier touch is probably required.

Questions arose in several grey areas. There seems to be confusion about where the line exists between capital investment and maintenance. Rail can be maintained in two ways—regular replacement of sleepers that need replacing, or cyclic replacement of all of the sleepers in a line. Maintenance has been traditionally funded from operating revenue, and there has frequently been a call to government for extra funds for cyclical replacement. However, there does not seem to be an underlying agreement or plan defining the split between the two, and there appears to be no evidence of a sinking fund for the coming cyclical repairs of a large amount of the track, of which there will be at least one between now and the end of the lease. In a similar vein, the end of the lease will need careful management, with a clear financial incentive for the lessee to run down the lines, and a need for a government asset to be returned in the same condition in which it was originally leased. Similarly, the advent of care and maintenance to the lease in 2010 has led to the current impasse. However, no definition of this term and the obligations it imposes on the lessee appear to be available.

In the committee’s visit to the eastern wheatbelt, the impact on the local governments of the eastern wheatbelt of the closing of the third tier was starkly explained. The damage to a number of councils’ roads is projected to increase their maintenance bill to in excess of their total revenue capacity. Councils feel that they have not been listened to for a long time on an issue that will impact on their roads, their finances and their communities. A situation that has arisen with deregulation is the concentration of grain exports in the first six months of the year. This will mean that a large proportion of the freight task is being carried at a time when the ground underneath the roads is wet, increasing greatly the likely damage. The roads in the main in the tier 3 area were built in the 1950s and 1960s and are, in the opinion of the shires, inadequate for the task and the size of modern trucks. Most people were of the opinion that “licorice strips” being used to widen the roads were in the main not durable. Personally, I feel that it is quite likely that the costs of using road instead of rail will be greater.

There are many aspects of the current lease that I think will impede state development. I think the case study of Karara is instructive. Karara found itself negotiating with a monopoly, and considered the code of no use. The lessee has no obligation to upgrade lines. There is no public pricing information. Karara largely carries the risk via a bank guarantee. It has a 15 year take-or-pay contract and it is excluded from the use of the code during those 15 years. Because the upgrade has been funded by private investment, the performance standards of that line have not changed.

As I have said, the case for rail is strong and getting stronger. It keeps bulk freight off the roads. In many parts of the wheatbelt, the roads are old and unsuited to large modern trucks. Rail is now cost competitive. Road safety is a genuine and serious concern to the people who live in the wheatbelt, and rail saves a large amount of fuel.

Vertical separation is a serious problem. In the opinion of the Productivity Commission, it does not provide economic efficiency on low-volume lines. Watco—CBH’s partner—runs 29 short-line railways in the United States. The model relies on the revenue from these railways to cover their maintenance. Such a model

would work here and would probably result in more grain being transported on Brookfield's other lines. It seems a commonsense model—everybody wins.

Some of our final witnesses were a couple of farmers from Gnowangerup. They had heard about the inquiry and had requested a hearing. Both farm in an area where the lines have closed. We fitted them in on a lunch break on a day when the house was sitting to give them their chance to be heard. I was particularly struck by the remarks that one of the farmers, Richard House, made towards the end of the hearing. He said —

We should put the cards on the table and actually solve this problem as a team, as a whole state—growers, politicians, both sides of the party —

I suspect he meant both sides of the house —

—because it is beyond politics, I believe.

That is an outbreak of commonsense from the bush. I hope that out there in the ether, someone is listening in Brookfield's corporate headquarters, be it in Bermuda or Toronto or wherever, and intervenes and sorts out this situation. As I have said, a win-win outcome is possible and all it will take is people of goodwill to sit around a table. The report has shown a number of other concerns about the lease and its management, and I look forward to the government's and industry's response and actions to the issues raised.

MR F.M. LOGAN (Cockburn) [10.21 am]: I will not go into the detail of the report that my colleague and Chairman of the Economics and Industry Standing Committee, the member for Geraldton, has because I think he has given a fine explanation of it to the house. However, before I talk about the report itself, I would like to comment on the difficulties faced by the committee in doing its job. I would like to comment on the behaviour of the Public Transport Authority in continuing to stifle and obstruct access to key documents and its apparent misunderstanding of the role of Parliament and parliamentary committees, and their primacy. In particular, and surprisingly, there was the lack of understanding of the director general of Transport, Mr Reece Waldo, who is a very senior bureaucrat who has been around government for many, many years. I would also like to comment on the behaviour of the Minister for Transport himself in supporting the role of the Public Transport Authority in making it difficult for the committee to get access to documents and his refusal to release documents to the committee. A facade of secrecy was created over access to documents by determining or claiming that such documents were cabinet-in-confidence even though those documents had not been before cabinet. I also comment on the antagonistic behaviour of Brookfield Rail, which continually challenged the capacity and the role of the committee through its lawyers. I also express my genuine surprise at the legal profession here in Perth, for, again, as with the director general of Transport, its apparent misunderstanding of the role and powers of Parliament in Western Australia and, in particular, the role and powers of parliamentary committees. All these issues made it particularly difficult for the staff of the committee to drill down and find specific information vital to this report. It is not appropriate for committees of the house to continue to subpoena people before committees in order to get evidence. It is not appropriate for committees to do that, but that was a situation we were left with on our committee because of the behaviour of the minister, a wide range of public servants and, of course, the players in the rail freight lease, in particular Brookfield Rail. I raise these things because I believe that the behaviour shown to our committee by both the public sector and private operators is so disgraceful that it should itself form the basis of an investigation by the Procedure and Privileges Committee into the behaviour of the executive government and the bureaucracy in Western Australia and its continuous attempts to undermine the role of parliamentary committees.

Turning to the report itself, I put on the record that the Western Australian Labor Party opposes privatisation and here is a classic example of the reasons why. The privatisation of Westrail's freight network, as it was then, in 2000 is a classic example of how a government should not sell a key monopoly asset. The executive summary report states —

While Chapter 7 acknowledges that the actions of PTA in some circumstances should be balanced against the positive outcomes that flowed from the SGNR process, —

This is the point I am coming to —

the current lease arrangements and the management of the lease has allowed sections of the freight rail network to become a frozen state asset.

That is what we have been left with as a result of what I put to the house is a botched privatisation of a monopoly state-owned asset. A key infrastructure asset in Western Australia is a frozen asset because it is unable to be accessed by private companies, even though they want access to use that rail infrastructure. That is the situation we have been left with and there is nothing the state government can do about it under the 49-year lease that was signed in 2000. That is the extent of how that privatisation was botched. The tier 3 lines, vital assets in our state's booming agricultural industry, particularly the grain freight lines, were closed on 1 July 2014 because of a number of factors. As we have heard from the chair of the committee, the member for Geraldton, in 2007 the network was broken into above ground and below ground without the specific contract clauses in the lease being

amended to regulate the behaviour of the below-ground operator, Brookfield. Then, in 2010, a reduced standard on care and maintenance was agreed to, and that was included in the project agreement for capital works on dedicated narrow gauge. Introducing what is effectively a lower standard for care and maintenance allowed the below-ground operator to determine such tier 3 lines as uneconomical and unilaterally close them. There was nothing the state could do about it because of the way in which the lease was framed prior to 2000 and after it was signed off in 2000. We were left absolutely hamstrung and that is unacceptable in a state such as Western Australia, where agricultural industry is transforming through technology, new biological practices and genetics that allow farmers to grow a far greater amount of grain in a lower rainfall environment and therefore to produce more grain for sale to the international market. The state should not be hamstrung in getting that grain from where it is grown to port because of a flawed lease that was entered into in 2007. That should not be allowed to happen, yet that is the situation we are in. Regulation of the lease might have been able to help farmers had not the regulator, the Public Transport Authority, acted in such a timid way. The lease expected, and the view of the Public Transport Authority was, a light-touch approach. I can assure members that when they read the report and see the evidence that has been gained as part of our committee's work, the Public Transport Authority certainly exercised a light touch to the management of this lease. As I pointed out, this has led to a major section of the state's economic industry—the agriculture industry that is growing and producing more grain—and the state, particularly as a state government, being unable to manage the transportation of that grain in an environmentally sustainable way by ensuring that that grain goes on rail. This is an unacceptable situation for the state of Western Australia.

Other parts of the report go to the behaviour of both the Public Transport Authority and Brookfield Rail and their relationship with other people in the state. I ask members of the house to consider this report carefully.

MR R.S. LOVE (Moore) [10.31 am]: I, too, would like to make a contribution on the report of the Economics and Industry Standing Committee inquiry titled "The Management of Western Australia's Freight Rail Network". I start off with some thanks: firstly, to fellow members of the committee, the member for Cockburn, from whom we just heard; the member for Joondalup, who I think will make a contribution shortly; the member for Willagee, who is not here today; and most of all to the chair, the member for Geraldton, who has done a very good job of guiding the committee through this quite lengthy process, and I thank him for his efforts. I would also like to acknowledge Dr Loraine Abernethie, principal research officer for the committee, and Michael Burton, research officer; and also the many people who made submissions and participated in hearings who helped on this matter.

The importance of this subject is twofold. First, it is important to examine the freight rail network, its management and performance, and how the current arrangements are bringing positive change and helping to further state development, or, if in fact, they are hampering state development. Second, it is important because it serves as a case study for further privatisation of state-controlled assets, especially those in the situation of natural monopoly.

The freight network is important to the ongoing economic strength of the regions it serves and rail is a key component of that, especially in moving large quantities of bulk product to port from mining and farming areas. The committee heard evidence and received submissions from the track operator, Brookfield Rail; from its customers—the state's grain handler, miners, farmers—road transport operators and local governments in both the regions and the city, as well as members of the community, again from both regional and city areas. There is no doubt that a great deal of controversy and community concern has been generated since the development of the state strategic grain network review, and government investment decisions made subsequent to that review. This was made clear to the committee when hearings were held, especially in Bruce Rock.

The review categorised rail lines in three categories: tier 1, core viable lines that were carrying heavy volumes; tier 2, lines that were economically competitive with road but required some investment to be made; and tier 3, lines that were deemed non-competitive with road transport. Interestingly enough, despite being designated as highly priced and competitive with road, the SGNR still recommended that \$121 million be invested in tier 1 lines by the public, indicating that even the most heavily trafficked lines still apparently need a level of government assistance to remain viable. The non-investment in tier 3 lines was to be accompanied by expenditure on the road network to provide alternative pathways to port. The committee has seen that much of this work appears to be completed, yet the road network in grain-growing areas remains in a parlous state. In many areas we see the replacement of a state-funded asset, the rail, with a local government-funded road. In coming years, this will represent a major cost shift to local communities as outlined in chapter 8 of this report. The inevitable cost burden in dollar terms this will place on local communities is real and needs to be addressed. The concern for community safety on the roads is also very real and is very strongly felt by those who gave evidence. It would appear that all parties, including the PTA, acknowledge that the assumptions that led to the agreed path that was laid out by the SGNR are now no longer valid, yet without action the situation appears to be locked in. Of note is the fact that recent government investment in rail may need to be repeated throughout the

life of the lease. This is a circumstance that needs to be addressed sooner rather than later as the future of the tier 2 Miling–Toodyay line, carrying around 400 000 tonnes of grain per annum, is now in question.

The report points to a number of deficiencies in the public administration of this asset. There appears to exist a culture of unnecessary secrecy, which has led to a degree of public disquiet about the use of what is a public good—the state’s southern rail network. This disquiet has built up due to protection of commercial information of the operator. This in itself is quite a legitimate act and not necessarily wrong; however, there is a broader public interest that also must be considered, not just the view that in an open and free society, treaties that effect infrastructure and services owned by the public or are essential to the public are quite rightly of widespread general interest. Transparency can also help to ensure that the decisions that the regulators make are in the best interests of the community, not just of the infrastructure service providers. It is in the interests of greater transparency, while still being mindful of those commercial interests, that the committee has decided to table today a number of documents, as outlined by the member for Geraldton, the chair, including the original lease and a redacted version of the capital works agreement that was brought about as a result of investments made under the government response to the SGNR report.

The sale of a public asset should not just be about realising the best sale price at the time. Although that is quite an important aim, it must also be the case that government carefully considers the implications of that sale on the wider community and on the economy of our state. In my view, rather than a simple one-off financial dividend to the government of the day, bringing private investment to an asset should also aim to increase the efficiency and cost effectiveness of its operation. Achieving this greater efficiency will not necessarily be achieved simply by having a private operator. Any business will aim to maximise the returns it can make for its owners, and in the situation of a monopoly, this can bring obvious dangers. Without careful regulation, including effective price control, there is less incentive to grow profit through doing the hard yards and hard work and delivering a leaner and more efficient business; it is much easier to use that natural monopoly to lift prices. The situation becomes even more dangerous when there is an expectation that the public, the state, will partner in capital expenditure that needs to be made. Even if members and the public are not particularly interested in the freight rail network, I recommend they read chapter 3 of this report as an illustration of the importance of careful consideration of the sale of a state asset that could constitute a natural monopoly; and also chapter 7 as a manual on pitfalls awaiting regulators expected to manage that monopolistic situation. Perhaps we should not judge the individuals operating regulatory agencies too harshly when reviewing those decisions made in the past. It is almost inevitable that in discussions and bargains being made between career public servants and business operators whose next feed, really, depends on reaching profit targets, the business guy will usually come out on top. We have seen recently, though, with the coal price situation in Collie that even when the public service has a good result, it sometimes has to be mitigated to meet the wider interests.

I commend this report to the house and I hope that members find it instructive. If nothing else comes of this report, I hope it informs us of the need to ensure that the long-term interests of the economy and the wider public are served as we look to a round of asset privatisation in this state and the nation in the future. I will leave members with the simple question that is posed, at the very start of the report, by the chair of the Nobel Economic Sciences Prize Committee, Tore Ellingsen. He asks: what sort of regulations do we want to put in place so large and mighty firms will act in society’s interests?

MR J. NORBERGER (Joondalup) [10.40 am]: I would like to briefly take this opportunity to add my comments on the tabling of the Economics and Industry Standing Committee’s report, “The Management of Western Australia’s Freight Rail Network”. I certainly acknowledge the contributions that have already been made by my fellow committee members. I will start by thanking the committee members. I truly enjoy being part of the Economics and Industry Standing Committee. I think we work very well together. I acknowledge our chair, the member for Geraldton, Mr Ian Blayney; the deputy chair, the member for Cockburn, Hon Fran Logan; the member for Willagee, Mr Peter Tinley; and the member for Moore, Mr Shane Love, whom we have just heard from. Obviously, we would not get too far without our wonderful secretariat, Dr Loraine Abernethie, our principal research officer, and Mr Michael Burton, who do a fantastic job of supporting us.

This report has been highly interesting. It has obviously been very topical in relation to what is happening in the community at the moment. It was surprisingly complicated. From the outset, I did not think it would be as difficult an inquiry as it turned out to be. I think the chair indicated that in his time in this place—he has been here a lot longer than I—it is probably one of the most difficult inquiries that have been undertaken. I look forward to getting some credits towards a law degree after having finished this inquiry!

A couple of other members went into a little more detail on the point that not all the stakeholders were as supportive as they could have been, and that is quite disappointing. I will leave it at that. I think members and the members of the public who read the report will be able to ascertain what we mean by that.

The key aspect of the committee’s inquiry was to report on whether the current lease arrangements and the management of the Western Australian freight rail network either facilitate or hamper state development. That

was the key aspect of what we wanted to find out. According to many witnesses we heard from, the answer clearly is that state development is being hindered. They pointed to evidence such as the fact that lines have been placed into care and maintenance; more trucks are now on our country roads; access agreements are stuck in arbitration; a lack of transparency exists; access seekers are up against a monopolistic service provider; and the Economic Regulation Authority has extremely limited powers to assist the situation.

Beyond that, to truly evaluate whether the current lease has been a success requires us to determine what the original intentions were. I will draw from some of the information in the report in and around that. It was quite clear that the decision to sell Westrail's freight business and lease the freight rail network was intended to realise a number of benefits to the government and the wider community. The anticipated benefits of selling the freight businesses included the introduction of an efficient, innovative specialist private rail operator committed to the sustainability of rail transport in a competitive market and willing to make the necessary investments to improve rail's market share; and a renewed stimulus to increase freight tonnage on rail, have better services and, importantly, decrease freight rates and increase investment in rail infrastructure and rolling stock. Another ambition was to reduce the community costs, such as the environmental costs of greater fuel use and the resultant pollution, higher road maintenance costs and the social costs of road congestion and road crashes. There was also the potential for rail to capture as much as possible of the forecast greatly increased bulk freight demand over the coming decade and so avoid a massive increase in heavy truck traffic, and the potential to capture or recapture freight from road transport. Those were the ambitions that the government of the day wanted to achieve from the sale of the above-rail assets and the lease of the below-rail assets.

The decision to lease the below-rail business, as opposed to selling it, and, more importantly, the decision to lease the below-rail business to the purchaser of the freight business, thereby creating a vertically integrated operation, was to allow for maximum economies of scope and scale; maximum responsiveness to customers' needs and new opportunities; integrated above and below-rail investment; capital investment in the infrastructure greater than government can provide; and the minimisation of costs on low-volume routes. We have already heard from the chair and the member for Cockburn how important this vertical integration was to the original model and ideal of the sale and lease of this freight business. In fact, to achieve the aim that I have just pointed out, the vertically integrated model was an absolutely key aspect. That is evidenced within the lease document. Recital E of the lease document states, amongst other things, that the objectives of the agreement include disposing of the freight business on a vertically integrated basis and ensuring that a person using or occupying that part of the network comprising standard-gauge track has a financial or legal interest in the continued maintenance and operation of the narrow-gauge track.

Indeed, vertical integration was also raised during the second reading speech of Hon Hendy Cowan, MLA, for the Rail Freight System Bill 1999, in which he acknowledged that some people had been pressing for vertical separation of Westrail into a track owner and a train operator. Nevertheless, the clear advice to the government was that this would lead to a loss of efficiency to the detriment of users, the economy and, ultimately, the state as a whole. Mr Cowan also referred to the Productivity Commission draft report on the inquiry into progress in rail reform, which concluded that vertical separation was unlikely to deliver any significant competitive gains for low-volume regional railways and, far from improving the performance of low-volume regional railways, vertical separation may actually impair it.

An interesting thing happened in 2006. The Australian Railroad Group, which was trading as WestNet Rail, was sold. The above-rail component of the original sale went to one entity, Queensland Rail, which is now Aurizon, and the lease for the below-rail entity was sold to a separate entity, which is now Brookfield Rail. This separation of the vertically integrated model has been significant and it has had a significant impact on why we find ourselves where we are today. Most disconcerting of all was that there was a clause in the original lease that would have given the government of the day a veto right, if you like, or the ability to have a say in whether that was allowed to go ahead. Interestingly enough, that clause was negotiated out of the original lease, which meant that the government did not even need to be consulted. Although vertical integration was seen from the outset as quite critical in attaining the various benefits that we wanted to attain for the government, the state and the economy—it was mentioned in the second reading speech, the lease document and the documentation leading up to the sale—the very clause that would have given us the protection of maintaining that vertical integration was negotiated out.

The loss of vertical integration was significant and was no doubt a key reason why we have line closures today. The loss of vertical integration made it significantly easier to achieve the non-economic test, which Brookfield Rail needs to meet to prove that certain lines are non-economical for it to either surrender them or, through later changes, put them into care and maintenance. That said, many other issues that are addressed in the report contribute to the current situation, including a lack of transparency, a lack of meaningful powers for the ERA, a lack of meaningful step-in rights for the government, and the management style of the Public Transport Authority over the lease. As such, there are many lessons to be learnt and, although I am a supporter of sensible privatisation initiatives, especially when such activities can facilitate either renewed infrastructure projects or the

containment of debt, this report highlights how extremely carefully such contracts need to be constructed to ensure that the public good and the ability of the government of the day to maintain meaningful influence are not entirely lost, especially when dealing in a monopolistic setting, as is the case with our rail freight network.

I thank the committee for its work on the report. It is a heavy read, but certainly I commend the report to the house. There are some very meaningful lessons to be learnt from this exercise; and, not only are there lessons to be learnt, but also opportunities to be grasped as we move forward to ensure that the rail network, our public asset, is used to the most optimum effect for the benefit of our economy.

STATE FOREST 56

Partial Revocation of Dedication — Motion

MR A.P. JACOB (Ocean Reef — Minister for Environment) [10.51 am]: I move —

That the proposal for the partial revocation of state forest 56, laid on the table of the Legislative Assembly on Wednesday, 15 October 2014, by command of His Excellency the Administrator, be carried out.

The state forest revocation proposal that has just been tabled relates to the proposed Margaret River Perimeter Road, or town bypass, and requires the excision of a portion of state forest 56. The area proposed for excision totals 24.49 hectares and is located north of Margaret River.

Main Roads Western Australia proposes to construct a new road east around the Margaret River town site. This road, currently known as the Margaret River Perimeter Road, is anticipated to remove heavy vehicle traffic from the main street of Margaret River and provide an alternative route for those travelling through Margaret River. In November 2013, 10.6 per cent of traffic through Margaret River was considered heavy vehicle traffic, which equates to approximately 400 heavy vehicles each day travelling through the centre of Margaret River during the beginning of the peak tourist season. It is expected that the proposed road will reduce congestion and enhance safety for pedestrians, tourists and local traffic in Margaret River.

To facilitate the proposed construction, Main Roads has requested the excision of 24.49 hectares from state forest 56. The proposed excision will result in the clearing of native vegetation and part of the Margaret River pine plantation. The native vegetation affected by the proposal was identified as primarily jarrah and marri forest, with endemic understory species. Main Roads has commissioned an environmental impact assessment, which has been reviewed and endorsed by the Department of Parks and Wildlife and the Conservation Commission of Western Australia, the vesting body for state forests. As a condition of the Conservation Commission's endorsement and prior to commencement, Main Roads was required to develop a detailed construction and environmental management plan in consultation with the Department of Parks and Wildlife. This has been completed.

Main Roads has been working with the Department of Environmental Regulation to provide an environmental offset for the clearing of native vegetation associated with this proposal and other road proposals in the south west. The proposed offset will be purchased on a like-for-like basis and have similar conservation values and size to the areas proposed for clearing. Main Roads is also compensating the Forest Products Commission for the early harvesting of the pines in the Margaret River pine plantation. The compensation ensures that the Forest Products Commission will not be financially disadvantaged by the early harvesting of a portion of the Margaret Pine Plantation.

This proposal has the support of the Forest Products Commission, the Department of Lands and the Shire of Augusta–Margaret River. It has also been endorsed by the Conservation Commission. I recommend this revocation proposal to the house and ask members to support it.

MR C.J. TALLENTIRE (Gosnells) [10.53 am]: I take the opportunity to rise and offer the opposition's support for this revocation. Let me begin by thanking the Minister for Environment's staff for providing us with a comprehensive briefing about what is involved with the revocation. I acknowledge that this particular reduction in the area of the conservation estate will be met to some extent by the implementation of environmental offsets. However, I take this opportunity to tell the minister that we need greater clarity about the value of such offsets given that there will still be a net reduction in the area of the conservation estate and a net reduction in the area of native vegetation. That is a concern, not especially in this case because, in fact, the vast bulk of this particular offset involves a pine plantation area. The issue is about compensating the Forest Products Commission for the early harvest of pine trees which, had they been allowed to stay in position for an extended period, would have meant greater profitability for the Forest Products Commission. That is a minor concern, but the broader issue is about the quality of environmental offsets. The fact that an organisation acquires land as an offset is not much of an offset. Yes, it might provide for greater security of tenure, but it does not get away from the fact that there is still a net loss of overall native vegetation area. The minister will have to tackle that problem for other revocations.